

FORM A
IN THE COURT OF JUDICIAL MAGISTRATE, KALNA, PURBA
BARDHAMAN

Present: Debojit Das (J.O. Code: WB01370)

Judicial Magistrate, Kalna Purba Bardhaman

GR 1201 of 21 (Reg. No. 396 of 22)

T.R. no. 159 of 22

Date of Judgment: 03.08.2026

Details of FIR/Crime and Police Station

Complainant	State of West Bengal
Represented by	Ld. APP, Rupam Majumder
Accused	Dilip Dey and six others
Represented by	

FORM B

Date of offence	29.4.21
Date of FIR	20.7.21
Date of Charge sheet	3.9.21
Date of framing of Charges	7.6.22
Date of commencement of Evidence	18.7.22
Date on which judgment is reserved	N.A.
Date of the judgment	3.8.26
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 the purpose of Section 428 CrPC
1.	Dilip Dey and five others			u/S 448, 323, 354, 504, 506 r/w 34	Acquitted	N.A	N.A

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FORM C

LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES Prosecution

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
P.W-1	Sarama Dey	Informant/victim
P.W-2	Pachu Gopal Dey	Witness
P.W-3	Atalunanda Roy	Witness
P.W-4	Sharbani Karmakar Dey	Witness

Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
D.W-1	N.A	N.A

Court witness, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
C.W-1	N.A	N.A

LIST OF PROSECUTION/DEFENCE EXHIBITS/COURTS EXHIBITS

Prosecution

Sr. No.	Exhibit No.	Description
1.	Exhibit 1	The signature of PW1 in the written complaint

Defence

Sr. No.	Exhibit No.	Description
1.	N.A	N.A

Court Exhibit

Sr. No.	Exhibit No.	Description
1.	N.A	N.A

Material Objects

Sr. No.	Material Object No.	Description
1.	NA	NA

J U D G M E N T

Facts of the Case

1. As per the charge sheet, on 20.7.21 at about 15:40 hours, a written complaint was lodged at Monteswar Police Station by the informant, namely Sarama Dey under Section 156(3) Cr.P.C. in compliance of Ld. Court's order. In the complaint, it was alleged that on 29.4.21 at about 9:30 hrs. the accused Dilip Dey and six others entered her house, abused her over previous grudge and when she protested, they assaulted her with fists and blows, outraged her modesty and they assaulted Mousumi and Sarbani Dey as they tried to rescue the informant victim and they stole cash from her Almirah, threatened her with dire consequences.

FIR and Investigation

2. Pursuant to the informant's complaint, FIR was registered, and an investigation was conducted by the Investigating Officer (I.O.). Upon conclusion of the investigation, a charge sheet (No. 259) was submitted under Sections 448, 323, 354, 504, 506 r/w 34 IPC against the **seven** accused. Cognizance of the offences was taken by the competent Court, and the case was subsequently transferred to this Court for adjudication.

Framing of Charge

3. This Court framed charges against the accused under Sections 448, 323, 354, 504, 506 r/w 34 IPC. The charges were read over and explained to the accused. The accused pleaded "Not Guilty" and claimed to be tried. CS accused no. 3 passed away and the case is abated against him, trial continued against the rest.

Evidence on Record

4. During the trial, the prosecution examined the informant/victim namely Sarama Dey as PW1, Panchu Gopal Dey as PW2, Atalunanda Roy as PW3 and Sarbani Karmakar Dey as PW4. This Court, mindful of the constitutional mandate under Article 21 of the Constitution of India guaranteeing a speedy trial, after evaluating the evidence already on record, closed prosecution evidence.

Examination of the Accused under Section 313 Cr.P.C.

5. The statements of the accused were recorded under Section 313 Cr.P.C, wherein the accused categorically denied allegations levelled against the

accused. The accused declined to adduce any evidence in defence, resting the case on the denial of the prosecution's claims.

Points for Determination

6. The sole point for consideration before this Court is:
 - a) Whether the accused are guilty of committing offences punishable under Sections 448, 323, 354, 504, 506 r/w 34 IPC?
7. This Court has carefully considered the submissions of the learned counsel for both the prosecution and the defence and has meticulously perused the evidence on record. The analysis and findings are delineated below.

Evaluation of Prosecution Evidence

8. PW1 Sarama Dey deposed that she lodged a complaint in the Kalna Court against seven persons, Dilip Dey and 6 others. She identified Radha Rani Karmakar @ Moni Dey and Khukumoni Dey @ Padma Rani Dey in the court, stating that none of the other accused were present. She deposed that the incident took place about 1 year ago in the morning at her house, relating to property and drainage disputes. After being shown the complaint, she identified it and her signature, which was marked as Exhibit P-1 series. She further deposed that she lodged the complaint due to some trivial disputes. During cross-examination by the defence, she stated that she cannot recollect the time and date of the incident. She explicitly deposed that she does not know the contents of her complaint and has no allegations at present against them.
9. PW2 Panchu Gopal Dey deposed that Sarama Dey is his neighbour. He deposed that he does not know whether she lodged any complaint in the Kalna Court against Dilip Dey and 6 others, and that he does not have any knowledge regarding this case. The defence declined cross-examination.
10. PW3 Atalunanda Roy deposed that Sarama Dey is his neighbour. He deposed that he does not know whether she lodged any complaint in the Kalna Court against Dilip Dey and 6 others, and that he does not have any knowledge regarding this case. The defence declined cross-examination.
11. PW4 Shrabani Karmakar Dey deposed that Sarama Dey is her mother-in-law. She deposed that her mother-in-law lodged a complaint in the Kalna Court against seven persons, Dilip Dey and

6 others. She identified Radha Rani Karmakar @ Moni Dey and Khukumoni Dey @ Padma Rani Dey in the court, noting that none of the other accused were present. She deposed that the incident took place about 1 year ago in the morning at her house, relating to property and drainage disputes. During cross-examination by the defence, she deposed that she does not have any personal knowledge regarding this case.

Decision with Reason

12. The burden lies entirely upon the prosecution to establish, beyond reasonable doubt, that the accused persons, in furtherance of their common intention, criminally trespassed into the house of the informant, voluntarily caused hurt, assaulted a woman with intent to outrage her modesty, intentionally insulted and criminally intimidated her, thereby committing offences punishable under Sections 448, 323, 354, 504 and 506 read with Section 34 of the Indian Penal Code. The accused are presumed innocent unless such burden is discharged by cogent, reliable and convincing evidence.
13. The prosecution case principally rests upon the testimony of the informant and victim, PW1 Sarama Dey. It is settled law that conviction can safely be based even on the sole testimony of the victim if it inspires confidence and is of sterling quality. However, in the present case, PW1 has not supported the prosecution allegations at all.
14. PW1 merely stated that she lodged a complaint before the Kalna Court against seven persons and identified only two accused persons who were present in Court. She did not narrate any incident of criminal trespass, assault, theft, outraging of modesty or criminal intimidation. On the contrary, she specifically deposed that the dispute related to property and drainage and that the complaint had been lodged because of some trivial disputes.
15. More importantly, during her cross-examination, PW1 made admissions which strike at the root of the prosecution case. She categorically deposed that she could not recollect the date or time of the alleged occurrence. She further stated that she does not know the contents of the complaint lodged in her name and, most significantly, she explicitly stated that she has no allegations whatsoever against the accused persons at present.

- 16.The evidence of PW1, therefore, does not merely contain omissions. It completely lacks any incriminating material against the accused. None of the essential ingredients of Sections 448, 323, 354, 504 or 506 IPC has been spoken to by the informant herself.
- 17.The prosecution case suffers a further setback from the evidence of PW4 Shrabani Karmakar Dey, who was cited as one of the alleged victims of assault. According to the prosecution story in the written complaint, PW4 was allegedly assaulted while attempting to rescue the informant. Had the occurrence actually taken place in the manner alleged, PW4 would have been one of the most material witnesses.
- 18.However, PW4 did not support the prosecution case. She merely deposed that her mother-in-law lodged a complaint due to property and drainage disputes. During cross-examination, she made a categorical admission that she has no personal knowledge regarding the case. Thus, one of the alleged injured victims herself has not supported the prosecution allegations regarding assault, criminal trespass, outraging of modesty or criminal intimidation.
- 19.The evidence of PW2 Panchu Gopal Dey and PW3 Atalunanda Roy is equally unhelpful to the prosecution. Both are independent neighbours. Both uniformly deposed that they do not know whether the informant lodged any complaint against the accused persons and that they have absolutely no knowledge regarding the present case. Their evidence does not corroborate any part of the prosecution story.
- 20.Thus, none of the four prosecution witnesses has narrated the occurrence alleged in the written complaint. There is absolutely no ocular evidence proving that the accused entered the informant's house, assaulted any of the victims, outraged the modesty of PW1, stole cash, abused or threatened anyone.
- 21.The prosecution has also failed to establish the specific role of any individual accused. Except for identifying two accused persons present in Court, PW1 attributed no overt act to any accused. No witness has stated which accused committed criminal trespass, who assaulted whom, who allegedly outraged modesty or who issued threats. Such vague and omnibus evidence is wholly insufficient to sustain criminal conviction.
- 22.It is also noteworthy that the written complaint alleged commission of several distinct offences, including criminal trespass, assault upon three

victims, outraging of modesty and theft of cash from an almirah. However, none of these allegations found place in the substantive evidence before the Court. The prosecution cannot rely merely upon the contents of the written complaint, as the complaint itself is not substantive evidence. It can only be used for corroboration or contradiction of the maker. When the maker herself has not supported the allegations contained therein, the complaint loses its evidentiary value for proving the occurrence.

23. The FIR in the present case was also not lodged immediately after the alleged occurrence. According to the prosecution, the incident occurred on 29.04.2021, whereas the complaint came to be instituted pursuant to an order under Section 156(3) Cr.P.C. only on 20.07.2021, nearly three months thereafter. Though delay alone is not always fatal, particularly when satisfactorily explained, the prosecution has not offered any convincing explanation for such prolonged delay. In cases arising out of admitted property disputes amongst relatives, unexplained delay assumes significance because it provides sufficient opportunity for deliberation, consultation and embellishment.

24. The admitted background of property and drainage disputes between the parties also cannot be ignored. PW1 herself admitted that the dispute related to property and drainage. Thus, the prosecution itself acknowledges the existence of prior civil discord between the parties. Such admitted background requires the Court to scrutinize the evidence with greater caution, particularly when the witnesses themselves have substantially withdrawn from the prosecution version.

25. It is also significant that no medical evidence has been produced to corroborate the allegation that three persons sustained injuries during the occurrence. However, this Court does not attach undue importance to the non-production of medical evidence because medical evidence is ordinarily corroborative in nature and ocular evidence, if reliable, is sufficient to sustain conviction. In the present case, however, the difficulty is altogether different. There is virtually no reliable ocular evidence proving that any assault took place. Therefore, the absence of any medical corroboration further weakens an already fragile prosecution case.

26. Criminal jurisprudence mandates that suspicion, however strong, cannot substitute legal proof. Conviction cannot be founded upon allegations contained in the FIR or charge sheet unless such allegations are proved

through reliable oral evidence before the Court. The prosecution must stand on the strength of its own evidence and cannot derive advantage from the weakness of the defence.

27. In the present case, the prosecution has failed to establish the chain of events from the alleged criminal trespass till the alleged assault and threats. There is no trustworthy evidence regarding the occurrence, no reliable evidence regarding the participation of individual accused persons, no proof regarding the alleged outraging of modesty, no evidence regarding theft of cash, and no convincing evidence establishing criminal intimidation. The entire prosecution story has remained unsubstantiated.

28. Upon cumulative appreciation of the evidence on record, this Court is of the considered opinion that the prosecution has failed to prove beyond reasonable doubt that the accused persons committed offences punishable under Sections 448, 323, 354, 504 and 506 read with Section 34 of the Indian Penal Code. The point for determination is accordingly answered in the negative.

Hence, it is

ORDERED

that the remaining six charge-sheeted accused are found **not guilty** of the offences under Sections 448, 323, 354, 504 and 506 read with Section 34 IPC. **They are** hereby **acquitted** under Section **248(1) Cr.P.C.**

The bail bonds of the accused shall remain in force for a period of six months.

A soft copy of this judgment shall be uploaded to the Case Information System (CIS), and a certified copy shall be forwarded to the District Magistrate, Purba Bardhaman, and the Secretary, District Legal Services Authority (DLSA), Purba Bardhaman, for due intimation to the victim and for necessary action.

Typed and corrected by me.

Judicial Magistrate,
Kalna, Purba Bardhaman
JO WB1370