

GR 2915 of 2022
CIS GR 2915 of 2022

Form No. (M) 34

FORM A

IN THE COURT OF THE JUDICIAL MAGISTRATE, 2ND COURT, SILIGURI, DARJEELING.	
Present: Sri Pratyay Pal, Judicial Magistrate, 2nd Court, Siliguri. JO Code WB01376	
Date of delivery of Judgment: <u>The 01st day of March, 2024</u>	
<u>GR 2915 of 2022</u> <u>Reg No. GR 2915 of 2022</u> <u>CNR WBDJ0E-005601-2022</u> <u>T.R. No. 26 of 2022</u>	
<u>Phansidewa P.S. case No. 304 of 2022 dated 20.06.2022 under Section 341/323/506/34 of IPC.</u>	
COMPLAINANT	State of West Bengal
REPRESENTED BY	Ld. APP Sri Soumitra Sinha Sarkar
ACCUSED	1. Md. Seimul, S/o Md. Madan, 2. Md. Mafiju @ Mafizuddin, S/o Late Asraf Ali, both resident of Budhangoan, Chitalghat, P.S. Phansidewa, Dist. Darjeeling.
REPRESENTED BY	Ld. Advocate Sri Sujay Manger

Form No. (M) 35

FORM B

Date of Offence	20.06.2022
Date of FIR	20.06.2022
Date of Chargesheet	31.07.2022
Date of Framing of Charges	12.09.2023 (examined under Section 251 of Cr.P.C.)
Date of commencement of Evidence	22.02.2024
Date on which Judgment is reserved	01.03.2024
Date of Judgment	01.03.2024
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.	Md. Seimul	N.A.	18.07.2022	Section 341/323/506 /34 of IPC	Acquitted	N.A.	N.A.
2.	Md. Mafiju @ Mafizuddin	N.A.	18.07.2022	Section 341/323/506 /34 of IPC	Acquitted	N.A.	N.A.

JUDGMENT

1. This case arose out of an written complaint filed by one Md. Rezaul Kadri before the O/C Phansidewa P.S. with allegation that on 20.06.2022 at about at 11:00 a.m. the accused persons came to the meeting of the de facto complainant and his group and started to assault him and abuse him in filthy languages and also threatened to kill him. Hence, the written complaint.
2. On the basis of the complaint Phansidewa P.S. case No. 304 of 2022 dated 20.06.2022 under Section 341/323/506/34 of Indian Penal Code (in short IPC) was registered. Investigation of the case was taken up and after completion of investigation, Charge Sheet no. 311/2022 dated 31.07.2022 was submitted against the above named accused persons under Section 341/323/506/34 of IPC. Cognizance of the case was taken and it was transferred to this Court for disposal on 14.11.2022. Accused persons were examined under Section 251 of

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Cr.P.C. on 12.09.2023. The accused persons pleaded not guilty and claimed to be tried.

3. Accordingly, trial of the accused person commenced. During trial de facto complainant Md. Rezaul Kadri deposed as PW1. The signature of PW1 in the written complaint is marked as Exhibit P1/PW1.

4. After closure of the prosecution evidence, the examination of the accused persons under Section 313 Cr.P.C was done and as they declined to adduce any evidence from their side 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 offence under 341/323/506/34 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.

7. PW1 i.e. the defacto complainant himself and he has only stated about misunderstanding at the time of her evidence. He himself deviated from his version mentioned in the written complaint. Thereafter no other witness has not been adduced from the side of the prosecution. There is nothing material available against the accused persons to connect them with the alleged offence. No story of alleged incident came out from the evidence adduced by the prosecution.

8. Therefore, 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 persons are 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 341/323/506/34 of IPC.

That the accused persons are acquitted in terms of Section 255(1) of Cr.P.C.

The accused persons be released from their respective bail bonds.

Sureties are discharged from their liabilities.

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

Let a copy of this order be sent to District Magistrate, Darjeeling 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, Siliguri as per direction of Hon'ble Court in above referred case and also as per direction of Chairman, DLSA, Darjeeling.

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)
J. M. 2nd Court, Siliguri

Sd/-

(Pratyay Pal)
J. M. 2nd Court, Siliguri.

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	Md. Rezaul Kadri	De facto complainant

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 P1/PW1	Signature of PW1 in 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)
J. M. 2nd Court, Siliguri.