

Form A
IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE, GHATAL, PASCHIM MEDINIPUR
Present : Sri Amit Sarkar (JO CODE WB01103) Additional Chief Judicial Magistrate, Ghatal, Paschim Medinipur
Date of the Judgment: 21/01/2025
G.R Case No. 907/2021
CNR No. WBWM0B0012602022
T.R No. 651/2022 C.I.S Reg. No. 900/2022

(Details of FIR/Crime and Police Station)	
Complainant	State of West Bengal
REPRESENTED BY	Mr Naimuddin Ahmed
ACCUSED	1. Kanai Jana (A1) of Vill- Soyla, P.S Daspur, Paschim Medinipur
REPRESENTED BY	Sri Tarun Chakraborty

Form B		
Date of Offence	:	25.07.2021
Date of FIR	:	25.07.2021
Date of PR	:	31.12.2021
Date of Framing of charge	:	28.06.2023
Date of commencement of Evidence	:	06.02.2024
The date on which judgment is reserved	:	21.01.2025
Date of Judgement	:	21.01.2025
Date of sentencing order, if any	:	Acquitted

Accused Details:

The 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 purpose of section 428, Cr.P.C.
A1	Kanai Jana	26.07.2021	27.07.2021	46 A(c) of B.E. Act	Acquitted	N.A	1 Day

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)
PRW 1	Tapan Jana	Independent witness
PRW 2	Bimal Kumar Jana	Independent witness
PRW 3	Pravat Chowdhury	Complainant
PRW 4	Sidhartha Mahato	Sub Inspector of Excise

B. Defence Witness, if any :

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW	NIL	

C. Court Witness, if any :

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW	NIL	

List of Prosecution/Defence/Court Exhibits

A. Prosecution :

Sr. No	Exhibit Number	Description
1.	Exhibit P-1 / PRW3	Seizure list dt. 25.07.2021
2.	Exhibit P-2 / PRW3	Written complaint

B. Defence :

Sr. No	Exhibit Number	Description
NIL	NIL	NIL

C. Court Exhibit :

Sr. No	Exhibit Number	Description
NIL	NIL	NIL

D. Material Objects :

Sr. No	Exhibit Number	Description
1	Mat. Exbt. P1/PRW3	All seized articles

JUDGMENT

Prosecution case:

1. The instant case is under sections 46 A(c) of B.E. Act. This case was initiated based on the written complaint lodged by the defacto complainant **Pravat Chowdhury, Sub Inspector of police, Daspur P.S.**
2. The brief fact of the case as alleged by the defacto complainant is that on 25.07.2021 at about 19:15 hrs he along with his force went to village Soyla under Daspur P.S. to conduct a raid where they found accused Kanai Jana tried to flee away but they detained him. That when the accused was asked to produce document of the articles possessed by him he failed to do so, thereafter he arrested the accused and seized 6.9 of ID liquor.
3. The defacto complainant was compelled to file the instant complainant u/s 156(3) of the Cr. P.C based on which the Daspur P.S. Case No. 378/2021 under sections

46 A(c) of B.E. Act was started and after proper investigation, a PR was submitted against the accused person under sections 46 A(c) of B.E. Act.

Supply of copies, transfer of case and framing of Charge:

4. After the filing of the charge sheet, copies were served upon the accused person and the case was taken to the personal file of Ld. A.C.J.M, Ghatal. Thereafter, on perusal of the entire materials, this court framed a charge against the accused person as per provision of Section 240 of the Cr.P.C under sections 46 A(c) of B.E. Act. The substance of the accusation was read over and explained to the accused person to which he pleaded 'Not Guilty' and claimed to be tried. Hence this trial.

Prosecution evidence, examination of accused person u/s. 313 of the Cr.P.C. &

D.W, if any:

5. The trial was held, and the witnesses were examined by the prosecution in support of its case, thereafter, the accused person was examined under Section 313 of the Cr. P.C and he pleaded his innocence throughout. He also declined to adduce any evidence.
6. The defence case as I find from the trend of cross-examination is that he has denied the material allegations of the complainant.

Points for Consideration:

7. Is the accused person guilty of the offence punishable under Sections 46 A(c) of B.E. Act?

Decision With Reasons:

8. Now, I am to analyze, assess and take into account the total evidence and materials on record to decide the case properly.
9. Ld. A.P.P during the argument submitted that the case of the prosecution has been proved in toto. According to the Ld. AP.P the accused person was directly involved in the commission of the alleged crime and as such, he should be given appropriate punishment.
10. On the contrary Ld. Counsel appearing for the accused person had an advanced argument in support of the acquittal of the accused person from the alleged charge. It is submitted that the case against the accused person is false and fabricated and the accused person has been implicated falsely. According to the Ld Counsel, the accused person is entitled to be acquitted of the alleged charges.

11. On perusal of the evidence on record, I find that the defacto complainant has been examined in this case.
12. PRW3 stated in his deposition that on 25.07.2021 at about 19:15 hrs he along with his force went to village Soyla under Daspur P.S. to conduct a raid where they found accused Kanai Jana tried to flee away but they detained him. That when the accused was asked to produce document of the articles possessed by him he failed to do so, thereafter he was arrested and 6.9 of ID liquor was seized.
13. Other PRWs stated nothing in support of the case of the prosecution.
14. On minute comparison between the evidence on record and the written complaint, it would transpire that there is vast dissimilitude between the initial version of the prosecution made in the written complaint and the evidence given during the trial.
15. The allegations against the accused person, as stated by the prime witness, the alleged victim, are very omnibus. The case of the prosecution lacks substance on the want of specification. No, specific positive evidence is thereon recorded whereby it can be said that the prosecution has been able to bring home the charge against the accused person. There is an utter failure on the part of the prosecution to entangle the accused person against the charge so framed. All these, make the prosecution case weak. The written complaint, the initial version of the prosecution and the evidence so adduced on the dock stand poles apart.
16. From the evidence of the witness, nothing has transpired which can prove the prosecution case. The evidence of the prosecution was closed on the prayer of the Ld Asst. Public Prosecutor and as such it can well be construed and said that despite being given the opportunity and scope to prove its case the prosecution has failed to bring home the charge against the accused person. I find no incriminating materials against the accused person for which the accused person can be convicted under sections 46 A(c) of B.E. Act. I, therefore, hold that the essential ingredients to connect the accused person with the offence are punishable under sections 46 A(c) of B.E. Act and are very much absent in the present case. The complainant has failed to bring home any iota of evidence that the accused person has committed the alleged offence. Resultantly the accused person is entitled to be acquitted of the charges so framed against him under sections 46 A(c) of B.E. Act.
17. All the points are thus answered in the negative.
18. As a result prosecution case fails and the accused person merits acquittal.

Hence,

ORDERED

The accused Kanai Jana is found not guilty of the charge so framed against him under sections 46 A(c) of B.E. Act and he is acquitted under section 248(1) of the Cr. P.C.

The accused person is on Court bail. Bail bond shall remain in force for the next six months as per the mandate of section 437A CrPC.

The judgment is delivered in open Court. Let necessary noting be made in the germane register.

Let the soft copy of the judgment be uploaded in the CIS within 48 hours from this day as per Rule 186 A of the Cr. R.O of the Honourable High Court, Calcutta.

Postscript

The victim / Complainant has a right to prefer an appeal under the proviso to section 372 of the Code of Criminal Procedure and if the necessary victim is entitled to avail of free legal assistance through Legal Services Authorities concerned to prefer & prosecute such appeals.

Let a copy of this judgment be forwarded to the District Magistrate, Paschim Medinipur & Secretary, DLSA, Paschim Medinipur for due intimation to the victim as defined under section 2(a) of the Code of Criminal Procedure.

B.CI and B.CII to comply.

Amit Sarkar
Additional Chief Judicial Magistrate,
Ghatal, Paschim Medinipur