

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

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

Judicial Magistrate, Kalna Purba Bardhaman

GR 1685 of 16 (Reg. No. 1730 of 17)

T.R. no. 336 of 17

Date of Judgment: 07.04.2026

Details of FIR/Crime and Police Station

Complainant	State of West Bengal
Represented by	Ld. APP, Rupam Majumder
Accused	Bhramar Das and four others
Represented by	

FORM B

Date of offence	2.11.16
Date of FIR	20.12.16
Date of Charge sheet	31.1,17
Date of framing of Charges	2.6.18
Date of commencement of Evidence	16.7.18
Date on which judgment is reserved	N.A.
Date of the judgment	7.4.26
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.	Bhramar Das and three others			u/S 447, 354 and 34 IPC	Acquitted	N.A	N.A

FORM C

LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES Prosecution

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
P.W-1	Anai Das	Informant
P.W-2	Prasenjit Das	Witness
P.W-3	Tapan Das	Witness
P.W-4	Raimoni Das	Victim

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 EXHIBITSProsecution

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 20.12.16 at about 18:45 hours, a written complaint was lodged at Monteswar Police Station by the informant, namely Anai Das under Section 156(3) Cr.P.C. In the complaint, it was alleged that on 2.11.16 at about 7 pm the accused persons namely Bhramar Das and four others entered his house, abused his wife and assaulted his wife by holding knot of her hair, fists and blows, by broom and sticks, outraged her modesty, torn her saree and blouse and stole his wife's 12 gram gold chain from her neck, damaged household articles.

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. 12) was submitted under Sections 447, 354 and 34 IPC against the **five** accused. Cognizance of the offences was taken by the competent Court, and the case was subsequently transferred to this Court for adjudication. CS accused no. 4 passed away and the case is filed forever against the said deceased accused.

Framing of Charge

3. This Court framed charges against the accused under Sections 447, 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 Anai Das as PW1, his son Prasenjit Das as PW2, his neighbor Tapan Das as PW3 and his wife/victim Raimoni Das as PW4. 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 their 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 447, 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 Anai Das deposed that he lodged the complaint at Kalna Court against Tapan Das, Ghoton Das, Bhromor Das, Kanika Das, and Chhanda Das, identifying Bhromor Das and Tapan Das in the Court. He deposed that the incident occurred 5 years ago at about 7:00 p.m. at his house. He deposed that his daughter-in-law, Kanika Das, who used to stay at her paternal house, came to his house along with the other accused when his wife, Raimoni Das, was alone. He deposed that Kanika Das demanded money, and upon his wife's refusal, Chhanda Das assaulted his wife with fists and blows, while the others entered and damaged household property including a tin box. He deposed that upon hearing a hue and cry, locals assembled, and he arrived to find his wife crying bitterly. He deposed that he went to the Monteswar P.S., but as no action was taken, he lodged the Court complaint drafted by Ld. Advocate Puspendu Ghosh, upon which he put his L.T.I. after the contents were explained to him. During cross-examination by the defence, he deposed that his daughter-in-law Kanika Das had lodged a case U/S 498A I.P.C. against them prior to this case. He deposed that he was not present at the P.O. at the time of the incident and was stating the facts for the first time in Court due to police inaction. He deposed that Kanika Das had expired at her parental house about 4 years ago, and denied the defence suggestions that he lodged a false case out of grudge or as a counter-blast.

9. PW2 Prasenjit Das, aged 26 years, a day labourer residing at Kusumgram, deposed that the complainant is his father and identified Bhromor Das and Tapan Das in the Court. He deposed that the incident occurred 6 years ago at about 7:00 a.m. at his house. He deposed that his wife, Kanika Das, and the other accused entered the house while his mother was alone, assaulted her with fists and blows, pulled the knot of her hair, tore her wearing apparels, and damaged household property including a tin box from which they took away some amount and ornaments . He deposed that upon returning, he found his mother crying, and since the police failed to act, his mother was treated by a local quack doctor. During cross-examination by the defence, he deposed that Monteswar P.S. is 15 to 20 minutes away by bicycle and the B.P.H.C. is 15 minutes away, noting there are 20 to 30 houses in his locality including those of Swapan Das, Babu Das, and Chandu Das. He deposed that there is a Moram road in front of his house used by villagers. He admitted that his wife, Kanika Das, lodged Kalna P.S. Case No. 404 of 2016 against them prior to this case, that he did not witness the incident with his own eyes, and that this is his first time deposing in Court regarding the incident. He denied all defence suggestions of lodging a false case or a counter-blast.
10. PW3 Tapan Das deposed that the informant and Bramar Das are his neighbours. 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.
11. PW4 Raimoni Das deposed that her husband lodged the complaint, and she identified Bramar Das and Ghoton Das in the Court. She deposed that the incident occurred about 8 years ago at about 7:00 a.m. inside her house when she was alone. She deposed that after a heated argument, the accused assaulted her with fists and blows, tore her wearing apparels, and stole her utensils and ornaments, noting she was not treated by any doctor. During cross-examination by the defence, she deposed that her son Prasenjit Das had an arranged marriage with Kanika Das (daughter of Tapan Das), which Bhramar Das helped coordinate.

She deposed that a matrimonial dispute led to enmity and several cases being filed between her family and Tapan Das's family, including a pending case against her family in Katwa Court. She deposed that the accused reside under Katwa P.S. jurisdiction, she has no relation or contact with them, and she does not know if her daughter-in-law is still alive. She deposed that her husband lodged the case alone, she does not know who drafted it, and before today she had not told anyone about the incident, making this her first time narrating it in Court. She confirmed the adjacent neighbours (Swapan, Chandu, Babu Das) and the southern village Moram road. She denied the defence suggestions that no incident occurred, that her husband lodged a false counter-case, or that Bhramar Das was falsely implicated. Finally, she deposed that the police did not take her wearing apparels or their complaint.

Decision with Reasons

12. The accused persons have been charged for the offences punishable under Sections 447, 354 and 34 of the Indian Penal Code. It is a settled principle of criminal jurisprudence that the prosecution must prove its case beyond all reasonable doubt. The presumption of innocence is a foundational principle of criminal law and unless the prosecution establishes the essential ingredients of the offences through cogent, credible and trustworthy evidence, the accused is entitled to benefit of doubt. It is also well settled that suspicion, however strong, cannot take the place of proof and the Court must scrutinize the evidence carefully, particularly where the prosecution case rests mainly upon interested witnesses.
13. In order to establish an offence under Section 447 IPC, the prosecution must prove that the accused committed criminal trespass by entering into or remaining in property with intent to commit an offence or to intimidate, insult or annoy the person in possession. For an offence under Section 354 IPC, the prosecution must prove that the accused assaulted or used criminal force against a woman with intent to outrage her modesty. Further, to attract Section 34 IPC, it must be established that the acts were done in furtherance of common intention of all the

accused persons.

14. PW1 Anai Das, the informant, deposed that the accused persons entered his house and assaulted his wife. However, it is significant to note that PW1 himself admitted during cross examination that he was not present at the place of occurrence at the time of incident. Thus, his entire testimony regarding the occurrence is hearsay in nature. It is settled law that hearsay evidence carries little evidentiary value unless corroborated by independent evidence. PW1 also admitted that prior to the present case, his daughter in law Kanika Das had lodged a case under Section 498A IPC against them. This admission assumes significance and indicates existence of prior enmity between the parties, thereby requiring cautious scrutiny of the prosecution evidence.
15. PW2 Prasenjit Das, the son of the informant, also admitted that he did not witness the incident with his own eyes. He deposed that after returning home he found his mother crying. Thus, the testimony of PW2 is also not direct evidence regarding the alleged occurrence. Further, PW2 stated that the incident occurred at about 7:00 a.m., whereas PW1 stated that the incident occurred at about 7:00 p.m. This material contradiction regarding the time of occurrence goes to the root of the prosecution case and creates serious doubt regarding the credibility of prosecution witnesses.
16. PW3 Tapan Das, who is an independent neighbour, did not support the prosecution case at all. He categorically deposed that he does not know anything about the case. Thus, the only independent witness examined by the prosecution has turned hostile and did not corroborate the prosecution version. This significantly weakens the prosecution case.
17. PW4 Raimoni Das, the alleged victim, deposed regarding assault and tearing of wearing apparels. However, her testimony also suffers from material infirmities. She admitted that she was not treated by any doctor. No medical evidence has been produced to corroborate the alleged assault. She further admitted that before today she had not narrated the incident to anyone and this was her first time narrating the incident in Court. This admission casts serious doubt regarding the credibility of her testimony.
18. PW4 further admitted that there existed matrimonial dispute between her family and the family of the accused persons and that several cases

were filed between them. She also admitted that a case against her family is pending in Katwa Court. These admissions clearly indicate existence of prior enmity between the parties and possibility of false implication cannot be ruled out.

19. It is further noteworthy that though the alleged occurrence took place in a residential locality having several neighbouring houses and a public road, no independent witness from locality has been examined by the prosecution. The non examination of independent witnesses available at the place of occurrence creates adverse inference against the prosecution.
20. The prosecution has also failed to produce any documentary or material evidence. The alleged torn wearing apparels were not seized. No medical document has been produced. No seizure list has been proved. Such omissions create serious doubt regarding prosecution case.
21. There are also material contradictions regarding time of occurrence. PW1 stated the incident occurred at 7:00 p.m., PW2 stated 7:00 a.m., and PW4 also mentioned 7:00 a.m. Such contradictions are not minor in nature and go to the root of prosecution case, thereby affecting credibility of witnesses.
22. It is also significant that the allegations regarding outraging modesty have not been supported by convincing and consistent evidence. The evidence remains vague and general in nature without specific overt acts attributed to each accused. The prosecution has also failed to establish common intention of the accused persons.
23. It is a settled proposition of law that where evidence suffers from material contradictions, absence of corroboration, and lack of independent witnesses, the accused is entitled to benefit of doubt. The cumulative effect of the above discussion clearly shows that the prosecution has failed to establish the charges beyond reasonable doubt.
24. Upon careful appreciation of the entire evidence on record and applying the settled principles of criminal jurisprudence, this Court is of the considered opinion that the prosecution has failed to prove that the accused persons committed criminal trespass or assaulted the victim with intent to outrage her modesty.

Hence, it is

ORDERED

that all remaining four charge-sheeted accused are found **not guilty** of the offences under Sections 447, 354 and 34 IPC. **They are** hereby acquitted under Section 248 (1) of the Cr.P.C.

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 as defined under Section 2(wa) of the Cr.P.C. and for necessary action.

Typed and corrected by me.

Judicial Magistrate,
Kalna, Purba Bardhaman
JO WB1370