

G.R Case No. 4053/2013
CNR WBB16 000805-2013

FORM A

IN THE COURT OF THE JUDICIAL MAGISTRATE, 5th COURT, ASANSOL, PASCHIM BARDHAMAN Present: Sri. Subrajit Majumder, Judicial Magistrate, 1st Class 5th Court, Asansol, Paschim Bardhaman JO Code WB 01561 Date of delivery of Judgment: <u>The 24th day of June, 2026</u> <u>G.R Case No. 4053/2013</u> <u>CNR WBB16 000805-2013</u> <u>Kulti P.S. Case No. 303/13 dated 11.09.2013 under Section 279/429 of Indian Penal Code.</u> <u>Argument heard on : 23.06.2026</u>	
COMPLAINANT	State of West Bengal
REPRESENTED BY	Ld. APP Nupur Das Agarwal
ACCUSED	1) Srikanta Yadav
REPRESENTED BY	Ld. Advocate Sri Anand Kumar Verma

FORM B

Date of Offence	10.09.2013
Date of Complaint	11.09.2013
Date of Charge sheet	30.09.2013
Date of Framing of Charge	16.07.2018
Date of commencement of Evidence	07.08.2023
Date on which Judgment is reserved	24.06.2026
Date of Judgment	24.06.2026
Date of the Sentencing Order, if any	Not applicable

.....
Subrajit Majumder
J. M, 5th Court, Asansol, Paschim Bardhaman.
JO CODE: WB01561

G.R Case No. 4053/2013
CNR WBD16 000805-2013

Form (M) 36

Form C

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS OTHER WITNESS)
1	Barmeshwar Yadav	Defacto complainant
2	Mihir Kanti Guha	Mechanical Expert
3	Voltu Yadav	Other witness
4	S.I Hasibur Rahaman	Police witness

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS OTHER WITNESS)
N.A.	N.A.	N.A.

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS OTHER WITNESS)
N.A.	N.A.	N.A.

.....
Subrajit Majumder
J. M, 5th Court, Asansol, Paschim Bardhaman.
JO CODE: WB01561

G.R Case No. 4053/2013
CNR WBBD16 000805-2013

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1.	P1/PW2	Mechanical report dated 17.09.2013
2.	P2/PW4	Formal FIR
3.	P3/PW4	Endorsement in FIR of S.I Krishnendu Jana
4.	P4/PW4 collectively	Rough sketch map with index.
5.	P5/PW4	Seizure list dated 17.09.2013

B. Defence:

Sr. No.	Exhibit Number	Description
N.A.	N.A.	N.A.

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
N.A.	N.A.	N.A.

D. Material Objects:

Sr. No.	Material Object Number	Description
N.A.	N.A.	N.A.

J U D G M E N T

Factual Backdrop:

1. The prosecution case as revealed from the record, in a nutshell, is that a complaint was filed by one de-facto complainant namely, Barmeswar Yadav. He stated that on 10.0.2013 at about 6.30 p.m, when his she-buffalo was returning home after grazing towards Priya Cinema Hall, the driver of bus no. WB41B/9920 was coming from Chittaranjan side and dashed his she-buffalo from behind causing instant death of the animal. Thus, this case was filed.

.....
Subrajit Majumder
J. M, 5th Court, Asansol, Paschim Bardhaman.
JO CODE: WB01561

G.R Case No. 4053/2013
CNR WBD16 000805-2013

2. On the basis of such complaint Kulti PS case being no. 303/13 dated 11.09.2013 was initiated and after investigation charge-sheet was submitted against the accused u/s. 279/429 I.P.C.
3. The accused appeared before the Ld. A.C.J.M Court and subsequently the case was transferred to this court for disposal. Subsequently under section 279/429 of IPC charge was framed and also was read over and explained to which the accused pleaded not guilty and claimed to be tried.
4. The prosecution evidence was closed on 25.02.2026.
5. After closure of the prosecution evidence, the accused person was examined under Section 313 of the Code of Criminal Procedure (in short Cr.P.C). He declined to adduce any evidence from his side. So, defence evidence was closed and argument was heard from both sides and the case was fixed for judgment.

Points for Consideration.

- a. Whether the accused persons have committed the offences labeled against him?
- b. Whether the prosecution has been able to prove the instant case beyond all shadow of reasonable doubt?

Decision with reasons

6. It is settled principle of law that initially burden of proof lies upon the prosecution in order to prove its case and if there is any doubt the accused person will get the benefit of that doubt. In order to prove this case the prosecution has examined four witnesses.
7. In the instant case the de-facto complainant deposed as PW1. He deposed that on an unspecified date in 2013, at around 16:00 hours in the evening, his buffaloes had gone for grazing and were returning from the front of Priya Nursing Home when a mini bus coming from the Chittaranjan side dashed one of his buffaloes, which died on the spot. However, in cross-examination, he made several significant admissions. He stated that he could not say the exact date of the incident, that he was not present at the place of occurrence and did not witness the incident with his own eyes, that he cannot read or write in English and therefore cannot say what is written in the complaint filed by him, and that he cannot produce any documents to prove his ownership or purchase of the said buffalo. He further admitted that

.....
Subrajit Majumder
J. M, 5th Court, Asansol, Paschim Bardhaman.
JO CODE: WB01561

G.R Case No. 4053/2013
CNR WBBD16 000805-2013

though there is cattle shed near Priya Cinema, he cannot show any documents proving that permission was granted to him specifically to keep the cattle shed.

8. PW-2, Mihir Kanti Guha, a retired Motor Vehicle Inspector, deposed that on 17.09.2013 he examined the bus bearing registration number WB41B-9920 at Neamatpur IC compound under Kulti PS in connection with the instant case. Upon examination, he found that there was no mechanical defect in the bus, but observed some physical damage, specifically that the front right-side bumper was dented and damaged. His mechanical report dated 17.09.2013 was marked as Exhibit P1. In cross-examination, he admitted that he did not use any machinery during the examination, and significantly conceded that if anything dashed the bus from behind, that kind of damage could also occur, thereby leaving open the possibility that the damage was caused by a source other than the bus hitting the buffalo.

9. PW-3, Voltu Yadav, a cultivator residing near Priya Cinema Hall under Kulti PS, District Paschim Bardhaman, gave a deposition that was entirely unhelpful to the prosecution. He stated that he does not know either the complainant or the accused persons, that he does not know anything about the case, and that the police never interrogated him in connection with this case. His testimony thus contributed nothing to the prosecution's case and raised questions about why he was cited as a witness at all.

10. PW-4, SI Hasibur Rahaman, the Investigating Officer, deposed that on 11.09.2013 he was posted as ASI at Kulti Traffic Guard, and was endorsed by SI Krishnendu Jana, Officer-in-Charge of Kulti PS, with the case being Kulti PS Case No. 303/2013 dated 11.09.2013 under Sections 279/429 IPC for investigation. He perused the FIR, visited the place of occurrence, and prepared a rough sketch map with index, which was marked as Exhibit P4. He recorded statements of available witnesses under Section 161 CrPC, and the said statement list dated 17.09.2013 was marked as Exhibit P5. The formal FIR was marked as Exhibit P2 and the endorsement of SI Krishnendu Jana was marked as Exhibit P3. After completing the investigation, he submitted a charge sheet bearing No. 302/2013 dated 30.09.2013 before the court against the accused Srikanta Yadav under Sections 279/429 IPC.

11. In cross-examination, he admitted that the dispute arose due to an accident involving a buffalo on GT Road, that during investigation he did not find any documents regarding identification of the buffalo, and that he did not examine the owner of the Nursing Home situated adjacent to the place of occurrence. He denied the suggestion that he had not

.....
Subrajit Majumder
J. M, 5th Court, Asansol, Paschim Bardhaman.
JO CODE: WB01561

G.R Case No. 4053/2013
CNR WBBD16 000805-2013

properly investigated the case and had filed the charge sheet merely on the basis of table work as per the direction of a superior officer.

12. The most fatal gap in the prosecution case is the complete absence of any direct eyewitness. PW-1, the complainant himself, categorically admitted he was not present at the scene. PW-3, who lived near the place of occurrence, disclaimed all knowledge. No other eyewitness has been produced who actually saw the bus hit the buffalo.

13. Section 279 IPC requires proof of rash or negligent driving by a specific person. The charge is against Srikanta Yadav, but not a single witness identifies him as the driver of the bus at the time of the incident. No witness places him at the scene.

14. PW-2 found only a dented front right bumper but crucially admitted under cross-examination that such damage could also occur if something dashed from behind the vehicle. This admission introduces reasonable doubt as to whether the bus hit the buffalo or was itself hit. The mechanical report is thus double-edged and does not exclusively support the prosecution's version.

15. PW-1 admitted he could not produce any documents to prove he purchased or owned the buffalo. Section 429 IPC requires proof that the animal belonged to someone. Without proof of ownership, the essential ingredient of the offence under S. 429 (mischief by killing/maiming cattle) is not established. Furthermore the PW-1 himself stated he cannot say the exact date of the incident. This raises questions about the reliability of the complaint and the entire chain of events.

16. The evidence on record consists of a complainant who was not present, a mechanical report that cuts both ways, a witness who knows nothing, and an investigation with significant gaps. This falls far short of the standard of proof beyond reasonable doubt as required under criminal law. The accused is therefore entitled to the benefit of doubt, and the case as it stands would not sustain a conviction under Sections 279 and 429 IPC.

17. It is cardinal principle of criminal jurisprudence that to convict a person of alleged offence, same must be proved against him beyond reasonable doubt which sadly is not the case here due to the reasons discussed above.

Alleged offences cannot be said to have been proved against the accused.

Both the points for consideration are hence answered in the negative.

.....
Subrajit Majumder
J. M, 5th Court, Asansol, Paschim Bardhaman.
JO CODE: WB01561

G.R Case No. 4053/2013
CNR WBD16 000805-2013

Hence, it is,

ORDERED

that the accused person namely, 1) Srikanta Yadav being found not guilty of the offence punishable u/s. 279/429 I.P.C and is acquitted from the charge of this case u/s. 248(1) Cr.P.C. Let the accused persons be released at once and be discharged from bail bond.

In compliance with the direction of the Hon’ble High Court in Sabitri Bhunya vs. The State of West Bengal and Others in CRA 266 of 2020 (decision on 29-03-2022), it is hereby endorsed by this Court that the victim has the right to prefer an appeal under proviso to Section 372 of Cr.P.C and if necessary, to avail free legal assistance through the legal services authorities concerned to prefer and prosecute such appeal. Sureties are discharged from their liabilities.

Seized alamt if any, be disposed of after the expiry of period of appeal.

The judgment is pronounced and delivered in Open Court on this 24th day of June, 2026.

Dictated and corrected by me

Sd/

(SUBRAJIT MAJUMDER)
Judicial Magistrate,
5th Court, Asansol.

Sd/

(SUBRAJIT MAJUMDER)
Judicial Magistrate,
5th Court, Asansol.

.....
Subrajit Majumder
J. M, 5th Court, Asansol, Paschim Bardhaman.
JO CODE: WB01561