

GR(I) 361 of 2022
Reg No. GR 361 of 2022

Form No. (M) 34

FORM A

IN THE COURT OF THE JUDICIAL MAGISTRATE, DINHATA, DIST. COOCH BEHAR	
Present: Sri Pratyay Pal, Judicial Magistrate, Dinhata, Cooch Behar JO Code WB01376	
Date of delivery of Judgment: <u>The 10th day of September, 2025</u>	
<u>GR(I) 361 of 2022</u> <u>Reg No. GR 361 of 2022</u> <u>CNR WBCB 07-000848-2022</u> <u>T.R. No. 80 of 2023</u>	
<u>Sitai P.S. Case No. 127 of 2022 dated 11.08.2022 under Section 448/323/325/354/379/427/34 of IPC</u>	
COMPLAINANT	State of West Bengal
REPRESENTED BY	Ld. APP in-charge Anowar ul Haque
ACCUSED	1) Ayub Ali S/O Lt. Daje Mamud Miah 2)Asraf Hossain S/O Lt. Jabbar Miah 3)Ajobbali Miah S/O Lt. Yasin Miah 4)Selim Miah S/O Ayub Miah 5)Aysa Bewa W/O Lt. Jabbar Ali Miah all of village Balapukuri, P.S Sitai, Dist. Cooch Behar
REPRESENTED BY	Ld. Advocate Kallol Roy Singha

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FORM B

Date of Offence	11.08.2022
Date of FIR	11.08.2022
Date of Chargesheet	29.08.2022
Date of Framing of Charges	12.11.2024
Date of commencement of Evidence	08.09.2025
Date on which Judgment is reserved	10.09.2025
Date of Judgment	10.09.2025
Date of the Sentencing Order, if any	Not applicable

Accused details:

Rank of the Accused	Name of Accused	Date of arrest	Date of release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during Trial for purpose of Section 428, Cr.P.C.
1.	Ayub Ali	N.A	23.08.2022	Section 448/325/427/34 of IPC	Acquitted	N.A.	N.A.
2.	Asraf Hossain	N.A	23.08.2022	Section 448/325/427/34 of IPC	Acquitted	N.A.	N.A.
3.	Ajobbali Miah	N.A	23.08.2022	Section 448/325/427/34 of IPC	Acquitted	N.A.	N.A.
4.	Selim Miah	N.A	23.08.2022	Section 448/325/427/34 of IPC	Acquitted	N.A.	N.A.
5.	Aysa Bewa	N.A	23.08.2022	Section 448/325/427/34 of IPC	Acquitted	N.A.	N.A.

JUDGMENT

1. This case arose out of an written complaint filed by one Afjal Ali Miah before the I/C Sitai P.S with

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allegation that on 11.08.2022 at about 12:00 pm the accused persons with other miscreants entered into the house of defacto complainant and started destroying the household articles. When his wife, daughter and household employee protested, the accused persons assaulted them. The accused also outraged his wife's modesty. The accused also entered in the shop of the defacto complainant and took away Rs. 10,000/- / Rs. 12,000/- and destroyed the articles of the shop. Hearing their hue and cry, neighbours intervened and rescued them. They were taken to Sitai hospital. Hence, this complaint.

2. Sitai P.S. Case No. 127 of 2022 dated 11.08.2022 under Section 448/323/325/354/379/427/34 of IPC was registered. Investigation of the case was taken up and after completion of investigation, Charge Sheet no. 127 of 2022 dated 29.08.2022 was submitted against the above named accused persons under Section 448/323/325/427/34 of IPC. Cognizance of the case was taken and it was transferred to this Court for disposal on 27.06.2023. Charge was framed against the accused persons under Section 448/325/427/34 of IPC on 12.11.2024. The contents of the charge was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

3. Accordingly, trial of the accused persons commenced. During trial the following witness is adduced from the side of prosecution:

P.W.1- Abjal Ali Miah

P.W.2-Ahila Bibi

4. The following document are marked as Exhibits:

Exhibit P-1/PW1-Signature of P.W.1 on the written complaint.

5. After closure of the prosecution evidence on 08.09.2025, the accused persons were examined under Section 313 Cr.P.C. As they declined to adduce any evidence the D.W was closed, then argument was heard and the case was fixed for judgment.

POINTS FOR DETERMINATION

5. On the basis of facts and circumstances of this case the following points are to be considered:

1. Whether the accused persons are guilty of offences under Section 448/325/427/34 of IPC ?

2. Has the prosecution been able to prove its case beyond all reasonable doubts?

DECISION WITH REASONS

6. Both points are taken up together for convenience and to avoid unwanted repetition. At the first the evidence from the side of the prosecution are required to be discussed.

7. P.W.1 is the defacto complainant himself and he only stated about altercation regarding dispute of landed property. The P.W.2 I.e one of the victim also stated about altercation regarding dispute of landed property. So, this Court finds that the defacto complainant as well as one of the victim did not support the case of the prosecution. As such, there is no evidence to connect the accused persons with the alleged offence.

8. In view of the above discussion and regard being had to all the materials on record, this Court has no hesitation to hold that the prosecution has miserably failed to establish its case against the accused beyond all reasonable doubt and the accused person is accordingly entitled to get an order of acquittal.

9. Hence, it is

ORDERED

that the accused persons above named are found not guilty of the offence under Section 448/325/427/34 of IPC.

That the accused persons are acquitted in terms of Section 248(1) of Cr.P.C.

The accused persons be released from their respective bail bonds.

Sureties are discharged from their liabilities.

Seized alamt if any, be disposed of after the expiry of period of appeal.

Let a copy of this order be sent to District Magistrate, Cooch Behar as per direction of Hon'ble Calcutta High Court in the case of Sabitri Bhunya vs The State of WB and Others.

Copy of order be also sent to Chairman, SDLSC, Dinhata as per direction of Hon'ble Court in above referred case.

The victim as defined in Section 2(wa) of Cr.P.C. has the rights to prefer an appeal under proviso to Section 372 of Cr.P.C and if necessary, to avail free legal assistance through the legal services authorities concerned to prefer and prosecute such appeal.

The case is disposed off.

Note in register and CIS.

D/C by me

Sd/-

(Pratyay Pal)
Judicial Magistrate, Dinhata

Sd/-

(Pratyay Pal)
Judicial Magistrate, Dinhata.

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APPENDIX
Form C

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS OTHER WITNESS)
PW1	Abjal Ali Miah	Defacto complainant
PW2	Ahila Bibi	victim

B. Defence Witnesses, if any:

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

C. Court Witnesses, if any:

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

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Exhibit P-1/PW1	Signature of P.W.1 on the written complaint

B. Defence:

Sr. No.	Exhibit Number	Description
N.A.	N.A.	N.A.

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
N.A.	N.A.	N.A.

D. Material Objects:

Sr. No.	Material Object Number	Description
N.A.	N.A.	N.A.

Sd/-
(Pratyay Pal)
Judicial Magistrate, Dinhata.