

Form A

**IN THE COURT OF ADDITIONAL DISTRICT & SESSIONS JUDGE
FAST TRACK COURT, DUBRAJPUR**

**Present: Sri Binay Kumar Nonia (WB01032) A.D.J. F.T.C.
[06-12-2023]**

**[Sessions Case No.111/2020]
S.T 2/ November /21
CIS/ No. 46/20
CNR. No. WBBB090000462020**

(Under Sections147/148/448/323/354/307 of IPC.& 9 (b) (ii) I.E Act
(Arising out of Dubrajpur P.S. case No. 194 of 2015 dated 15-10-2015
under Sections147/148/448/323/354/307 of IPC.& 9 (b) (ii) I.E Act

Complainant	STATE OF WEST BENGAL OR Sk Fatenur
REPRESENTED BY	PUBLIC PROSECUTOR Rajendra Prasad Dey
ACCUSED	1.Ansar Mondal and 5 others
REPRESENTED BY	Sritama Mukherjee and Somsubhra Mondal

FORM B

Date of Offence	13-10-2015
Date of FIR	15-10-2015
Date of Chargesheet	03-01-2016
Date of Framing of Charges	17-11-2021
Date of commencement of Evidence	01-07-2022
Date on which Judgment is reserved	06-12-2023
Date of the Judgment	06-12-2023
Date of the Sentencing Order, if any	N.A

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 purpose of Section 428, Cr.P.C.
1.	Sk Romjan	19-10-15	15-08-14	Stated above			16-05-2014 to 15-08-2014
2.	Sk Rajaul	13-10-15	24.09.15	Stated above			20-06-2015 to 24-09-2015
3	SKMonirul	20-06-15	23.07.15	Stated above			20-06-2015 to 23-07-2015
4	Sk Ansar Mondal	20-06-15	24.09.15	Stated above			20-06-2015 to 24-09-2015
5	Nur Islam	13.10.15	24.09.15	Stated above			20-06-2015 to 24-09-2015

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	Sk. Fatenur	De facto Complainant
PW 2	Sureja Bibi	Independent Witness
PW 3	Iqbal Shah	Independent Witness
PW 4	Sonatan Mondal	Independent Witness
PW 5	Dr.Ujjal Bhakat	Doctor

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
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DWI	N.A.	N.A.
DW2	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 WITNESSES)
CW 1	N.A.	N.A.
CW 2	N.A.	N.A.

LIST OF PROSECUTION / DEFENCE/ COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Exhibit 1	Signature of P.W1 in the written complaint
2	Exhibit 2	The signature in the seizure list
3	Exhibit 3	The original Prescription dated 15.10.2015

B. Defence:

Sr. No.	Exhibit Number	Description
1	Exhibit D-1/DW1	N.A.
2	Exhibit D-2/DW2	N.A.

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
1	Exhibit C-1/CW1	N.A.
2	Exhibit C-2/CW2	N.A.

D. Material Objects:

Sr. No.	Material Object Number	Description
1	MO 1	N.A
2	MO 2	N.A.

1. The prosecution case in brief is that on 15.10.2015 SK Fatenur lodged a complaint before Dubrajpur P.S alleging that on 13.10.2015 at about 8.30-9.00 P.M accused persons along

with other 10-15 miscreants forcefully entered into his house after hurling bombs and searching him. He was threatened and and tried to fled away from his through his roof of his house and jumped into narrow passage. As result, he sustained fracture injury on his right leg. Accused persons ransacked his house and loot all valuable articles including five thousand cash from his house. His wife had tried obstructed them but she was molested by the accused persons. Hearing hue and cry local people came there but the accused persons fled away along with valuable articles. Out of all miscreants two were armed with revolver.

2. On the basis complaint Dubrajpur P.S. case No. 194 of 2015 dated 15-10-2015 under Sections 147/148/448/323/354/307 of IPC.& 9 (b) (ii) I.E Act was started against the above accused persons and other persons. The case was endorsed for investigation to S.I K.M.Hossain of the said P.S.

3. After completion of investigation charge sheet being no 75/14 dt. 15.05.14 u/s 147/148/448/323/354/307 of IPC.& 9 (b) (ii) I.E Act was submitted against six accused persons namely Sk Romjan @ kota, Sk Rajaul, Islam Khan, Sk Monirul, Sk Ansar and Nur Isalm @ Beltu before Ld. Magistrate Dubrajpur, Birbhum. Out of the six accused persons two accused persons namely Sk Nur Islam was filed for ever and Islam Khan was filed for present.

4 . Ld. Magistrate had taken the cognizance committed the case to the court of Ld. District and Sessions Judge, Birbhum at Suri Ld. District and Sessions Judge, Birbhum at Suri had also taken the cognizance and transferred the case to this court for trial and disposal.

5. **CHARGE**

After hearing Ld. Advocate for the accused persons and Ld PP, the charge was framed u/s147/148/448/323/354/307 of IPC.& 9 (b) (ii) I.E Act against four accused persons. The substance of accusation under sections of 147/148/448/323/354/307 of IPC.& 9 (b) (ii) I.E Act has been read over and explained to the accused persons. They pleaded not

guilty by saying Nirdosh and claims to be tried in open court.

The accused persons were examined u/s 313 of the Cr. P.C. They claimed innocent and declined to adduce any defence witness.

6. POINTS FOR DETERMINATION

1) Whether the accused persons are liable to be convicted for the offence under sections 147/148/448/323/354/307 of IPC.& 9 (b) (ii) I.E Act ?

2) Whether prosecution has able to prove the case against the accused persons ?

DECISION WITH REASONS

7. It is the sole onus of the prosecution to substantiate the charge adducing cogent and reliable evidences. Now it is to see how far the prosecution has been able to do so the same. At the time of argument Ld. PP In-Charge heard the prosecution case.

8. Ld. Counsel for the defence argued that five witnesses has been examined in this case by the prosecution. The complainant and injured have not support the prosecution case. The other witnesses have also not supported the prosecution case. There is no material for the Prosecution to rely on the Prosecution case and pray for acquittal of the accused persons from this case.

9. Keeping in view of the arguments of both sides I would like to discuss the evidence and other facts of the case.

9.1 P.W 1 SK Fatenur deposed that the incident took place on 13.10.2015 at 8.30/9.00 PM. At that time, he was in his house. He heard some sound of hue and cry from his room and found that some persons entered in his house and threatened him and abused him filthy languages. They attacked him and tried to flew away and sustained injury on his leg. He was medical treated. After return, he found his house and found that his house hold articles were damaged an ransacked his house. He lodged a complaint before Dubrajpur P.S and proved his signature and marked as Exhibit 1. In his cross examination,

he stated that he failed to say the names of the persons who entered into his house and abused him in the dark and also assaulted him. He sustained injury at his leg when he tried to fled away. He failed to say the contents of the written complaint and just signed the said written complaint. He denied the suggestion that no such incident took place.

9.2 P.W 2 Sureja Bibi deposed in her examination in chief in the same fashion and tune of her husband P.W1. She has failed to identify the accused persons in the court.

9.3 P.W. 3 Iqbal Sha has been declared hostile by the Prosecution and cross examined by the prosecution at length.

9.4 P.W 5 Dr. Ujjal Bhakat deposed that he had examined Sk Fatnur and prescribed some medicines. He proved his prescription issued in favour of P.W1 Sk Fatnur and marked Exhibit 3. In the cross examination he admitted that there is no name of assailants in the prescription.

9.5 P.W4 Sonatan Mondal proved his signature in the seizure list and marked as Exhibit 2 but in the cross examination he failed to say the contents of the seizure list. The rest two witnesses P.W 6 and 7 failed to say the about the prosecution case.

10.While appreciating the materials on record and oral testimony of the witnesses it appears that the complainant cum injured P.W 1 Sk Fatnur and his wife namely Sureja Bibi P.W 2 deposed that some persons entered into the house of complainant and abused him . P.W 1 tried to fled away from the spot and fell on the ground and sustained injury in his leg. He proved his signature in the complain t and marked as Exhibit1. He has not not uttered the names of the accused person at the time of the trial. The other witnesses have also not supported the prosecution case. There is no iota of evidence to bring the

charge against the accused persons. The accused persons are facing trial of the case since 2015. This court has no alternative to say that the Prosecution has failed to prove the case against the accd persons beyond shadow of reasonable doubt. As a result, the accused persons are entitled be acquitted from this case.

11. Hence it is

ORDERED

That the accused persons namely Sk Romjan @ kota, Sk Rajaul, Sk Monirul and Sk Ansar are found not guilty for the offence under sections 147/148/448/323/354/307 of IPC.& 9 (b) (ii) I.E Act. They are acquitted u/s 235(1) of the Cr.P.C.

Accused persons be set at liberty at once. The sureties be discharged from their respective bail bonds forthwith. Seized articles/ alams if any be disposed of in accordance to law after period of appeal.

The victim if any has a right to prefer an appeal under the provision of section 372 Cr.P.C against the Judgment and if required may seek free Legal assistance from the appropriate Legal Service Authority to institute and prosecute to such appeal.

Let a copy of judgment be forwarded to the District Magistrate, Suri, and DLSA, Suri, for due intimation.

Dictated & Corrected by me

Additional District and Sessions Judge
Fast rack Court Dubrajpur Birbhum

Sri Binay Kumar Nonia
Additional District and Sessions Judge
Fast track Court Dubrajpur Birbhum