

IN THE COURT OF JUDICIAL MAGISTRATE, 3rd COURT, SEALDAH, SOUTH 24 PGN.

[PRESENT: SWETA SRIVASTAVA
(JO: WB01287)
Judicial Magistrate, 1st Class]

Date of Judgment: 15.01.2025

GR 1663/2022
(TR 221/2023)
(CIS: 1663/2022)
(CNR: WBSPOA-001519-2022)

(Arising Out Of: Ultadanga PS, FIR No. 78 dated 01.07.2022 u/s. 324 IPC)

Complainant / Prosecution	STATE OF WEST BENGAL (Defacto: Faishal Mobarrak)
Accused Person	Irfan Hoosain @ Irfan Hussain
Represented by:	Sri. Suman Samanta.....Ld. A.P.P. Sri Rajendra Prasad Das.....Ld. Adv. for Accused

FORM – B / (M) 35

Date of Offence	29.06.2022
Date of FIR	01.07.2022
Date of Charge sheet	15.08.2022
Date of Framing Charge	04.01.2024
Date of Commencement of Evidence	25.04.2024
Date on which Judgment is reserved	15.01.2025
Date of Judgment	15.01.2025

ACCUSED DETAILS

Rank of the Accused	Name of the 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 the purpose of Section 428 Cr.P.C
1	Irfan Hoosain @ Irfan Hussain	-	04.07.22	S. 324 IPC	Acquitte d	-	-

FORM-C / (M)36

LIST OF PROSECUTION / DEFENCE WITNESSES/COURT WITNESSES

A. Prosecution:

Rank	Name	Nature of evidence (eye witness, police witness, expert, medical, panch witness, other witness)
PW 1	Faishal Mobarrak	CSW1/de facto

B. Defence Witness, if any:

Rank	Name	Nature of evidence (eye witness, police witness, expert, medical, panch witness, other witness)
NIL		

C. Court Witness, if any:

Rank	Name	Nature of evidence (eye witness, police witness, expert, medical, panch witness, other witness)
NIL		

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
NIL		

B. Defence:

Sr. No.	Exhibit Number	Description
NIL		

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
NIL		

D. Material Objects:

Sr. No.	Material Object Number	Description
NIL		

PROSECUTION CASE:

1. The case of the prosecution is that on 29.06.2022, at about 15:00 hours, the FIR named accused person assaulted to the complainant by using knife as a result the complainant received injury in his right hand.
2. On the basis of the same, a formal FIR was drawn up by Ultadanga PS u/s. 324 IPC, and the instant GR case was started.
3. Upon completion of investigation, the I.O has submitted a charge sheet against the accused person, for commission of offence punishable u/s **324 I.P.C.** Accordingly the cognizance was taken against the accused person for the aforesaid offence, and this court received the case for trial on 07.07.2023.
4. The accused person was examined for the offence under section 324 of I.P.C. The substance of accusation was read over and explained to accused person. Charge was, accordingly, framed on 04.01.2024 under Section 324 of IPC against the accused person. The accused person denied the charges, pleaded '**not guilty**' and claimed to be tried.

EVIDENCES DURING TRIAL:

The prosecution was able to bring forth following witnesses to prove the case.

PW 1.....Faishal Mobarrak (CSW 1 / de facto)

No documentary evidences were produced by prosecution.

Evidence of prosecution was closed vide order dated 15.01.2025.

POINTS OF CONSIDERATION:

- a. Whether the prosecution has been able to prove the charges u/s. 324 IPC against the accused person beyond all reasonable doubt or not?
- b. Whether the accused person is liable to be punished u/s. 324 I.P.C.?

DECISIONS WITH REASONS:

1. All the points are taken up together for the sake of convenience.
2. The prosecution produced the defacto as PW 1. In his evidence, he stated that he filed this case against the accused, identified him, but failed to recollect the incidence for which he filed this case nor the date, time or place of occurrence.
3. It is well settled principle of criminal trials that to prove occurrence of an offence the prosecution must prove the basic certainties of an offence i.e. certainty of place of occurrence, time of occurrence and the manner of occurrence. The evidences fail to establish any of these certainties.
4. It is the duty of the prosecution to prove charges against the accused person beyond all reasonable doubt by producing cogent and convincing evidence. Nothing from the evidence of prosecution has established the contents of the FIR. After perusing the entire evidence adduced and in the light of the above discussions, I find that the prosecution has failed to bring home the charges against the accused person u/s. **324 of I.P.C**, and as a result of which this court is inclined to acquit the accused person.

Hence, it is,

ORDERED

That the accused person namely **(1.) Faishal Mobarrak** is found **not guilty** of the offence u/s **324 I.P.C.** and is hereby **ACQUITTED** of the charge framed against him as per section 248(1) of Cr.P.C. and is set at liberty.

The accused person is released from the respective bail bonds. Sureties are also discharged from their liabilities.

In compliance of the order dated 29.3.2022 of the Hon'ble High Court at Calcutta being **CRA 266 of 2020** with C.R.A.N 01 of 2020: **Sabitri Bhunya vs. State of WB**, let a copy of this judgment be forwarded to **District Magistrate, South 24 Parganas**, and to **DLSA, Alipore, South 24 Parganas** for due intimation to the victims as defined under Sections 2(wa) of Code Criminal Procedure.

Be it mentioned that the victims have the right to prefer an appeal against this order under proviso to **Section 372** of Code of Criminal Procedure and if necessary, to avail free-legal assistance through the Legal Service Authority concerned to prefer and prosecute such appeal.

Accordingly, the case is thus disposed of. BC II is directed to note in the TR register and CIS accordingly.

Typed by me:

Sd/-

(Sweta Srivastava)
Judicial Magistrate, 3rd Court,
Sealdah, South 24 Parganas

Sd/-

(Sweta Srivastava)
Judicial Magistrate, 3rd Court
Sealdah, South 24 Parganas