

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, 1st COURT, BANKURA Present : Sk. Mohammad Reza Addl. Dist. & Sessions Judge, 1st Court, Bankura JO Code: WB00653 [Date of judgement: 29th day of July, 2026] <u>Special Case No. 33 of 2021</u> <u>Registration No. 33 of 2021</u> <u>Sessions Trial No.06(04)2023</u> <u>CNR No.WBBK01-001814-2021</u> (Details of FIR/Crime and Police Station)	
COMPLAINANT	Chandani Mandi Kumbhakar
REPRESENTED BY	Shri Ajit Akhuli, Ld. P.P
ACCUSED	Alok Kumar Barik (A1)
REPRESENTED BY	Shri. Tapas Choudhury (Advocate)

FORM B

Date of offence	Few Months ago prior to filing written complaint
Date of F.I.R	24.09.2021
Date of charge-sheet	04.05.2022
Date of framing of charge	12.04.2023
Date of commencement of Evidence	16.12.2025
Date on which Judgement is reserved	N.A
Date of the judgement	29.07.2026
Date of the Sentencing Order, if any	N.A

Accused details

Rank of the Accused	Name of the Accused	Date of arrest/ Surrender	Date of release on bail	Offenses charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during Trial for purpose of Section 428 Cr.P.C
1	Aloke Kumar Barik	31.05.2022 (Surrender)	31.05.2022	354/354A of IPC & 3(1)(w)/3(2)(va) of the S.C & S.T (POA) Act	Acquitted	N.A	N.A

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)
PW-1	Kalpana Mandi	Other witness. (Nanad of PW8)
PW-2	Sohel Mandi	Other witness. (Brother of PW8)
PW-3	Tapas Kumar Singha Mahapatra	Other witness (Practicing lawyer of Khatra court)
PW-4	Sk. Mohammad Safik	Other witness.
PW-5	Dulal Chandra Dey	Other witness.
PW-6	Pradyut Layek	Other witness
PW-7	Tapas Kumar Pathak	Other witness (Practicing lawyer of Khatra court)
PW-8	Chandani Mandi (Kumbhakar)	Defacto Complainant
PW-9	Sabani Mandi	Mother of PW8
PW-10	Kashinath Mistri	Police witness (I.O)

B. DEFENCE WITNESS, IF ANY: Nil

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 WITNESS, IF ANY. Nil

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

LIST OF PROSECUTION/ DEFENCE / COURT EXHIBITS

A. PROSECUTION

SERIAL NO.	NAME	DESCRIPTION
1	Exbt. P-1 (PW8)	Written complaint Signature of PW1 in treatment sheet.
2	Exbt. P-1/a (PW10)	Endorsement on written complaint
3	Exbt. P-2 (PW8)	164 Statement
4	Exbt. P-3 (PW10)	Formal F.I.R
5	Exbt. P-4 (PW10)	Rough sketch map
6	Exbt. P-4/a (PW10)	Index

B. Defence: Nil

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

C. Court Exhibits: Nil

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

D. Material Objects: Nil

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

J U D G M E N T

Fact of the case

1. Prosecution case in brief is that the defacto complainant engaged the accused as her lawyer in connection with case No. 33/2018 pending in Khatra Court. Accordingly, the accused occasionally used to call the defacto complainant at Khatra Court for consultation. One day the accused suddenly called the defacto complainant in his chamber where he forcibly embraced the defacto complainant against her will and even touched her private parts, misbehaved with her and outraged her modesty for sexual favour. Accordingly, the defacto complainant initially informed the matter at Khatra Bar Association and subsequently lodged FIR at Hirbandh P.S.
2. On the basis of the complaint lodged by the defacto complainant initially Hirbandh P.S. Case No. 40 of 2021 dated 24.09.2021 u/s 354/354A of the I.P.C. & Sec 3 (1)(w)/3(2)(va) of the SC & ST (POA) Act got registered against the accused person as named in the FIR which on completion of investigation ended in submission of Hirbandh PS C/Sheet No. 22/2022 dated 04.05.2022 u/s 354/ 354A of the I.P.C. & Sec. 3 (1)(w) /3(2)(va) of the SC & ST (POA) Act against the accused person as named in the C.S.

3. After submission of charge sheet initially cognizance was taken and considering the materials in C.D and case record the Court framed charge against the accused person u/s **354/ 354A of the I.P.C. & Sec 3 (1)(w)/3(2) (va) of the SC & ST (POA) Act** which were read over and explained to the him in Bengali to which he pleaded not guilty by saying ‘ami nirdos’ and claimed to be tried. Hence, this trial.
4. Defence case as it appears from the materials on record is the denial of allegations and plea of innocence.

POINTS FOR CONSIDERATION

- a. Whether the accused person outrage modesty of the defacto complainant on the relevant date, time and place as alleged ?
- b. Whether the accused person committed physical contact by touching breasts of the defacto complainant and advanced involving unwelcome and explicit sexual overtures against her will on the relevant date, time and place as alleged ?
- c. Whether the accused person not being a member of SC/ST touched the defacto complainant belonging to ST community and such act of touching was of sexual nature and without consent of the defacto complainant on the relevant date, time and place as alleged ?
- d. Whether the accused person is found guilty of the charges so brought against him ?
- e. Whether the prosecution has been able to establish its case beyond all reasonable doubts ?

FINDINGS WITH REASON

5. All the points being interlinked and co-related with each other are taken up together for the sake of brevity and for convenience of consideration.
6. In this case the prosecution examined as may as **(10)** witnesses in support of its case and proved some documents which got marked as **Exbt. P-1 to Exbt.P-4/a.**
7. Be it mentioned here that PW8 is the defacto complainant herself while PW9 is her mother, PW1 is her boudi (sister in law) and PW2 is her younger sister. PW3 is a practicing lawyer of the Khatra Court, PW4 is a law clerk of Khatra

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Court, PW5 has his shop room beside the home of the accused, PW6 has his house beside the chamber of the accused, PW7 is another practicing lawyer of Khatra Court and PW10 is the IO of this case.

8. Be it further mentioned here that almost all the aforesaid witnesses except PW8 and PW10 neither identified the accused person on dock during their evidence nor supported the prosecution case in any manner. Most of them have not uttered a single word in support of the prosecution during their evidence and categorically stated that the accused person is not known to them, police never interrogated them in connection with this case and they know nothing about any incident with regard to the defacto complainant as involved in this case. In this regard, I would further like to mention here that PW1, PW2 and PW4 have been declared hostile by the prosecution and even their cross examination after declaring them hostile has not yielded any fruitful result. In this regard, I would also like to mention here that PW1, PW2 and PW9 are closely related with the defacto complainant but in spite of that they have not supported the sum and substance of the prosecution case during their evidence. Most of the aforesaid witnesses categorically stated in their evidence that even the defacto complainant is not known to them. Even PW5 and PW6 having their shop and house beside the chamber of the accused has not been able to say anything about the incident involved in this case. It also appears from the materials on record that though the defacto complainant claimed herself as a member of ST community no such ST certificate issued in her favour has been brought on record by the prosecution during trial. Even specific date of incident has not been mentioned either in the written complaint or in the 164 statement of the defacto complainant.
9. PW8 being the defacto complainant proved the written complaint lodged by her at P.S which has been marked as Exbt. P-1(PW8) and identified the **accused on dock**. During her evidence she categorically stated that on the relevant date and time the accused called her in his chamber and asked her to dump her husband Gunadhar Kumbhakar and live with him and also asked her to press his hands and legs. When she started pressing his legs and hands, suddenly the accused embraced her to which she raised protest and left his chamber after collecting all the relevant documents in connection with her case. Accordingly, she informed the matter to Local Bar and at local PS.
10. Be it mentioned here that PW8 has not been able to narrate about all the allegations as stated in her written complaint. Moreover, PW8 herself admitted during her cross-examination that she cannot say the date on which she took back the documents in connection with her case from the accused. She further

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admitted that about 3/4 months before lodging the FIR, she took back the documents from the accused. Thereafter she admitted that about after 6 months of visiting chamber of the accused, she lodged FIR and about after 1 ½ months of the alleged incident, the matter was informed to Bar President. She categorically admitted that no other members of the Bar were informed about the incident and she has not shared the incident with any of her family members. Even on the very date of incident, she has not informed anything to any local person. One Sankar who was the law-clerk of the accused was also not informed about the incident. She admitted that as no order for maintenance was passed in her favour for a long time, she repeatedly used to ask the accused to take leave from her case and on one or two occasions though she paid fees to the accused but thereafter no such fees was paid by her. On several occasions the accused even paid her the bus fare for returning home. There is nothing in her evidence that why the FIR was lodged after such a long delay and there is no satisfactory explanation to that effect. It is also not clear that why PW8 has not informed about the incident to the locals on the very date of incident and why she preferred not to share the same with her family members. Various aspects of the case appears to be very obscure and quite doubtful. PW8 all along claimed that she was married with one Gunadhar Kumbhakar who left her and the case no.33/2018 was filed by her to that effect but nothing has been brought on record to that effect. On the contrary, PW1 being nanad of the defacto complainant and PW2 being younger sister of the defacto complainant categorically stated that they cannot say with whom PW8 was married. Even PW9 being mother of PW8 stated in her evidence that PW8 never got married with anyone. In this regard, I would further like to mention here that though PW8 stated in her evidence that the accused asked her to dump her husband and live with him and also asked her to press his hands and legs, there is nothing to that effect either in her written complaint or in her statement recorded u/s 164 of the Cr.P.C. meaning thereby that whatever PW8 has stated in this regard has been introduced for the first time before the court during her evidence. Similarly, the allegation of touching her breasts by removing her jama (shirt), as stated by her, in her written complaint and her 164 statement finds no place within the four corner of her evidence before this court. If that be so it can be concluded that some of the allegations as narrated during evidence by PW8 has no leg to stand as the same finds no place in her earlier statements and her evidence to that effect is nothing but exaggeration of fact. All these evidence available on record also makes the very basis of the case suspicious and doubtful.

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11. **PW10** being the I.O investigated the case and on completion of investigation submitted CS against the accused. He accordingly narrated the same during his evidence and proved the relevant documents like formal FIR prepared by the RO as well as rough sketch map and index prepared by him. During cross-examination he admitted that PO is the dwelling house cum chamber of the accused and he has not examined any family member of the accused during investigation. Even President or Secretary of Khatra Bar Association or the law clerk of the accused were not examined by him. He further admitted that during investigation, he came to know that the accused was engaged as a lawyer by the defacto complainant but he cannot say on which date he was so engaged or on which date the accused left the case of the defacto complainant. He also admitted that he has not sent anything before the expert for its examination.
12. It appears from the materials on record that only the defacto complainant has been able to narrate the sum and substance of the prosecution case to some extent and all other witnesses have not been able to support the prosecution case or the evidence of PW8 in any manner. Even cross examination of some of the witnesses by the prosecution after declaring them hostile has not yielded any fruitful result. Though PW8 proved the written complaint lodged by her as well as her 164 statement and narrated the prosecution case to some extent, she introduced major contradiction on material particular of the case during her evidence. Almost all the witnesses examined in this case miserably failed to support the prosecution case during their evidence.
13. Careful analysis of the entire facts and circumstances as well as oral and documentary evidence available on record shows that though the defacto complainant identified the accused person and proved some documents as mentioned above, there is no convincing evidence on record to the effect that the accused person outraged modesty of the defacto complainant by embracing her or by touching her inappropriately. None of the prosecution witnesses have been able to support the charges brought against the accused person and there is no convincing evidence on record to make a positive conclusion in support of the prosecution case. Even evidence of PW8 appears to be insufficient for want of its corroboration by other witnesses and the same cannot be relied upon for the reasons mentioned above.
14. Considering all the above noted facts and discussions it appears to me that the prosecution miserably failed to bring home the charges brought against the accused person by adducing sound and convincing evidence to that effect and if that be so, the accused person being found not guilty is liable to be

acquitted from this case.

Hence, it is,

ORDERED

- a) that the accused person namely, Alope Kumar Barik is found not guilty of the Charges u/s **354/ 354A of the I.P.C. & Sec 3 (1)(w)/3(2)(va)** of the **SC & ST (POA) Act** and he is hereby acquitted from this case u/s 235 of the Cr.P.C.
- b) The accused person shall remain on the same bail bond which shall be in force for six months for his appearance before the higher court, in case of appeal being preferred, if any, against this judgement and in case of his failure to appear before the appellate court, the bond shall be forfeited and the procedure u/s 446 Cr. P.C shall follow.
- c) Be it mentioned here that the victim / defacto complainant has the right to prefer an appeal under proviso to Section 272 of the Cr.PC and if necessary, to avail free legal assistance through the DLSA, Bankura or any other concerned Legal Services Authority.
- d) Let a copy of this judgment be forwarded to the District Magistrate and the DLSA, Bankura for due intimation to the victim as defined u/s 2(wa) of the Cr.PC.

D/C by me.

Judge,
Special Court
under S.C & S.T. (POA) Act, Bankura.
29.07.2026

Judge
Special Court
under S.C & S.T. (POA) Act, Bankura
29.07.2026