

**IN THE COURT OF THE Ld. JUDICIAL MAGISTRATE
1st CLASS, DANTAN, DIST. PASCHIM MEDINIPUR**

PRESENT:

MR. MIFTAHUL ISRAR

JUDICIAL MAGISTRATE, 1ST CLASS

DANTAN, DIST. PASCHIM MEDINIPUR

G.R. No. 175 of 2022

T.R. No. 345 of 2022

CIS Filing No. 1148 of 2022

CIS Registration No. 746 of 2022

CNR No. WBWMOG-001148-2022

State of West Bengal

-VS-

(1) Laxmipriya Muhuri, (2) Putul Muhuri & (3) Chaitanya Muhuri

..... ACCUSED PERSONS

CHARGE UNDER SECTIONS 341/323/325/506/34 OF THE INDIAN

PENAL CODE, 1860

JUDGMENT DELIVERED ON THIS 28th DAY OF AUGUST, 2022

J U D G M E N T

The wheels of criminal law was set into motion that one Sucharita Muhuri [in short the defacto complainant] lodged a written complaint against (1) Laxmipriya Muhuri, (2) Putul Muhuri & (3) Chaitanya Muhuri [in short the accused] with the Mohanpur Police Station.

The crux of the allegation is that on 08.03.2022 at about 11.00 am, the accused Laxmipriya Muhuri assaulted her son. She asked her as to why he assaulted him. Then she assaulted her with fists and blows. Then other accused Chaitanya Muhuri and Putul Muhuri came assaulted her. She became senseless. Her husband came and took her to hospital. The accused Chaitanya Muhuri threatened them to kill. Hence this is the complaint.

On receipt of such compliant, the Mohanpur Police Station started Mohanpur Police Station case Number 51/2022 dated 09.03.2022 under section 341/323/307/325/506/34 of Indian Penal Code (in short IPC).

After completion of investigation, the authority of Mohanpur Police Station submitted Charges Sheet against the

accused persons under section 341/323/325/506/34 of the Indian Penal Code.

Let, it remain mentioned that the accused persons were enlarged on bail in the meantime and as such they remained on court bail till the end. Post service of copy the record was transferred to this Court for trial and disposal.

At the initial stage, the charge was framed against the accused persons under Section 341/323/325/506/34 of the India Penal Code, 1860, (in short the IPC) to which they pleaded innocence and for which trial of the case commenced. That burdened the prosecution to prove the case.

During the course of trial of this case, the prosecution brings following witness:

- | | | |
|---|---|----------|
| 1. Sucharita Muhuri (Defacto complainant) | : | P.W. - 1 |
| 2. Kalicharan Mahuri | : | P.W. - 2 |
| 3. Sankar Muhuri | : | P.W. - 3 |
| 4. Sambhu Muhuri | : | P.W. - 4 |
| 5. Surjendu Muhuri | : | P.W. - 5 |
| 6. Ksbita Muhuri | : | P.W. - 6 |
| 7. Malati Muhuri | : | P.W. - 7 |
| 8. Dr. Santanu Sing | | P.W. - 8 |
| 9. S.I. Sisir Kumar Das | | P.W. - 9 |

During the prosecution evidence following documents were marked as Exhibits on behalf of the prosecution :

- | | | |
|---|---|-----------------------|
| 1. The signatures of the defacto complainant appears on the Written complaint | : | Exhibit - 1
Series |
| 2. Medical report of Sucharita Muhuri | : | Exhibit - 2 |
| 3. Formal FIR | : | Exhibit - 3 |
| 4. Rough sketch map with index | | Exhibit - 4 |

During the course of trial, the defacto complainant (P.W. 1), Dr. Santanu Sing (P.W. 8) and S.I. Sisir Kumar Das (I.O. & P.W. 9) have supported the case of the prosecution. But, during the examination of chief and cross examination of the other prosecution witnesses valuable and relevant evidences does not come out to incriminate the accused persons. There is a shadow of

reasonable doubt whether the accused persons have committed the offences alleged against them or not. The defense did not adduce any evidence. Their case, as it appears from the trend of argument and cross examination as well as examination the accused persons under section 313 Cr.P.C. is that of denial of prosecution case.

With such materials in hand this Court intends to address the present case by disposing the following points for determinations:

POINTS FOR DETERMINATION

- Whether the accused persons did the overt acts as alleged?
- Whether the prosecution has been able to prove its case?

DECISION WITH REASONS

POINT NOS. 1 AND 2:: These two points are clubbed together in order to avoid unnecessary parade of words. During the evidence of prosecution witnesses considerable & materials evidence have not come out to stand the prosecution case.

The P.W. 1 (defacto complainant) has supported the prosecution case but there are many contradiction with the written complaint as well as the other evidence.

The P.W. 2, P.W. 3, P.W. 4, P.W. 5, P.W. 6 & P.W. 7 did not corroborate the prosecution case.

The P.W. 8 (M.O.) has supported the prosecution case. But, as per written complaint the incident was happened on 08.03.2022 at about 11.00 am, But, as per injury report (Exhibit – 2) the incident was happened on 08.03.2022 at about 04.30 pm. The prosecution has failed to give any clarification why the defacto did not say the actual time of incident to the doctor.

The P.W. 9 (I.O.) is a formal witness. He investigated this case and submitted charge sheet against the accused persons.

There is no corroborative evidence supporting the prosecution case. Other valuable documents are not marked as Exhibits on behalf of the prosecution. The evidence of the prosecution witnesses are not sufficient believing that the accused persons have committed offense as leveled against them. The prosecution witnesses could not say to incriminate the accused persons. There is a shadow of reasonable doubt and

suspicious whether the accused persons have done over acts on the issue. The advantage of benefit of doubt shall get accused persons. They practically leave the record without any incriminating evidences against the accused.

The FIR (written complaint) is not marked as Exhibit. This Court thinks that FIR in itself is no substantive piece of evidence but it is to be used as corroboration or contradicting by the witnesses. What is in the FIR has to be testified on witness box by the witnesses of prosecution.

Otherwise, that in itself is practically an impotent document to drive home the charges against the accused by own force.

But when there is no workable witness in hand, the Court is of the opinion that the same is of no use.

In the result, the Court could not convince itself that the prosecution has been able to prove its point, needless to say beyond any shadows of reasonable doubt.

In short, the Court finds several failure of the prosecution to make the case stand at its own strength, leaving enough room of doubt for the Court to hold that the accused persons are not guilty of the offense charged against them.

Accordingly it is :

ORDERED

That the accused persons (1) Laxmipriya Muhuri, (2) Putul Muhuri & (3) Chaitanya Muhuri are found not guilty of the charges under sections 341/323/325/506/34 of the IPC as were leveled against them.

They are hereby acquitted from said charges under Section 248(1) of the Code of Criminal Procedure, 1973.

They be set at liberty forthwith.

Sureties be released from bonds.

No alamot.

Note in the T.R.

Sd/- Miftahul Israr

Judicial Magistrate, 1st Class,
Dantan, Paschim Medinipur
J.O. Code WB01295

Typed, corrected and
printed by me:

Sd/- Miftahul Israr

Judicial Magistrate, 1st Class
Dantan, Paschim Medinipur
J.O. Code WB01295