

Form No. (M) 34 in Form No. (M) 36.

Form A

|                                                                                                                                   |                                                                                                                     |
|-----------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| <b><u>THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE,</u></b><br><b><u>KALNA, PURBA BURDWAN.</u></b>                       |                                                                                                                     |
| <b>Present :</b>                                                                                                                  | Smt. Suparna Roy-III<br>Additional Chief Judicial Magistrate,<br>Kalna, District Purba Burdwan.<br>JO Code- WB01118 |
| <u>Date of Delivery of Judgment : 1<sup>st</sup> day of June, 2026</u>                                                            |                                                                                                                     |
| <b><u>G.R. Case No. 1059 of 2021</u></b><br><b><u>(CNR No. WBBD12000761-2024</u></b><br><b><u>(Reg. No. GR. 408 of 2024 )</u></b> |                                                                                                                     |
| (Details of FIR/Crime and Police Station)                                                                                         |                                                                                                                     |
| Received on 05.07.2021 and started Monteswar PS Case No. 245 of 2021 dated<br>05.07.2021 , u/s 363/365/34 of IPC.                 |                                                                                                                     |
| Complainant                                                                                                                       | STATE OF WEST BENGAL                                                                                                |
| Represented by                                                                                                                    | Sri Rupam Majumder (Public Prosecutor-<br>in-charge)                                                                |
| Accused                                                                                                                           | 1. Jakir Sk.<br>2. Khokan Sk.                                                                                       |
| Represented by                                                                                                                    | Mr. Puspendu Sammadar.                                                                                              |

Form B

|                                      |            |
|--------------------------------------|------------|
| Date of offence                      | 25.12.2004 |
| Date of FIR                          | 05.07.2021 |
| Date of Charge sheet                 | 29.07.2021 |
| Date of framing of plea/charge       | 17.06.2025 |
| Date of commencement of evidence     | 16.03.2026 |
| Date on which Judgment is reserved   | -----Nil   |
| Date of the Judgment                 | 01.06.2026 |
| Date of the sentencing order, if any | ----- Nil. |

| Ran<br>k of<br>the<br>accu<br>sed | Name of the<br>accused | Date of<br>arrest | Date of<br>release on<br>bail | Offence<br>s<br>charged<br>with | Whether<br>acquitted or<br>convicted | Sente<br>nce<br>impo<br>sed | Period of<br>detention<br>undergon<br>e during<br>trial for<br>the<br>purpose<br>of<br>Section<br>428<br>Cr.P.C. |
|-----------------------------------|------------------------|-------------------|-------------------------------|---------------------------------|--------------------------------------|-----------------------------|------------------------------------------------------------------------------------------------------------------|
| 1                                 | Jakir Sk.              | Surrende<br>red   | 06.07.2021                    | 363/365<br>/34 of<br>IPC        | ACQUITTED                            | N.A                         | NIL                                                                                                              |
| 2                                 | Khokan Sk.             | Surrende<br>red   | 06.07.2021                    | 363/365<br>/34 of<br>IPC        | ACQUITTED                            | N.A                         | NIL                                                                                                              |

Form C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution :

| RANK | NAME | NATURE OF EVIDENCE<br>(EYE WITNESS, POLICE<br>WITNESS, EXPART<br>WITNESS, MEDICAL<br>WITNESS, PANCH<br>WITNESS, OTHER<br>WITNESS) |
|------|------|-----------------------------------------------------------------------------------------------------------------------------------|
|      |      |                                                                                                                                   |

B. Normal witnesses, if any,

| RANK | NAME | NATURE OF EVIDENCE<br>(EYE WITNESS, POLICE<br>WITNESS, EXPART |
|------|------|---------------------------------------------------------------|
|      |      |                                                               |

|      |       |                                                                  |
|------|-------|------------------------------------------------------------------|
|      |       | WITNESS, MEDICAL<br>WITNESS, PANCH<br>WITNESS, OTHER<br>WITNESS) |
| DW 1 | ----- | Nil                                                              |
| DW 2 | ----- | Nil                                                              |
| DW 3 | ----- | Nil                                                              |

**C. Court witnesses, if any,**

| RANK | NAME  | NATURE OF EVIDENCE<br>(EYE WITNESS, POLICE<br>WITNESS, EXPART<br>WITNESS, MEDICAL<br>WITNESS, PANCH<br>WITNESS, OTHER<br>WITNESS) |
|------|-------|-----------------------------------------------------------------------------------------------------------------------------------|
| CW 1 | ----- | Nil                                                                                                                               |
| CW 2 | ----- | Nil                                                                                                                               |
| CW 3 | ----- | Nil                                                                                                                               |

**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**

**A. Prosecution**

| Sl. No. | Exhibit No. | Description |
|---------|-------------|-------------|
| 1       | Nil         | Nil         |

**B. Defence**

| Sl. No. | Exhibit No. | Description |
|---------|-------------|-------------|
| 1       | Nil         | Nil         |

**C. Court Exhibits**

| Sl. No. | Exhibit No. | Description |
|---------|-------------|-------------|
| 1       | Nil         | Nil         |

**D. Material Objects**

| Sl. No. | Exhibit No. | Description |
|---------|-------------|-------------|
| 1       | Nil         | Nil         |

**J U D G M E N T**

**INTRODUCTION**

The prosecution case started on the basis of the written complaint lodged by the defacto complainant Sabiruddin Sk of Monteswar P.S . It has been alleged by the de facto complainant that 03.07.2021 at 03.00 p.m., her daughter Sabira Khatun had left away from defacto complainant's house for taking tuition. Then it was afternoon her daughter did not return home. The accused persons kidnapped her daughter. Then de facto complainant lodged this case.

On the basis of the aforesaid written complaint Monteswar PS Case No. 245 of 2021 dated 05.07.2021 u/s 363/365/34 of IPC was started against the FIR named accused persons. On completion of investigation, the concerned investigating officer (I.O) submitted the charge sheet under Section 363/365/34 of I.P.C against the accused persons.

The Court of Ld A.C.J.M, Kalna proceeded for trial after supplying copy to the accused persons.

Charge was framed against the accused persons under Section 363/365/34 of I.P.C. The contents of charges were read over and explained to the accused persons who pleaded not guilty and claimed to be tried. Hence this trial.

Defence did not adduce any evidence. However, from the statements of the accused persons u/s 313 of Cr.P.C and the trend of cross-examination of the prosecution witnesses, it appears that the defence case is that of denial of the prosecution case and plea of innocence.

**Points for determination:-**

1. Whether the accused persons have committed the offence punishable under Section 363/365/34 of I.P.C?
2. Whether the prosecution has been able to prove its case beyond all shadow of reasonable doubt?

**EVIDENCE ON RECORD:-**

**PW-1** : Sabir Sk.

**P.W-2** : Asiya Bibi.

**Document :-**

**Ext No. 1** : Written complaint along with signature.

**DECISION WITH REASONS.**

Time has come to pave through the materials on record to fathom out as to how far the prosecution has been able to bring home its case against the present accused persons.

**Point No. 1 & 2 :-**

I take up the opportunity to discuss both the points as they are closely related with each other.

In order to bring home the charges against the accused persons, the prosecution must prove its case beyond a shadow of reasonable doubt.

Now let me go through the evidence of witnesses examined by the prosecution.

**PW-1**, the defacto complainant of this case, Sabir Sk deposed that out of misconception since his daughter had gone away from his house without informing

anyone to her relative's house. Later she was recovered by police. She was not kidnapped by any one. She further stated that at present she does not have any grievance against the accused persons.

**P.W-2** : husband of the the defacto complainant of this case, Asihya Bibi deposed that out of misconception since her daughter had gone away from her house without informing anyone to her relative's house. Later she was recovered by police. She was not kidnapped by any one. She further stated that at present she does not have any grievance against the accused persons.

The settled principle of Criminal Law is that if the prosecution wants to prove the fact, the same must be proved by leading evidence which must be reliable-trustworthy and conclusively proves the guilt of the accused person. But in this case, I cannot hold that the evidence laid conclusively establishes the guilt of the accused person.

There is a significant difference between the words “may be true” and “must be true”. Suspicion, however strong can never replace the place of proof. The way from may be true to must be true shall have to be paved out by the prosecution with cogent and reliable evidence. In this instant case, such evidence is not forthcoming from the end of the prosecution. Accordingly, this being the situation it is my considered view that the accused persons should get benefit of doubt.

From the evidence of prosecution witnesses nothing has transpired which can direct the arrow of suspicion to the present accused persons. The key witnesses of the Prosecution have not supported the case. Therefore, after giving a serious cogitation to the materials on record, this Court can safely come to the conclusion that the prosecution has miserably failed to prove its case against the accused persons. Therefore, the accused persons deserve to be acquitted from this case.

**In result, the prosecution fails.**

Hence, it is,

**ORDERED**

that the accused persons named above are found not guilty of the offence punishable under sections under Section 363/365/34 of I.P.C and they are acquitted **u/s 271(1) of BNS.**

The accused persons be discharged from their respective bail bonds and be set at liberty forthwith.

The sureties are discharged as well.

The seized alat, if any, be destroyed after the appeal period.

NOTE : THE FAMILY OF THE VICTIM IN THIS CASE SHALL HAVE THE RIGHT TO PREFER AN APPEAL, THEY SHALL BE ENTITLED TO AVAIL FREE LEGAL AID AND ASSISTANCE THROUGH KALNA SDSLC TO PREFER AND PROSECUTE SUCH APPEAL.

NOTE : LET A COPY OF THIS JUDGMENT OF ACQUITTAL BE FORWARDED TO THE DISTRICT MAGISTRATE AND SECRETARY, DLSA, PURBA BURDWAN FOR DUE INTIMATION TO THE VICTIM.

NOTE : Details of the de facto complainant of this case is as follows :-

Name of the de facto complainant : Ujjal Ghosh

Son of : Tapan Ghosh.

Village : Karui. P.S. : Katwa District : Purba Bardhaman.

Dictated and Correct by me.

A.C.J.M Kalna.

(SUPARNA ROY-III)  
Additional Chief Judicial Magistrate  
Kalna Purba Bardhaman.  
J.O Code- WB01118