

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

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

Judicial Magistrate, Kalna Purba Bardhaman

GR 1619 of 16 (Reg. No. 273 of 18)

T.R. no. 115 of 18

Date of Judgment: 1.6.2026

Details of FIR/Crime and Police Station

Complainant	State of West Bengal
Represented by	Ld. APP, Rupam Majumder
Accused	Puranchand Mallick and two others
Represented by	

FORM B

Date of offence	5.12.16
Date of FIR	8.12.16
Date of Charge sheet	28.2.17
Date of framing of Charges	28.11.19
Date of commencement of Evidence	17.02.20
Date on which judgment is reserved	N.A.
Date of the judgment	1.6.26
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.	Puranchand Mallick and two others			u/S 341, 323, 354, 506 and 34 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	Dhanu Kha	Informant
P.W-2	Sarat Pandit @Sarat Dolui	Witness
P.W-3	Swapan Santra	Witness
P.W-4	Chumki Ghosh	Victim
P.W-5	Goutam Dolui	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 8.12.16 at about 18:55 hours, a written complaint was lodged at Monteswar Police Station by the informant, namely Dhanu Khan. In the complaint, it was alleged that on 5.12.16 at about 16:30 hrs. when Nabanna festival was being observed at Patun village, songs were being played in a sound box, few young persons of his locality in intoxicated state abused him and as he protested, they assaulted him, assaulted his daughter, torn her wearing apparels.

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. 43) was submitted under Sections 341, 323, 354, 506 r/w 34 IPC against the **three** 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 341, 323, 354, 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.

Evidence on Record

4. During the trial, the prosecution examined the informant/victim namely Dhanu Kha as PW1, one Sarat pandit @ Sarat Dolui, his neighbour, as PW2, one Swapan Santra as PW3, his daughter/victim Chumki Ghosh as PW4 and one Goutam Dolui as PW5. 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 341, 323, 354, 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 Dhanu Kha deposed that he filed the case against Buro, Kedo, and Dinanath. He deposed that the incident occurred about 3 to 4 years ago in the afternoon at Dharmatala para on the day of 'Naban'. He deposed that when he went to the Puja Pandel, he saw the accused persons tearing the electric wires, and when he protested, Dinanath pressed his neck and threw him on the ground. He deposed that upon raising a hue and cry, Chumki came to his rescue, but Dinanath threw her on the ground by catching hold of her hair and assaulted her badly. He deposed that they took her to Monteswar Hospital, after which she was referred to Bardhaman hospital where she was admitted for five days. He deposed that he went to Monteswar P.S. and filed this FIR, which was drafted as per his and Chumki's instructions, identifying his signature (marked as Exhibit 1) as well as the accused persons present in the Court. During cross-examination by the defence, he deposed that Chumki is his daughter and that C.S.W 2, C.S.W 3, and C.S.W 4 are his neighbours with whom he has good relations. He admitted that he cannot say the exact date of occurrence, cannot say the contents of his FIR, and that they did not sustain bleeding injuries. He deposed that the incident lasted for 3 to 4 minutes, about 4 people gathered (including Sarup Pandit), and police interrogated him. He denied the defence suggestions that the incident did not occur or that he deposed falsely.
9. PW2 Sarat Pandit @ Sarat Dolui deposed that the de-facto complainant, Dhanu Khan, is known to him as his neighbour. He deposed that he cannot say against whom he lodged the complaint but then stated he lodged the complaint against two persons (Chief

- examination was deferred) but prosecution did not produce the said witness on subsequent date due to which his evidence was closed.
10. PW3 Swapan Santra deposed that he knows the informant as his neighbour, but does not know anything about this case. During cross-examination by the defence, he deposed that the Investigating Officer did not interrogate him.
 11. PW4 Chumki Ghosh deposed that her father lodged the complaint against Dinu Mallik, Tapas Porel, and another. She deposed that they are present in the Court room today. She deposed that her father lodged the complaint due to some dispute, but at present, their dispute is amicably settled and she does not recall anything else. During cross-examination by the defence, she deposed that the I.O. did not interrogate her.
 12. PW5 Goutam Dolui deposed that the informant is his neighbour, but he does not know why he lodged the complaint. During cross-examination by the defence, he deposed that the I.O. did not interrogate him.

Decision with Reasons

13. In a criminal trial, the burden always lies upon the prosecution to establish the guilt of the accused beyond reasonable doubt. The prosecution is required to prove each ingredient of the alleged offences through cogent, reliable and convincing evidence. The accused is entitled to the benefit of every reasonable doubt arising from the evidence on record.
14. Upon careful scrutiny of the evidence, this Court finds that the prosecution case suffers from serious infirmities. At the outset, it is pertinent to note that the alleged incident took place on 05.12.2016 at about 16:30 hours, whereas the FIR was lodged on 08.12.2016 at about 18:55 hours, that is, after a delay of more than three days. The FIR does not disclose any satisfactory explanation for such delay. Although delay in lodging an FIR is not by itself fatal to the prosecution case, unexplained delay assumes significance where the prosecution evidence is otherwise weak and suffers from material inconsistencies. In the present case, the delay remains unexplained and therefore constitutes a circumstance which requires the prosecution evidence to be scrutinized with greater caution.
15. The entire prosecution case principally rests upon the testimony of PW1

Dhanu Kha and PW4 Chumki Ghosh, who are the alleged victims. PW1 deposed regarding the alleged assault upon himself and his daughter. However, several aspects of his evidence diminish its evidentiary value. During cross-examination, he admitted that he could not state the exact date of occurrence. He further admitted that he could not say the contents of the FIR lodged by him. Though he claimed that several persons gathered at the place of occurrence, none of the independent witnesses examined by the prosecution have supported his version.

16. PW4 Chumki Ghosh, who was the alleged victim of the offence under Section 354 IPC and whose testimony was expected to be the most material evidence in the case, did not support the prosecution case at all. She merely stated that her father had lodged the complaint due to some dispute and that the dispute has now been amicably settled. She specifically stated that she does not recall anything else. She did not depose regarding any assault, use of criminal force, outraging of modesty, wrongful restraint or criminal intimidation by any of the accused persons. Thus, the principal victim herself has not made any incriminating allegation against the accused persons before the Court.
17. PW3 Swapan Santra and PW5 Goutam Dolui completely failed to support the prosecution case. PW3 categorically stated that he does not know anything about the case. PW5 similarly deposed that he does not know why the complaint was lodged. Therefore, both these witnesses are of no assistance to the prosecution.
18. The evidence of PW2 Sarat Pandit @ Sarat Dolui is also of no avail. His chief examination remained incomplete and he was not subsequently produced by the prosecution. Consequently, no reliance can be placed upon his incomplete testimony for proving the prosecution case.
19. Thus, apart from the solitary testimony of PW1, there is no substantive evidence supporting the allegations made in the FIR. Even the testimony of PW1 stands uncorroborated by the alleged victim PW4 and by the independent witnesses examined by the prosecution. It is a settled principle that conviction can be based on the sole testimony of a witness if such testimony is wholly reliable. However, where the testimony remains uncorroborated, suffers from infirmities and is contradicted by the conduct of other material witnesses, the Court must seek assurance before acting upon such evidence.

20. So far as the offence under Section 354 IPC is concerned, the evidence is wholly insufficient. The alleged victim PW4 has not stated a single word regarding any act constituting assault or use of criminal force with intent to outrage her modesty. In the absence of any substantive evidence from the victim herself, the essential ingredients of Section 354 IPC remain completely unproved.
21. Likewise, no evidence has been adduced to establish the ingredients of wrongful restraint under Section 341 IPC. There is also no reliable evidence showing any criminal intimidation so as to attract Section 506 IPC. As regards the allegation of voluntarily causing hurt under Section 323 IPC, the prosecution has failed to adduce convincing evidence proving beyond reasonable doubt that any hurt was caused by the accused persons.
22. This Court is also conscious that the FIR allegations referred to medical treatment of PW4. However, in the facts of the present case, formal proof of any injury report would not have advanced the prosecution case. Medical evidence is corroborative in nature and cannot substitute substantive evidence regarding the occurrence and the identity of the assailants. Since the alleged victim herself has not supported the prosecution case and no substantive evidence implicating the accused has emerged during trial, production of medical documents would not have cured the fundamental deficiencies in the prosecution evidence.
23. The cumulative effect of the aforesaid circumstances, namely the unexplained delay in lodging the FIR, non-support by the principal victim, hostility or non-support by independent witnesses, absence of reliable corroboration to the testimony of PW1, and failure to prove the essential ingredients of the charged offences, creates serious doubts regarding the prosecution case.
24. It is a cardinal principle of criminal jurisprudence that suspicion, however strong, cannot take the place of proof. The prosecution must stand on its own legs and prove its case beyond reasonable doubt. In the present case, the prosecution has failed to discharge that burden.
25. Accordingly, this Court holds that the prosecution has failed to prove beyond reasonable doubt that the accused persons, in furtherance of their common intention, committed offences punishable under Sections 341, 323, 354 and 506 of the Indian Penal Code. The point for determination is

therefore answered in the negative.

Hence, it is **ORDERED**

that all three charge-sheeted accused are found **not guilty** of the offences under Sections 341, 323, 354, 506 r/w 34 IPC. **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