

FORM A

IN THE COURT OF JUDICIAL MAGISTRATE, 3rd COURT, BISHNUPUR, BANKURA <u>Present: Ms. Aliviya Bhattacharya (J.O Code: WB01364)</u> <u>Judicial Magistrate, 3rd Court, Bishnupur, Bankura</u> <u>Date of Judgment: 09.07.2026</u> <u>GR 798/2018 (Reg. No. 5798/2018)</u> T R No. 2116/2019 WBBK06-001145-2018

Details of FIR/Crime and Police Station

Complainant	State of West Bengal
Represented by	Ld. APP, Suparna Koley
Accused	1. Sayed Dewan 2. Sarifuddin Deowan 3. Arifuddin Deowan 4. Rahamat Deowan 5. Anisur Deowan 6. Hanif Mondal 7. Mamun Deowan 8. Saiful Deowan 9. Alauddin Deowan
Represented by	Ld. Adv. Khalilul Chowdhury

FORM B

Date of offence	29-12-2018
Date of FIR	29-12-2018
Date of Charge sheet	29-01-2019
Date of framing of Charges	24-08-2022
Date of commencement of Evidence	21-06-2023
Date on which judgment is reserved	09.07.2026
Date of the judgment	09.07.2026
Date of the sentencing order, if any	N.A

Accused Details

Ran k of the accu sed	Name of the accused	Date of arrest	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detentio n undergo ne during Trial for the purpose

							of Section 428 CrPC
1.	Sayed Dewan	N.A	13.02.2019	Section 143/448/323/354/506 IPC	Acquitted	N.A	N.A
2.	Sarifuddin Deowan	N.A	13.02.2019	Section 143/448/323/354/506 IPC	Acquitted	N.A	N.A
3.	Arifuddin Deowan	N.A	13.02.2019	Section 143/448/323/354/506 IPC	Acquitted	N.A	N.A
4.	Rahamat Deowan	N.A	13.02.2019	Section 143/448/323/354/506 IPC	Acquitted	N.A	N.A
5.	Anisur Deowan	N.A	13.02.2019	Section 143/448/323/354/506 IPC	Acquitted	N.A	N.A
6.	Hanif Mondal	N.A	13.02.2019	Section 143/448/323/354/506 IPC	Acquitted	N.A	N.A
7.	Mamun Deowan	N.A	13.02.2019	Section 143/448/323/354/506 IPC	Acquitted	N.A	N.A
8.	Saiful Deowan	N.A	13.02.2019	Section 143/448/323/354/506 IPC	Acquitted	N.A	N.A
9.	Alauddin Deowan	N.A	13.02.2019	Section 143/448/323/354/506 IPC	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)
P.W-1	Musar Ali Khan	Complainant
P.W-2	Akbar Khan	Independent witness
P.W-3	Sakila Begum	Independent witness
P.W-4	Nasmi Ara Bibi	Independent witness
P.W-5	Hasena Mallik	Son of the complainant

B. Defense 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

C. 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/ DEFENSE EXHIBITS/ COURT EXHIBITS

A. Prosecution

Sr. No.	Exhibit No.	Description
1.	Exhibit- 1	Written complaint

B. Defense

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

C. Court Exhibit

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

D. Material Objects

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

JUDGMENT

Preface

1. The instant case is under **Section 143/448/323/354/506 IPC** instituted on the basis of the F.I.R lodged by the de-facto complainant namely **Musar Ali Khan** before the O/C, Kotulpur P.S, Bankura against the accused persons namely **Sayed Dewan, Sarifuddin Deowan, Arifuddin Deowan, Rahamat Deowan, Anisur Deowan, Hanif Mondal, Mamun Deowan, Saiful Deowan and Alauddin Deowan.**

Fact of the case

2. The brief fact of the case as alleged by the informant is that on December 29, 2018, between 16:00 and 16:30 hours, the principal accused, Sayed Deowan, along with eight other individuals from the same locality, unlawfully assembled and entered the complainant's residential premises. Motivated by a prior grudge, the accused persons assaulted the female members of the complainant's family using weapons like lathis and rods, inflicting serious injuries that required their admission to Gogra BPHC. Furthermore, the assailants outraged the modesty of the female family members, forcibly took away a golden chain, and threatened them. This sequence of events compelled the de-facto complainant to lodge a formal complaint before the Officer-in-Charge (O/C) of Kotulpur Police Station, leading to the instant trial.

Charge

3. The charge is framed under S. 143/448/323/354/506 IPC and the substance of accusation under S. 143/448/323/354/506 IPC was read over and explained to the accused persons to which they pleaded 'Not guilty' and claimed to be tried.

Examination of the accused under section 313 Cr.PC

4. The accused persons have been examined u/s 313 Cr.PC and on being asked, the accused persons refused to adduce defense witnesses.

Points for Consideration

5. Point No. 1: Are the accused persons guilty of the offences punishable under S. 143/448/323/354/506 IPC?
6. Point No. 2: Is the prosecution able to prove its case beyond the shadow of reasonable doubt?

ARGUMENTS ON BEHALF OF THE ACCUSED PERSONS

7. The Ld. Advocate for the accused persons started the argument and stated that the de-facto complainant has deposed before this Court and during his examination in chief he did not reveal anything incriminating against the accused persons. No other witnesses examined by the prosecution adduced any incriminating evidence. Accordingly, he prays for the acquittal of the accused persons in this case.

ARGUMENTS ON BEHALF OF THE PROSECUTION

8. The Ld. APP argued on behalf of the prosecution stated that the de-facto complainant has filed this case against the accused persons under S. 143/448/323/354/506 IPC, and has contested the same and thus prays that the accused should be punished as per law.

Decision with Reasons

9. This is a case under S. 143/448/323/354/506 IPC filed by the de-facto complainant against the accused persons. Now, this Court is to analyze, assess and to take into account of the total evidence and materials on record to have a clear decision of the case.

10. This Court perused the materials on record. On perusal, it appears that the de-facto complainant alleged in written FIR that on December 29, 2018, between 16:00 and 16:30 hours, the principal accused, Sayed Deowan, along with eight other individuals from the same locality, unlawfully assembled and entered the complainant's residential premises. Motivated by a prior grudge, the accused persons assaulted the female members of the complainant's family using weapons like lathis and rods, inflicting serious injuries that required their admission to Gogra BPHC. Furthermore, the assailants outraged the modesty of the female family members, forcibly took away a golden chain, and threatened them. This sequence of events compelled the de-facto complainant to lodge a formal complaint before the Officer-in-Charge (O/C) of Kotulpur Police Station, leading to the instant trial. Now, let's look into the evidence adduced by the prosecution.

11. The **PW-1, Musar Ali Khan**, the de-facto complainant, deposed that he had instituted a formal complaint at Kotulpur P.S. against the accused persons. During court proceedings, he identified all the arraigned individuals, save for Sayed Deowan and Sarifuddin Deowan, noting he would have identified them as well had they been physically present in court. He further stated that roughly five to six years prior, a 'salishi sabha' was convened in their village, to which he and his eldest son were invited; however, due to his son's ocular ailments, they were unable to attend. Consequently, the accused party allegedly arrived at their residence and assaulted his sister-in-law, Sakila Bibi, and his elder sister-in-law, Bulti. Conversely, during cross-examination, PW-1 stated that he was unacquainted with the contents of his written complaint and affirmed that he is currently residing peacefully alongside the accused persons, who are his neighbors. He explicitly conceded during cross-examination that the investigating agency did not interrogate him regarding the matter, that he harbors no surviving allegations against the accused persons due to a prior misunderstanding, and that he was not present at the Place of Occurrence (PO) on the material date of the incident.

12. The **PW-3, Sakila Begum**, testified that the de-facto complainant, Musar Ali Khan, is her brother-in-law. While she identified the accused persons in open court, she subsequently stated that the incident stemmed from a domestic dispute involving a heated altercation and a physical tussle, during which she sustained injuries and underwent medical treatment. Crucially, during her cross-examination, she admitted her inability to ascertain whether any of the accused persons caused her injuries during the said incident, further clarifying that the police never recorded her statement or interrogated her.

13. The **PW-4, Nasmi Ara Bibi**, deposed that Musar Ali Khan is her father-in-law. She identified the accused individuals in court but qualified her testimony by stating that the occurrence was born out of a family dispute featuring hot words and a physical altercation, leading to her injuries and subsequent medical treatment. During her cross-examination, she explicitly conceded that she could not definitively attribute her injuries to any of the accused persons during the incident and added that she was never interrogated by the police.

14. The **PW-5, Hasena Mallik**, deposed that Musar Ali Khan is her father. She identified the accused persons in court and similarly maintained that the dispute arose from a familial grievance involving a heated argument and a physical scuffle, during which she sustained injuries that required medical care. Under cross-examination, she explicitly admitted that she could not verify if any of the accused persons were responsible for inflicting her injuries during the incident, and confirmed that the investigating police officer never interrogated her.

15. On a conjoint consideration of the entire evidence adduced by the prosecution, it is manifest that none of the examined witnesses have provided clear, direct, or unequivocal incriminating evidence against the accused persons. PW-1, who stands as the star witness and the victim himself, fundamentally self-contradicted his testimony during cross-examination, thereby entirely discrediting his own examination-in-chief and failing to establish himself as a credible eye-witness. Furthermore, the medical evidence concerning PW-2 remains completely uncorroborated, as no corresponding medical report was admitted into evidence, and no weapon or material object was seized. Pursuant to **Section 101 of the Indian Evidence Act, 1872**, the burden of proof strictly resides with the party asserting a legal right or liability based on facts; the provision dictates that:

"whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist. When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person."

In the instant case, while the prosecution machinery was set in motion via the First Information Report lodged by the de-facto complainant, it is an established principle of criminal jurisprudence that the prosecution must independently prove the foundational facts of the alleged offense. Here, there is a total dearth of concrete evidentiary material on record to substantiate that the alleged incident occurred as described in the initial written complaint. The oral testimonies of the Material Witnesses (PWs) are inherently cryptic, hostile, and completely fail to fix criminal culpability or establish the guilt of the accused persons beyond a shadow of reasonable doubt.

It is the bounden duty of the prosecution to discharge this statutory burden by producing cogent, reliable, and convincing evidence. In the absolute absence of such proof, this Court is of the firm opinion that the prosecution has signally failed to establish its case against the accused persons. Consequently, the accused individuals are entitled to the benefit of the doubt. Resultantly, the charges framed against the accused persons under Sections 143/448/323/354/506 of the IPC stand unproven. All points of determination are thus answered in the negative. As a necessary corollary, the prosecution case collapses, and the accused persons merit an outright acquittal.

Hence, it is

ORDERED

That the accused persons namely **Sayed Dewan, Sarifuddin Deowan, Arifuddin Deowan, Rahamat Deowan, Anisur Deowan, Hanif Mondal, Mamun Deowan, Saiful Deowan and Alauddin Deowan** are found not guilty of committing the offense punishable under **S. 143/448/323/354/506 IPC** and they are hereby acquitted u/s 248(1) Cr.P.C in respect of offense alleged to be committed under **S. 143/448/323/354/506 IPC**.

The accused persons are on Court bail.

They are hereby discharged forthwith from their bail bonds and set at liberty.

The concerned sureties also be discharged from their obligations.

The instant case is accordingly disposed of.

Bench Clerk II is directed to note in T.R.

Let a copy of this judgment be sent to the DM, Bankura and the Chairman, SDLSC, Bishnupur at once.

Let this judgment be uploaded in CIS portal at once.

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

Dictated & Corrected by me.

**Judicial Magistrate, 3rd Court
Bishnupur, Bankura**

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Bishnupur, Bankura**