

Form A

IN THE COURT OF THE SESSIONS JUDGE,
BIRBHUM AT SURI.

Present : Smt Arti Sharma Roy
Sessions Judge, Birbhum at Suri
(JO Code-WB00149)

[Date of the Judgment: 29.04.2026]

[**Sessions Case No. 295 of 2024**]

Sessions Trial No. 01 (04) 2025

CNR No. WBBB01-003379-2024

(Details of FIR- Chandrapur P.S. Case No. 65 of 2023 dated 08.11.2023)

Complainant	STATE OF WEST BENGAL
REPRESENTED BY	Sri Malay Mukherjee, Ld. P.P. Birbhum.
ACCUSED	1. Suhas Chatterjee
REPRESENTED BY	Sri Subhasis Mondal

FORM B

Date of Offence	08.11.2023
Date of FIR	08.11.2023
Date of Charge-Sheet	06.12.2023
Date of framing charges	02.04.2025
Date of commencement of trial	12.06.2025
Date on which Judgment is reserved	29.04.2026
Date of the Judgment	29.04.2026
Date of the Sentencing Order, if any	30.04.2026

Accused details:

Rank of the Accused	Name of Accused	Date of Surrender / arrest	Date of release on bail	Offences charged with	Whether acquitted	Sentence imposed	Period of Detention Undergone during Trial for purpose of Section 428 Cr.P.C.
1.	Suhas Chatterjee	09.11.2023	30.11.2023	u/s 325/307 of IPC	Convicted	Simple imprisonment for two months for the offence u/s.323 of IPC.	From 09.11.2023 to 30.11.2023

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	Debraj Chatterjee	Injured witness
PW-2	Debasish Chatterjee	<i>Defacto</i> Complainant
PW-3	Debjyoti Chatterjee	Injured witness
PW-4	Tanay Chatterjee	Seizure witness
PW-5	Rishikesh Roy @ Shyam Roy	Other witness
PW-6	Dr. Pravat Kr. Simlandi	Medical Expert witness
PW-7	Pintu Bagdi	Other witness
PW-8	Dr. Deepak Kr. Mukherjee	Medical Expert witness
PW-9	SI Mir Nurey Alam	Police Witness

B. Defence witnesses, if any:

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW-1	Nil	Nil

C. Court witnesses, if any:

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW-1	Nil	Nil

LIST OF PROSECUTION/DEFENCE/ COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Exhibit – P-1	Written Complaint.
2	Exhibit – P-1/1	Receiving endorsement on Exhibit-P1.
3	Exhibit – P-2	Seizure list dt. 08.11.2023.
4	Exhibit – P-2/1	Signature of PW-4 on Exhibit-P2.
5	Exhibit – P-2/2	Signature of PW-7 on Exhibit-P2.
6	Exhibit – P-3	BHT with treatment sheet.
7	Exhibit – P-4	BHT with treatment sheet of Debjyoti Chatterjee.
8	Exhibit – P-5	Formal FIR.
9	Exhibit – P-6 & P6/1	Rough sketch map with index.

B. Defence:

Sr. No.	Exhibit Number	Description
1	Nil	

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
1	Nil	

D. Material Objects:

Sr. No.	Exhibit Number	Description
1	NIL	

JUDGEMENT

1. This accused has faced trial for charges under Sections 325/307 of the Indian Penal Code.

◆ PROSECUTION CASE

2. One Debasish Chatterjee (PW-2) lodged a complaint on 08.11.2023 alleging that on 08.11.2023 at about 05:00pm his two sons namely Debraj Chatterjee (PW-1) and Debjyoti Chatterjee (PW-3) went their native village at Madhaipur and there occasioned a discussion with his cousin Suhas Chatterjee regarding landed property. Then at around 08:00pm altercation

Contd...p/4

broke between his said sons and the accused following which the accused Suhas Chatterjee suddenly got agitated and hit Debraj Chatterjee on his head with stick with an intention to kill him causing bleeding injury. When his younger son Debjyoti Chatterjee tried to restrain the accused, the latter assaulted him also. Debraj Chatterjee was admitted at Suri Sadar Hospital for his treatment and hence, this case.

3. On basis of this written complaint Chandrapur P.S started instant case bearing Chandrapur P.S. Case No. 65 of 2023 dated 08.11.2023 under Sections 341/323/325/307 I.P.C against the accused person. Investigation was taken up and on completion of the same the I.O submitted charge sheet against the accused person u/s 325 & 307 I.P.C before the Court of Ld. A.C.J.M, Suri who took cognizance of the offence and committed the case to the file of this Court.

4. It appears from the case record that on consideration of hearing of both sides and also from documents on record, charge was made out against the accused person namely Suhas Chatterjee u/s. 325/307 of the I.P.C. Contents of charge was read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

5. On completion of prosecution evidence the accused was examined u/s 313 Cr.P.C. No evidence is adduced from the side of the defence but from trend of cross-examinations of the prosecution witnesses as well as the answers given by the accused person u/s 313 of the Cr.P.C it appears that the defence case is that of complete denial and false accusation.

◆ **POINTS FOR CONSIDERATION**

6(a). Whether the accused person committed grievous hurt to Debraj Chatterjee with stick causing serious injury to him with an intention to commit murder and thereby the accused committed the offence punishable under Sections 325/307 of IPC ?

6(b). Whether prosecution has been able to prove the charge labeled against the accused beyond all reasonable doubts ?

◆ **DECISIONS WITH REASONS**

7. In order to substantiate this case, prosecution has examined nine witnesses in all. It has also relied on the documents more fully described in Form C under the heading “List of Prosecution Exhibits”.

8. On the other hand, defence did not render any evidence.

◆ **PROSECUTION EVIDENCE**

9. **P.W.1:** Debraj Chatterjee, one of the injured of this case, has stated in his evidence that incident took place some two and half years ago at about 08:30-09:00pm between him and the accused person over raising a wall near their house. First there was a verbal altercation between him and the accused which was followed by jostling. The accused along with his two employees was present during jostling. He fell on the ground and received head injury. His brother Debojyoti Chatterjee was also present at the spot and he also received head injury during his incident. PW-1 was treated at Suri Sadar Hospital. Over this incident his father (PW-2) lodged a written complaint. He proved the written complaint as Exhibit-P1.

In his cross-examination, the witness stated that the accused has deformity in his leg and he walks with the help of crutches. At relevant time also he used to walk with crutches. He also stated that they had lodged this case against the accused out of misunderstanding.

10. **P.W.2:** Debasish Chatterjee, *defacto* complainant of this case, has stated in his evidence that incident took place on 08.11.2023 at about 05:00pm at Madhaipur under PS Chandrapur. He has landed property including tank in his native place. On the relevant day his two sons named Debraj Chatterjee and Debojyoti Chatterjee visited their native place. They refrained the accused from encroachment of his landed property and also fish cultivation in his tank. The accused went furious and blew lathi on Debraj causing his bleeding head injury. Debojyoti came to rescue Debraj. Then the accused also hit him with lathi on his head causing his bleeding head injury. Both of his sons received serious head injury due to such assault. He got this information and rushed to his native place and fetched both of his sons to Suri Sadar Hospital for their treatment where they were treated with repair of the bleeding head injury.

In his cross-examination he stated that at relevant time he was at Suri and did not see the incident. He got information from the neighbour of the accused regarding the incident. He denied the suggestion that he has an old dispute with the accused over landed property. He also stated that the incident had already taken place before his arrival at the spot. There were 2-3 persons named Tanai Chatterjee (PW-4), Shyam Roy (PW-5) and Biru Chatterjee present at the spot when he reached there. He went from Suri to Madhaipur and brought his injured sons to Suri back for their treatment. He also stated that he did not hand over any incriminating weapon of the assault to the attending physician.

11. P.W.3: Debajyoti Chatterjee, another injured of this case, has stated in his evidence that incident took place on 08.11.2023 at about 05:00pm at Madhaipur. His father has landed property at their native village. On the relevant day he along with his elder brother Debraj Chatterjee (PW-1) went to their native place. His big uncle was encroaching some of his father's land. They refrained the accused from such encroachment to which the accused went furious and blew lathi on Debraj causing his bleeding head injury. He rushed to rescue Debraj. Then the accused also hit him with lathi on his head from his backside causing bleeding head injury. They both received serious head injuries due to such assault. They were treated at Suri Sadar Hospital. He stated that his father (PW-1) lodged written complaint over this incident and his big uncle was arrested by the police.

In his cross-examination he stated that the accused was 62-63 years old and he has to walk with the help of crutches. He also stated that the accused suffered motorbike accident for which he was advised to walk with help of crutches for some period. He stated that some local people named Tanai Chatterjee, Shyam Roy etc rushed to the spot. He admitted in his cross-examination that he did not hand over his blood stained wearing apparels to the police and did not produce the incriminating weapon to the IO. He also stated that he disclosed before the IO about the manner of receiving injury and the name of the assailant.

12. P.W.4: Tanay Chatterjee stated in his evidence that incident took place two years back during hours of afternoon at Madhaipur. He was present in the open field in front of his house. After hearing a noise coming from

neighbourhood, he rushed there to find that Debraj was sitting on ground with bleeding injury. Debojyoti was also there in injured condition. On his asking both of the injured told him that they were assaulted by the accused Suhas Chatterjee. Then this witness eased Debraj by making him sit on a sitting place near the spot and informed the matter to his father Debasish Chatterjee on phone. Debasish rushed there and took both of his injured sons to Suri Sadar Hospital for their treatment. This witness proved his signature on the seizure list as Exhibit-P2/1.

In his cross-examination, he failed to state the reason of such assault. He did not see any incident. He only heard from the injured about the assault. He also stated that at relevant time the accused was walking with the help of crutches as he had received leg injury in a motorcycle accident.

13. P.W.5: Rishikesh Roy @ Shyam Roy has stated in his evidence that incident place two years back at about 05:30-06:00pm at Madhaipur. He was present at his house. On hearing a loud noise coming from neighbourhood, he rushed there and saw that Bumba, elder son of Debasish Chatterjee was sitting with bleeding head injury. He also noticed that Bubun, younger son of Debasish Chatterjee was also there and he also suffered injuries. He came to learn that a physical altercation between the sons of Debasish Chatterjee and the accused resulted in injuries of the former. Debasish Chatterjee came to their village after getting information of such incident and took his sons to Suri Sadar Hospital for their treatment.

In his cross-examination, he stated that the accused met with an accident and he walked with difficulty. He admitted that he did not see any incident.

14. P.W.6: Dr. Pravat Kr. Simlandi, Senior Medical Officer at Suri Sadar Hospital, has deposed that on 08.11.2023 he medically examined one Debraj Chatterjee. On examination he found a cut injury measuring 10 cm x 2 cm on left eyebrow, he repaired the wound by suturing and also prescribed proper medication. The patient was admitted in Male Ward from Emergency of Suri Sadar Hospital. He proved the BHT along with treatment sheet regarding treatment of Debraj Chatterjee as Exhibit-P3.

As medical expert he opined in his cross-examination that the injury of Debraj Chatterjee might cause due to fall on hard substance.

15. P.W.7: Pintu Bagdi has only proved his signature on the seizure list dt. 08.11.2023 as Exhibit-P2/2.

16. P.W.8: Dr. Deepak Kr. Mukherjee, Medical Officer, Surgeon at Suri Sadar Hospital, has deposed that on 09.11.2023 he medically examined one Debajyoti Chatterjee who came with history of assault by lathi at 09:00pm on 08.11.2023. The patient was admitted in Male Ward from Emergency of Suri Sadar Hospital on 08.11.2023 at 01:45 hours. On examination, he found the patient conscious, alert and stable. There was a sutured lacerated scalp injury on left side of occipital region approximately 4 cm in size. There was a haematoma on dorsum of left hand. CT Scan of brain was normal. He proved the BHT along with treatment sheet regarding treatment of Debajyoti Chatterjee as Exhibit-P4. He also stated that the patient was discharged on 10.11.2023 at 7:00pm. He opined that the nature of injury was simple.

In his cross-examination, he stated that the patient did not disclose the name of assailant before him. He denied the suggestion that such type of injury was possible if someone fell on hard substance. He voluntarily stated that in case of accidental injury it would have other associated injuries on person receiving accident. He also admitted that he did not mention age of injury as it was placed before him after primary treatment.

17. P.W.7: SI Mir Nurey Alam is the Investigating Officer of this case. His evidence is purely formal. He proved the formal FIR (Exhibit-P5) and written endorsement on the written complaint (Exhibit-P1/1). He deposed that after being entrusted to investigate this case he visited the PO as shown by the complainant & prepared rough sketch map with index (Exhibit-P6 & P6/1); arrested the accused person and forwarded him before Ld. Court; seized incriminating *lathi* (bath napkin) under a seizure list dt. 08.11.2023 (Exhibit-P2); collected medical reports from S.S.S.H (Exhibit-P3 & P4); recorded statement of the available witnesses u/s.161 Cr.P.C and on completion of investigation he submitted charge sheet against the accused person namely Suhas Chatterjee.

He has stated in his cross-examination that he did not interrogate Chandranath Chatterjee whose house was situated on western side of the PO. He admitted that he did not seize any blood stained wearing apparel. He also

did not collect name of the person who informed the complainant regarding incident. He did not investigate as to whether the accused had met with an accident prior to incident. He stated that the seized *lathi* was not produced before him, that such type of seized *gamcha* is available in open market. He denied the suggestion that he had focused his investigation on interrogation of the relatives of the complainant only.

◆ **ARGUMENT OF BOTH SIDES**

18. It is submitted by Ld. PP for the State that the case of prosecution has been duly proved by the injured persons (PW-1 and PW-3). Both the injured in their testimonies have duly corroborated the prosecution's story. The oral and medical evidence prove the physical assault by the accused on PW-1 and PW-3 and the only irresistible conclusion that can be drawn from the prosecution evidence is the conviction of the accused.

19. It is vehemently argued by Ld. Counsel for accused that the accused is entitled for acquittal on following grounds.

The initial information was received by the complainant – PW-2 by the person whose name is not disclosed. Admittedly PW-2 is not an ocular witness. He has lodged the written complaint (Exhibit-P1) on narration of facts which was heard by him but the name of informant is not disclosed. In absence of name of informant who has narrated the incident to PW2, the prosecution story mentioned in the complaint becomes inadmissible as hearsay. It is stated in Exhibit-P1 that on 08.11.2023 at about 05:00PM his two sons namely PW-1 & PW-3 went to his native village at Madhaipur where the accused and his said two sons had a discussion over landed matter. Subsequently, at about 08:00pm verbal altercation broke amongst them during which suddenly the accused got agitated and physically assaulted PW-1 & PW-3. Said narration of events t the extent of physical assault by the accused on PW-1 and PW-3 find no place in the oral evidence of PW-1 as he did not support the prosecution case of physical assault by the accused on them. He has categorically stated that he received bleeding injury by falling on ground during jostling. The case put forth by the prosecution is entirely different from the prosecution case made out in Exhibit-P1. Prosecution witness no.4 & 5 in their oral evidence have stated the time of incident during afternoon hours which is in contrast to the time of incident stated in Exhibit-P1 which is stated

to be in between 08:00pm-09:00pm on 08.11.2023. PW-3 in his deposition has made considerable improvement and give version different to the prosecution case stated in Exhibit-P1. Prosecution has also not been able to prove that injury on person of PW-1 & PW-3 was grievous in nature. The medico legal certificates (Exhibit-P3 & P4) prove the injury to be simple in nature. There is no evidence at all to prove that the accused had any intention to inflict such bodily injury which he knew to be likely to cause death in the course of nature.

20. I have heard the submissions made on behalf of both the parties and carefully perused the record.

◆ **FINDING**

21. It has been decided by Hon'ble Apex Court in plethora of decisions that the testimony of an injured witness of the offence stands on a very higher footing unless and until impeached by some clinching evidence. In the recent case decision of **Rajan vs. State of Haryana, 2025 INSC 1081** Hon'ble Supreme Court has been pleased to evolve principle of appreciation of ocular evidence in a criminal case in para 32 & 33 -

“I. While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the Court to scrutinize the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief.

II. If the Court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the appellate court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details.

III. When eye-witness is examined at length it is quite possible for him to make some discrepancies. But courts should bear in mind that it is only when

discrepancies in the evidence of a witness are so incompatible with the credibility of his version that the court is justified in jettisoning his evidence.

IV. Minor discrepancies on trivial matters not touching the core of the case, hyper technical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole.

V. Too serious a view to be adopted on mere variations falling in the narration of an incident (either as between the evidence of two witnesses or as between two statements of the same witness) is an unrealistic approach for judicial scrutiny.

VI. By and large a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a video tape is replayed on the mental screen.

VII. Ordinarily it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence which so often has an element of surprise. The mental faculties therefore cannot be expected to be attuned to absorb the details.

VIII. The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image on on person's mind whereas it might go unnoticed on the part of another.

IX. By and large people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape recorder.

X. In regard to exact time of an incident, or the time duration of an occurrence, usually, people make their estimates by guess work on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time-sense of individuals which varies from person to person.

XI. Ordinarily a witness cannot be expected to recall accurately the sequence of events which take place in rapid succession or in a short time span. A witness is liable to get confused, or mixed up when interrogated later on.

XII. A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross examination by counsel and out of nervousness mix up facts, get confused regarding sequence of events, or fill up details from imagination on the spur of the moment. The sub-conscious mind of the witness sometimes so operates on account of the fear of looking foolish or being disbelieved though the witness is giving a truthful and honest account of the occurrence witnessed by him.

XIII. A former statement though seemingly inconsistent with the evidence need not necessarily be sufficient to amount to contradiction. Unless the former statement has the potency to discredit the later statement, even if the later statement is at variance with the former to some extent it would not be helpful to contradict that witness.” [See *Bharwada Bhoginbhai Hirjibhai v. State of Gujarat* 1983 Cri LJ 1096 : (AIR 1983 SC 753) *Leela Ram v. State of Haryana* AIR 1995 SC 3717 and *Tahsildar Singh v. State of UP* (AIR 1959 SC 1012)”

“(a) The presence of an injured eye-witness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.

(b) Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.

(c) The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.

(d) The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.

(e) If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or embellishment should be discarded from the evidence of injured, but not the whole evidence.

(f) The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded.”

It was also held in para 34 that “In assessing the value of the evidence of the eyewitnesses, two principal considerations are whether, in the circumstances of the case, it is possible to believe their presence at the scene

of occurrence or in such situations as would make it possible for them to witness the facts deposed to by them and secondly, whether there is anything inherently improbable or unreliable in their evidence. In respect of both these considerations, circumstances either elicited from those witnesses themselves or established by other evidence tending to improbabilise their presence or to discredit the veracity of their statements, will have a bearing upon the value which a Court would attach to their evidence. Although in cases where the plea of the accused is a mere denial yet the evidence of the prosecution witnesses has to be examined on its own merits, where the accused raise a definite plea or put forward a positive case which is inconsistent with that of the prosecution, the nature of such plea or case and the probabilities in respect of it will also have to be taken into account while assessing the value of the prosecution evidence. (See: *Balu Sudam Khalde and Another v. State of Maharashtra* :(2023) 13 SCC 365).”

22. I have scrutinize the evidence of witnesses following the guideline of Hon’ble Supreme Court rendered in the case decision of **Rajan vs State of Haryana** (Supra). On perusal of evidence of injured / PW-3 I find that he has duly supported the case of the prosecution regarding his visit on 08.11.2023 at about 05:30pm at Madhaipur, his native place along with his elder brother Debraj Chatterjee (PW-1). He restrained the accused, who happen to be his big uncle from encroachment of his father’s landed property. During such discussion over landed property the accused went furious and blew lathi on Debraj causing his bleeding head injury. He rushed to rescue Debraj when the accused hit him with lathi on his head from his backside causing his bleeding head injury. Due to such assault PW-1 and he (PW-3) both had received serious head injury. They were brought to Suri Sadar Hospital for their treatment. Though PW-1 has not supported the prosecution case of blowing lathi by the accused causing his bleeding injury but it is proved from oral testimony of PW-1 that he had visited to his native village Madhaipur accompanied by PW-3 on the relevant day. There had occasioned a family dispute between him and the accused over raising a wall near their house. It was 08:30-09:00pm. First there was a verbal altercation between the accused and PW-1 which was soon followed by jostling. He has testified regarding his injury by fall on ground during jostling. His brother (PW-3) was also present at the spot. He also received head injury during the incident. He (PW-1) was treated at Suri Sadar Hospital. From testimonies of PW-1 & PW-3, both the

injured, the fact which are found in consonance with each other is the factum of presence of the accused at the place of occurrence and discussion over native landed property between the accused on one side and PW-1 & 3 another side. PW-1 has testified his head injury as self inflicted one but the medico legal evidence of PW-6 improbabilizes the version of PW-1 on this score. The attending physician, PW-6 as an Expert witness has clearly stated in his cross-examination that the injury on person of PW-1 was not possible by fall on hard substance. Since the injured (PW-1) has not fully supported the prosecution story of physical assault on him by the accused causing his bleeding head injury I have concentrated on appreciation of the evidence of another injured i.e. PW-3 to find whether the evidence of PW-1, an eye witness shake evidence of PW-3 to render it unworthy of belief.

23. PW-3, another injured has stated in clear term that on 08.11.2023 at about 05:00pm at Madhaipur he along with his elder brother Debraj Chatterjee (PW-1) went to their native place. His big uncle i.e. the accused was encroaching some of his father's land. They refrained the accused from such encroachment to which the accused went furious and blew lathi on Debraj causing his head injury. He rushed to rescue Debraj. Then the accused also hit him with lathi on his head from his backside causing bleeding head injury. They both received serious head injury by the accused. They were treated at Suri Sadar Hospital. PW-3 has duly supported the case of prosecution over assault by the accused on him with lathi. His testimony regarding bodily injury finds full corroboration from his medico legal certificate, marked as Exhibit-P4. The attending physician, PW-8 has also proved that he examined PW-3 who presented history of assault with lathi at 09:00pm on 08.11.2023. The patient was treated with sutures for repairing his lacerated scalp injury on left side of occipital region approximately 4 cm. There was haematoma of dorsum of left hand. In his evidence during cross-examination he opined as Expert that the injury of PW-3 was not possible by fall on hard substance. PW-3 has passed the test of cross-examination with flying colours. No contradiction on material aspect is observed in his testimony. Contradiction regarding the manner in which the incident had started have been pointed out by Ld. Defence Counsel however these contradictions are found minor in nature and do not go to the root of matter and are not sufficient to hold that PW-3 is untrustworthy witness.

Merely because no independent public witness have been examined by the IO (PW-9), it is not sufficient to doubt the consistent testimony of the injured, (PW-3) which is duly supported by his Medico Legal Certificate. While appreciating the evidence of complainant / PW-2 and the injured / PW-3 I keep in mind that there is a tendency amongst the truthful witnesses also to back up a good case by some exaggerated version. In present case also I have discarded the exaggerated version but barring this there is no falsehood detected to discard entire version of injured i.e. PW-3 and the complainant (PW-2). PW-4 & PW-5 are the post occurrence witnesses. PW-4 has deposed that the accused is his uncle by village courtesy. The complainant (PW-2) and his sons are also his relative by village courtesy. They have their ancestral property in his village. He was present in the open field in front of his house when he heard a noise coming from neighbourhood. He rushed there to find PW-1 sitting on ground with bleeding injury. PW-3 was also there in injured condition. On his asking, PW-1 and PW-3 told him that they were assaulted by the accused. He helped PW-1 by making him sit on a sitting place near the spot and then he called the complainant over phone regarding the incident. Version of complainant (PW-2) that he heard about the incident over phone by the neighbour of the accused is found fully matched with the testimony of PW-4 who is a neighbour to the accused and has informed PW-2 regarding the incident over phone. PW-5 is another co-villager and his evidence is that hearing a loud noise coming from the neighbourhood he rushed there and saw that Bumba, elder son of Debasish Chatterjee was sitting with bleeding head injury. Bubun, younger son of Debasish Chatterjee was who was also there had suffered injuries. He came to learn that a physical altercation between sons of Debasish Chatterjee and the accused resulted with injury of the former. Debasish Chatterjee was informed. He came to the village and took his sons to Suri Sadar Hospital. Presence of PW-4 & PW-5 at the spot after the incident cannot be doubted. They have seen PW-1 and PW-3 with bleeding head injuries in the village. I am of view that PW-4 & PW-5 who are the co-villagers of the accused and PW-4 being common relative by village courtesy of the rival parties did not have any reason to omit the real culprit and falsely implicate the accused Suhas Chatterjee. The defence plea of false accusation out of an old landed dispute also does not inspire the confidence as no evidence in this regard has been produced on record and the suggestions in this regard given to PW-2 and PW-3 has been denied by them. I am of opinion

that though the documentary evidence (MLC in the name of PW-3) is proved as Exhibit-P4, the nature of injury is opined to be simple.

24. In the present case, the facts that have been proved on record suggest that the incident that had resulted in the injuries to PW-1 & PW-3 had occurred following a verbal altercation between the accused and the injured persons and it has certainly taken place on the spur of the moment. It was neither a pre-planned quarrel nor the accused was alleged to be armed with deadly weapon during the incident. The accused who is sharing the ancestral landed property with PW-2, picked up physical altercation over a discussion in landed matter which blew out of proportion and resulted in injuries to PW-3. The nature and intensity of the injuries sustained by PW-3 as reflected in his MLC is insufficient to give a finding that they were caused with an intention or knowledge and under such circumstances that if, the injuries had caused death of the injured person, the accused would be guilty of attempt to commit murder. Thus, the accused is liable for acquittal for offence under section 307 of IPC. However, since simple injuries have been caused to PW-3, due to beatings given to him by the accused, he is liable for conviction for offence under section 323 of Indian Penal Code. He is accordingly, convicted for the minor offence under Section 323 of IPC.

25. As per the argument that there is no proper identification of weapon of offence i.e. seized lathi of the injured, is concerned it is not a fit reason to relief the accused of the charge under Section 323 of Indian Penal Code against him. If non identification of the seized weapon is made a ground of acquittal then all the offender will save themselves by hiding the identification mark of the weapon immediately after the incident. Now delineating the salient features of the prosecution case I find these are the following un-rebutted inference upon appreciation of evidence discussed above:-

PW-3 is the ocular witnesses. His presence at the place and time of occurrence is proved beyond doubt. Identification of the accused is also unchallenged. Physical injuries of PW-3 are substantiated by his oral evidence and it finds support from the documentary evidence viz, Exhibit-P4. There is nothing in his testimony to create a dent in the prosecution case and there is sufficient material on record to convict the accused for the offence under Section 323 of Indian Penal Code.

26. There is complete lack of evidence to prove the charge under Section 307/325 of Indian Penal Code as there is no oral evidence available on this score.

27. **Hence, it is**

ORDERED

that the accused person namely Suhas Chatterjee is found guilty for committing the offence u/s. 323 Indian Penal Code and he is convicted under provision of Section 235(2) of Cr.P.C.

He is found not guilty for committing the offences u/s. 307/325 of Indian Penal Code.

Let the accused Suhas Chatterjee be heard on question of sentence tomorrow (30.04.2026) at 02:00pm in presence of both sides. His bail bond stands cancelled. He is taken into custody.

Seized alat, if any, be destroyed on completion of the statutory period of six months.

Note in relevant register and upload in CIS.

Dictated & corrected by me,
Sd/- Smt. Arti Sharma Roy
Sessions Judge, Birbhum.

Sd/- Smt. Arti Sharma Roy
Sessions Judge, Birbhum.
(JO Code-WBB00149)