

FORM A

IN THE COURT OF JUDICIAL MAGISTRATE, KALNA, PURBA
BARDHAMAN

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

Judicial Magistrate, Kalna Purba Bardhaman

GR 544 of 10 (Reg. No. 184 of 19)

T.R. no. 89 of 19

Date of Judgment: 6.6.2026

Details of FIR/Crime and Police Station

Complainant	State of West Bengal
Represented by	Ld. APP, Rupam Majumder
Accused	Narayan Kabiraj and five others
Represented by	

FORM B

Date of offence	8.8.09 and 14.10.09
Date of FIR	11.10.10
Date of Charge sheet	31.11.10
Date of framing of Charges	02.12.24
Date of commencement of Evidence	03.11.25
Date on which judgment is reserved	N.A.
Date of the judgment	6.6.26
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.	Narayan Kabiraj and four others			u/S 147, 148, 149, 448, 323, 504 IPC	Acquitted	N.A	N.A

FORM C

LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES Prosecution

RANK	NAME	NATURE OF EVIDENCE (E Y E WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
P.W-1	Mohadeb Mistry	Witness
P.W-2	Amal Halder	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.	NA	NA

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 11.10.10 at about 8:35 hours, a written complaint was lodged at Purbasthali Police Station by the informant, namely Ramani Tapadar under Section 156(3) Cr.P.C. In the complaint, it was alleged that on 14.10.09 at about 7 hrs. the accused persons namely Narayan Kabiraj and five others formed unlawful assembly and entered his house and as he protested, they assaulted him resulting in injuries.

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. 218) was submitted under Sections 147, 148, 149, 448, 323, 504 IPC against the **six** 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 147, 148, 149, 448, 323, 504 IPC. The charges were read over and explained to the accused. The accused pleaded "Not Guilty" and claimed to be tried. CS accused no. 4 passed away and the case is abated in respect of the deceased accused.

Evidence on Record

4. During the trial, the prosecution examined witnesses namely Mohadeb Mistry as PW1, Amal Halder as PW2. The prosecution failed to produce and examine the rest of the witnesses despite the fact that the case is pending since several years and more than sufficient opportunities the prosecution had to examine them. 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 of the Cr.P.C., wherein the accused categorically denied all 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 147, 148, 149, 448, 323, 504 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 deposed that the informant is his neighbor. He deposed that he does not know anything about this case. During cross-examination by the defence, he deposed that the Investigating Officer did not interrogate him.
9. PW2 deposed that the informant is his neighbor. He deposed that he does not know anything about this case. During cross-examination by the defence, he deposed that the I.O. did not interrogate him.

Decision with Reasons

10. In a criminal trial, the burden lies entirely upon the prosecution to establish the guilt of the accused beyond reasonable doubt. The prosecution must prove the occurrence, the participation of the accused persons and all essential ingredients of the offences charged through reliable and admissible evidence. Unless such burden is discharged, the accused are entitled to the benefit of doubt.
11. At the outset, it is noteworthy that the alleged occurrence is stated to have taken place on 14.10.2009, whereas the complaint under Section 156(3) Cr.P.C. was filed on 11.10.2010, nearly one year after the alleged incident. No evidence has been adduced before this Court explaining such substantial delay in initiating criminal proceedings. While delay by itself may not always be fatal, an unexplained delay of this magnitude assumes significance and requires the prosecution evidence to be scrutinized with greater caution.
12. The prosecution case alleges that six accused persons formed an unlawful assembly, trespassed into the house of the informant and assaulted him. However, the prosecution has failed to examine the informant himself, who was the most material witness to prove the occurrence. The alleged victim has also not been examined. Consequently, the Court has been deprived of direct evidence regarding the incident.

13. The prosecution examined only two witnesses, namely PW1 Mohadeb Mistry and PW2 Amal Halder. Neither witness supported the prosecution case in any manner.
14. PW1 merely stated that the informant is his neighbour and that he does not know anything about the case. Likewise, PW2 stated that the informant is his neighbour but that he has no knowledge regarding the incident. Both witnesses therefore failed to prove any aspect of the prosecution case.
15. Neither PW1 nor PW2 deposed regarding the alleged unlawful assembly, the alleged trespass, the alleged assault, the alleged abusive conduct or the participation of any of the accused persons. No witness identified any accused in Court. No witness described the place of occurrence or the circumstances leading to the alleged incident.
16. Thus, there is a complete absence of substantive evidence regarding the occurrence itself. The prosecution has failed to establish the chain of events alleged in the FIR and charge sheet. There is no evidence proving that any assembly was formed, that any common object existed, that any accused entered the house of the informant, or that any assault took place.
17. The essential ingredients of Sections 147 and 148 IPC have therefore not been established. There is no evidence regarding the formation of an unlawful assembly, the common object of such assembly or the use of force by its members.
18. Similarly, the prosecution has failed to prove the ingredients of Section 448 IPC. No witness has stated that any accused committed house trespass by entering the property of the informant with any criminal intent.
19. The offence under Section 323 IPC is also not made out. There is no evidence that any hurt was caused to the informant or by whom such hurt was allegedly caused.
20. Likewise, the ingredients of Section 504 IPC remain wholly unproved, as no witness has deposed regarding any intentional insult or abusive conduct likely to provoke breach of peace.
21. In the absence of proof of the principal offences, the question of applying Section 149 IPC does not arise. There is no evidence from which the Court can infer either membership of an unlawful assembly or the existence of a common object.
22. It is also significant that despite the long pendency of the case, the prosecution failed to produce the remaining witnesses. The Court afforded sufficient

opportunities to the prosecution. However, the material witnesses were not examined. The constitutional mandate of speedy trial under Article 21 of the Constitution cannot be indefinitely sacrificed on account of repeated failure of the prosecution to produce its witnesses.

23. The evidence on record therefore does not suffer merely from minor inconsistencies or lack of corroboration. Rather, there is a complete absence of evidence proving the occurrence and connecting the accused persons with the alleged offences.

24. It is a settled principle of criminal jurisprudence that suspicion, however strong, cannot take the place of proof. Conviction cannot be founded upon allegations contained in the complaint or charge sheet. The prosecution must establish its case through legally admissible evidence adduced before the Court.

25. Upon cumulative assessment of the entire evidence on record, this Court finds that the prosecution has failed to prove beyond reasonable doubt that the accused persons formed an unlawful assembly, committed house trespass, voluntarily caused hurt, intentionally insulted the informant or committed any act in furtherance of a common object.

26. Accordingly, this Court holds that the prosecution has failed to prove beyond reasonable doubt that the accused persons committed offences punishable under Sections 147, 148, 149, 448, 323 and 504 of the Indian Penal Code. The point for determination is answered in the negative.

Hence, it is **ORDERED**

that all remaining five charge-sheeted accused are found **not guilty** of the offences under Sections 147, 148, 149, 448, 323 and 504 of the Indian Penal Code. **They are** hereby acquitted under Section **248 (1)** of the CrPC.

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