

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

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

Judicial Magistrate, Kalna Purba Bardhaman

GR 12 of 13 (Reg. No. 982 of 22)

T.R. no. 485 of 22

Date of Judgment: 16.6.2026

Details of FIR/Crime and Police Station

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

FORM B

Date of offence	6.8.12
Date of FIR	3.12.12
Date of Charge sheet	31.1.13
Date of framing of Charges	18.1.23
Date of commencement of Evidence	2.5.23
Date on which judgment is reserved	N.A.
Date of the judgment	16.6.26
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.	Sudeb Roy and two others			u/S 323, 354 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	Milan Roy @ Bag	Informant/victim
P.W-2	Samir Roy @ Bag	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 P1/1	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 3.12.12 at about 14:05 hours, a written complaint was lodged at Purbasthali Police Station by the informant, namely Milan Roy under Section 156(3) Cr.P.C. In the complaint, it was alleged that on 6.8.12 at about 11 pm at night the accused persons Sudeb Roy and two others voluntarily assaulted her and her son, outraged her modesty over property dispute.

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. 21) was submitted under Sections 323, 354 and 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 323, 354 and 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 Milan Roy @ Bag as PW1 and her son Samir Roy @ Bag as PW2. 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 323, 354 and 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 Milan Roy @ Bag deposed that she lodged the complaint at Kalna Court against a total of 3 persons, namely Sudeb Roy, Naba Roy, and Kusho Roy. She deposed that they are present today in the Court room, whom she identified. She deposed that the incident occurred in the year 2012 at 11:00 p.m. at her residence, and that she lodged the complaint due to some dispute. She deposed that their dispute is amicably settled and she does not recall anything else. She further deposed that the written complaint was prepared as per her instruction and she signed it, identifying her signature which was marked as Exbt P-1/1. During cross-examination by the defence, she deposed that the I.O. did not interrogate her and that she does not recall what was written in the complaint.
9. PW2 Samir Roy @ Bag deposed that the informant is his mother. He deposed that she lodged the case due to some dispute. He deposed that at present, their dispute is amicably settled, and he does not recall anything else. During cross-examination by the defence, he deposed that the I.O. did not interrogate him.

Decision with Reasons

10. The prosecution is required to establish beyond reasonable doubt that the accused persons voluntarily caused hurt to the victim and further assaulted her with the intention or knowledge contemplated under Section 354 IPC, acting in furtherance of their common intention. The burden lies entirely upon the prosecution and never shifts to the accused.
11. The allegations in the complaint were serious in nature. It was alleged that the accused persons assaulted the informant and her son and also outraged her modesty over a property dispute. However, when

examined before the Court, neither witness supported the prosecution version.

12. PW1, who is the alleged victim of both the assault and the offence under Section 354 IPC, did not narrate any incriminating circumstance against any of the accused persons. She merely stated that she lodged the complaint due to some dispute and that the dispute has since been amicably settled. PW1 did not depose that any accused assaulted her. She did not state that she sustained any injury. Most importantly, she did not describe any act whatsoever amounting to outraging of her modesty. No overt act was attributed to any of the accused persons. PW1 further stated that she does not recall anything else regarding the occurrence. During cross-examination, she stated that she does not remember what was written in the complaint.
13. Thus, the maker of the complaint herself has not proved the allegations contained therein. It is well settled that the FIR or complaint is not substantive evidence. The contents thereof can only be used in accordance with law and cannot substitute substantive testimony before the Court.
14. The prosecution case becomes further weakened by the evidence of PW2, who is the son of the informant and one of the alleged victims according to the prosecution story. PW2 also did not support the case. He merely stated that his mother lodged the case due to some dispute and that the dispute has now been amicably settled. He specifically stated that he does not recall anything else.
15. PW2 did not depose regarding any assault upon himself or his mother. He did not support the allegation of outraging of modesty. He did not describe the manner of occurrence or the role of any accused person. Therefore, both prosecution witnesses have completely failed to establish the occurrence alleged in the complaint.
16. The Court also notes that the alleged incident is stated to have occurred on 06.08.2012, whereas the complaint was lodged through a proceeding under Section 156(3) Cr.P.C. on 03.12.2012, approximately four months later. Delay by itself is not always fatal. However, where there is considerable delay and the prosecution witnesses ultimately fail to narrate the occurrence or explain the circumstances leading to the prosecution, such delay assumes significance and further weakens the

prosecution case.

17. The prosecution has also failed to establish any coherent chain of events. There is no evidence regarding the circumstances in which the alleged incident occurred, the acts committed by each accused, the nature of injuries allegedly sustained, or the conduct constituting the offence under Section 354 IPC.
18. The evidence on record merely establishes that there was some dispute between the parties which has subsequently been settled. However, existence of a dispute cannot by itself establish criminal liability.
19. The essential ingredients of Section 323 IPC remain wholly unproved as there is no substantive evidence that any hurt was voluntarily caused by the accused persons.
20. Likewise, the essential ingredients of Section 354 IPC remain completely unestablished. There is no evidence of any assault or use of criminal force against the informant with intent to outrage her modesty.
21. Once the substantive offences themselves are not proved, the question of common intention under Section 34 IPC does not arise.
22. Criminal conviction can only be based upon reliable and cogent evidence proving the guilt of the accused beyond reasonable doubt. In the present case, the prosecution evidence falls far short of that standard.
23. Accordingly, this Court finds that the prosecution has failed to prove beyond reasonable doubt that the accused persons committed offences punishable under Sections 323 and 354 read with Section 34 IPC. 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 323 and 354 read with Section 34 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