

FORM-A

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE, 2nd COURT, DINHATA, COOCH BEHAR PRESENT : SRI NIRNAYA TAMANG WB01096 A.C.J.M., 2nd COURT, DINHATA, COOCH BEHAR DATE OF JUDGMENT:-22.03.2024 GR CASE NO. (1) 163 of 2022 <i>(Sahebganj P.S. Case No. 144 of 2022 dated 14.04.2022 under sections 341/323/325/506/34 of IPC.)</i>	
COMPLAINANT	STATE OF WEST BENGAL
REPRESENTED BY	Ld. A.P.P., Sangram Deb
ACCUSED	1. Samina Bibi @ Chhamina Bibi, W/O Jiyarul Hoque, 2. Jiyarul Hoque, S/O Rahamat Ali, 3. Jeleka Bibi, W/O Rahamat Ali 4. Rashek Ali @ Rasek Ali, S/O Rahamat Ali and 5. Rahamat Ali, S/O Sonauulla Sekh all of Vill-Tutukkata, PO-Bamanhat, P.S. Sahebganj, Dist-Cooch Behar.
REPRESENTED BY	Ld. Defense Counsel, Avijit Chaki

FORM-B

Date of offence	12.04.2022
Date of FIR	14.04.2022
Date of Charge-Sheet	30.04.2022
Date of Framing of Charges	08.11.2023
Date of commencement of Evidence	21.03.2024
Date on which Judgment is reserved	22.03.2024
Date of Judgment	22.03.2024
Date of the Sentencing Order, if any	N/A

Accused details:

<i>Rank of the accused</i>	<i>Name of Accused</i>	<i>Date of arrest</i>	<i>Date of release on Bail</i>	<i>Offences charged with</i>	<i>Whether acquitted or convicted</i>	<i>Sentence imposed</i>	<i>Period of Detention Undergone during Trial for purpose of Section 428 of Cr.P.C</i>
1.	Samina Bibi @ Chhamin a Bibi	Surrendered on 20.04.2022	20.04.2022	U/S 341/323/ 325/506/ 34 of IPC	Acquitted	NIL	N/A
2.	Jiyarul Hoque						
3.	Jeleka Bibi						
4.	Rashek Ali @ Rasek Ali						
5.	Rahamat Ali						

FORM-C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

<i>RANK</i>	<i>NAME</i>	<i>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</i>
<i>PW-1</i>	<i>Sahajadi Bibi</i>	<i>Defacto complainant.</i>
<i>PW-2</i>	<i>Serina Khatun</i>	<i>Grand daughter of the defacto complainant.</i>

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS:

A. Prosecution Exhibits:

Sl. No.	Exhibit Number	Description
1.	Exhibit-1 With objection	The written complaint.

B. Defence Exhibits:

Sl. No.	Exhibit Number	Description

C. Court Exhibits:

Sl. No.	Exhibit Number	Description

D. Material Objects:

Sl. No.	Exhibit Number	Description

J U D G M E N T

FACTS OF THE CASE.

1. The case of the Prosecution in brief is that on 14.04.2022 one Sahajadi Bibi came to Sahebganj P.S and submitted a written complaint to the effect that on 12.04.2022 at about 10:00 P.M., the daughter of the defacto complainant namely Serina Khatun was going towards Bamanhat High School and at that time, the accused persons wrongfully restrained and assaulted her near her house. On raising hue and cry, the defacto complainant went to rescue her and at that time, the accused persons also assaulted the defacto complainant with bamboo sticks. On further raising hue and cry, the local people rushed to the spot and the accused persons fled away from the spot after threatening them with dire consequences. Due to physical assault, they sustained injury on their persons and shifted them to Bamanhat BPHC for their treatment and hence the case.

PREPARATION FOR TRIAL:

2. The Investigating Officer after completion of investigation submitted a charge-sheet against the accused persons u/s 341/323/325/506/34 of IPC against the accused persons.

3. Post taking cognizance and post supplying copy to the accused, the case was transferred to this Court for trial and disposal.

The Charge:

4. At the initial stage, upon considering the Police Papers and post hearing the learned counsels for both sides, Charge under section 341/323/325/506/34 of IPC was framed against the accused persons. On getting acquainted with the contents thereof, they pleaded innocence and claimed to get tried.

The narrators of prosecution case / witnesses:

5. Charge of innocence necessitated examination of witnesses on behalf of the prosecution.
6. In the process, as many as **Two witnesses** were examined out of eleven number of witnesses named in the Charge Sheet and the further evidence was closed as per the submission of Ld. APP as well as on consideration of the evidence on record.
7. It now the ripe hour to introduce the witnesses, in brief, prior to moving to the stance of the accused as his defence version. The witnesses are as follows:

SERIAL NO.	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Sahajadi Bibi	Defacto complainant.
PW-2	Serina Khatun	Grand daughter/Victim of the defacto complainant.

8. **Exhibits for the prosecution:**

Sl. No.	Exhibit Number	Description
1.	Exhibit-1 With objection	The written complaint.

The defence version::

9. False implication, in a concocted case, of an innocent people is the main tune of the accused in this case, as could be deciphered by this Court from the trend of cross-examination and from the replies to the queries under section 313 of the Code of Criminal Procedure, 1973.

10. The accused, however, did not choose to adduce any defence witness or get any document or material marked as exhibit in their favour. Even during the course of examination under section 313 Cr. P.C. when they were given such an option they opted to let it go by.

11. **Streamlining the divergent issues::**

With such divergent materials in hand, it is now upon the Court to decide the list, which seems to beg decision on the following points:

12. **POINTS FOR DETERMINATION**

- Whether the accused persons are guilty of the offences u/s 341/323/325/506/34 of the Indian Penal Code ?
- Whether prosecution could prove its case to the desired degree to warrant conviction of the accused?

13. **Analysis of the Court:**

In order to avoid necessary repetitions, the first point is taken up for discussion to arrive at a just conclusion.

14 **DECISION WITH REASONS**

15. P.W 1 deposed that she had filed the case against Samina Bibi @ Chhamina Bibi, Jiyarul Hoque, Jeleka Bibi, Rashek Ali @ Rasek Ali and Rahamat Ali and also identified the accused persons. That the incident occurred about 2 years ago at 10.00 A.M. near her house on the road and that there was some disturbance between her and Serina Khatun and the accused persons basically arising out of a misunderstanding.

She also identified the written complaint which was written as per her instruction being marked as Exhibit 1.

16. During cross-examination, she deposed that she is not aware of the contents of her written complaint. She further deposed that she does not know who had written the complaint.

17. P.W 2 deposed that she knows the complainant being her grandmother. That the incident occurred about 2 years ago at 10.00 A.M. near her house on the road and that there was some disturbance between her and her grandmother and the accused persons basically arising out of a misunderstanding.

DECISION WITH REASONS

18. Now, let me scrutinize the evidence on record to come to a definite finding as to how far the prosecution has been successful to prove the case against the accused persons beyond all shadows of reasonable doubts.

19. Analyzing the aforesaid prosecution evidence of record, I am of the view that the prosecution witnesses are lacking in material particulars about the alleged incident and neither the defacto complainant nor the victims of alleged incident could specify the allegations. As such, the prosecution has failed to prove its case beyond reasonable doubts and resultantly the prosecution case fails.

20. Cumulative effect of the above discussion compels this court to decipher that the prosecution has miserably failed to prove the case against accused person beyond reasonable doubt. That they have in totality failed to set for their accusations against the accused person. These material facts are enough to declare that the prosecution has miserably failed to prove the charge against the accused person. Accordingly, both the points for determination are decided in negative against the prosecution for which the accused person is entitled to an order of acquittal.

Hence, it is,

ORDERED

*That the accused persons namely Samina Bibi @ Chhamina Bibi, Jiyarul Hoque, Jeleka Bibi, Rashek Ali @ Rasek Ali and Rahamat Ali are found “Not Guilty” for the commission of the offences **under sections 341/323/325/506/34** and is thus **ACQUITTED** from this case as per **section 248 (1)** Code of Criminal Procedure and is set at liberty at once.*

The accused person as well his sureties are hereby discharged from their respective bail bond liabilities.

Note in the Trial Register and CIS.

Typed & corrected by Me:

*Addl. Chief Judicial Magistrate,
2nd Court, Dinhata,
Cooch Behar*

*Addl. Chief Judicial Magistrate,
2nd Court, Dinhata,
Cooch Behar*