

IN THE COURT OF JUDICIAL MAGISTRATE, 1st
COURT,
BASIRHAT, NORTH 24 PARGANAS

PRESENT: **AVISEK MINJ** (J.O. Code: -WB01520),
Judicial Magistrate, 1st Court, Basirhat, North 24 Parganas.

[On this 11th day of February, 2025]

GR Case No 5169/2021
C.N.R: WBNP 11-003205-2022
REGN No.: - 2917/2022
TR- 966/2022

STATE OF WEST BENGAL

Vs.

- 1. Montajul Gazi
- 2. Tarukul Gazi
- 3. Baten Gazi
- 4. Abdullyahil Maruf Gazi

.....Accused persons

(Arising out of Sandeshkhali PS, Case No. 180/21 dated- 16.11.2021 under Section 447/323/325/307/379/506/34 of IPC)

COMPLAINANT	State of West Bengal
REPRESENTED BY	Abdul Mokim, Ld. A.P.P
ACCUSED PERSON(S)	1. Montajul Gazi 2. Tarukul Gazi 3. Baten Gazi 4. Abdullyahil Maruf Gazi
REPRESENTED BY	Dipak Biswas, Ld. Advocate.

FORM B

Date of Offence	16.11.2021
Date of FIR	16.11.2021
Date of Charge sheet	20.01.2022
Date of Framing of Charges	22.08.2023
Date of commencement of Evidence	29.10.2024
Date on which Judgment is reserved	11.02.2025
Date of the Judgment	11.02.2025
Date of the Sentencing Order, if any	Accused persons are acquitted

Accused details:

Rank of the Accused	Name of Accused	Date of Arrest/ Surrender	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	Montajul Gazi	13.01.2022 Surrender	13.01.2022	Sections 447/323/325/506/34 of the Indian Penal Code	Acquitted	NA	NA
2	Tarukul Gazi	13.01.2022 Surrender	13.01.2022	Sections 447/323/325/506/34 of the Indian Penal Code	Acquitted	NA	NA
3	Baten Gazi	13.01.2022 Surrender	13.01.2022	Sections 447/323/325/506/34 of the Indian Penal Code	Acquitted	NA	NA
4	Abdullyahil Maruf Gazi	13.01.2022 Surrender	13.01.2022	Sections 447/323/325/506/34 of the Indian Penal Code	Acquitted	NA	NA

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
PW-1	Farid Uddin Molla	De-facto Complainant

B. Defence witnesses, if any: No defence witness adduced;

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS
DW-1	Nil	NA

C Court witnesses, if any: No Court witness adduced;

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS
CW-1	Nil	NA

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A Prosecution:

Sl. No.	Exhibit Number	Description
1	Exhibit P-1/PW-1	The Signature of PW-1 on written complaint.
2	Exhibit P-2/PW-1	The Signature of PW-1 on formal FIR.

B Defence: No defence witness

Sl. No.	Exhibit Number	Description
1	Nil	Nil

C Court Exhibits:

Sl. No.	Exhibit Number	Description
1	Nil	Nil

D Material Objects:

Sl. No.	Material Object Number	Description
1	Nil	Nil

JUDGMENT

1. Farid Uddin Molla, S/o- Md. Abbasuddin Molla is the *de facto* complainant in this case. On 16.11.2021, she made a complaint to Sandeshkhali Police Station alleging that on 16-11-2021 at about 9.00 p.m over the issue of previous grudge the accused persons entered into the courtyard of the defacto complainant and abused him with filthy languages. At that time the parents of the defacto complainant protested for such act of the accused persons then they assaulted them brutally. On hearing hue and cry the the local people came to the spot to rescue them then the accused persons also assault him brutally with a view to kill him. The accused persons also took away some house hold articles and cash of Rs. 50000/- from the house of the defacto complainant. Due to such assault his parents and witness received severe injury and they were taken to Kolkata Chittaranjan Hospital. Hence, this case.
2. Pursuant to the aforesaid complaint Sandeshkhali PS, Case No. 180/21 dated- 16.11.2021 under Section 447/323/325/307/379/506/34 of IPC lodged against the accused persons. O/C, Sandeshkhali P.S entrusted S.I

Sanjoy Roy to conduct investigation in this case.

3. On 13.01.2022, accused persons namely Montajul Gazi, Tarukul Gazi, Baten Gazi and Abdullyahil Maruf Gazi surrendered before Ld. A.C.J.M., Basirhat court and were enlarged on court bail.
4. After completion of the investigation charge sheet no. 04 of 2022 Dated 20.01.2022 was filed by the Investigating Officer U/S 447/323/325/506/34 of IPC. Thereafter, Ld. A.C.J.M., Basirhat took cognizance of this case on 07.03.2022 and served the copies of the FIR and its annexure to the accused persons as appeared under section 207 of Cr.P.C.
5. On 20.07.2022, this court received the case record on transfer for disposal. On 22.08.2023, the charges were read over U/S 447/323/325/506/34 of IPC. Charges were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried and hence the trial commenced.
6. To prove the case, the prosecution examined one witness.
7. After closure of the evidence of prosecution on 29.10.2024, the accused persons were examined as per provision u/S 313 CrPC. At the time of such examination all the accused persons denied the material allegation brought against them. Accused persons also denied to adduce any evidence in defence on their behalf. Therefore, the evidence was closed.
8. Both the sides advanced their respective argument on 11.02.2025.
9. **Points for consideration**

A. whether the accused persons guilty of offence U/S 447/323/325/506/34 of Indian Penal Code or not?

B. Has the prosecution been able to prove its case beyond reasonable doubt?

Decision with reasons

10. For the sake of convenience and brevity of discussion all the points for consideration are taken up together for determination of the same as all the issues are related to each other.

11. It is cardinal principle of criminal jurisprudence that the guilt of the accused must be proved beyond all reasonable doubt. The burden of proving beyond reasonable doubt lies on the prosecution. In the instant case, the prosecution to prove its case adduced the evidence of one witness. PW-1 namely **Abbasuddin Molla**, the *de facto* complainant, in his examination in chief stated that he has filed this complaint with Sandeshkhali P.S against the accused persons about 2 or 3 years ago. The witness identified the accused on dock. The dispute has been settled amicably in between them. He proved his signature on the written complaint which has been marked as Ext. P1/PW1 and the signature on the formal FIR which has been marked as Ext. 2/PW1. Cross examination of the witness was declined by the defence.

12. In the instant case, the witness for the prosecution stated contrary to the case of the prosecution. The witness did not state anything in support of the

case of the prosecution. This court finds lot of contradictions in the evidence. Statement of the *de facto* complainant as PW-1 and his allegations in the written complaint are contradictory to each other. The *de facto* complainant has totally denied the allegations made by him in the written complaint. PW-1 in his deposition stated that issue between them has been amicably settled. Based on the evidence galore in the record, the alleged offences against the accused persons whether established or not is to be decided. It is well-settled that the accused would not be brought to book merely on bald allegations of the complainant rather, the same has to be proved beyond reasonable doubt, but here in the instant case the prosecution case is virtually without sufficient evidence.

13. On perusal of the materials on record, this court does not find sufficient satisfactory evidence which supports the story of the prosecution. The accused persons are therefore entitled to the benefit of doubt and of acquittal.

14. Hence, it is

ORDERED

that the accusation u/S 447/323/325/506/34 of IPC being not proved, the accused persons namely Montajul Gazi, Tarukul Gazi, Baten Gazi and Abdullyahil Maruf Gazi are acquitted u/S 248(1) of Cr.P.C. and discharged from their respective bail bonds.

15. Sureties concerned be released from their liabilities. Let a copy of this

be forwarded to Clerk in Charge, Bail Bond Register, for information and necessary actions.

16. This case is thus disposed of.

17. Bench clerk is directed to note in relevant register.

Typed by me.

(AVISEK MINJ)
*Judicial Magistrate of the First
Class, 1st Court, Basirhat.*

(AVISEK MINJ)
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Class, 1st Court, Basirhat.*