

FORM-A

<p style="text-align: center;">IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE, 2nd COURT, DINHATA, COOCH BEHAR</p> <p style="text-align: center;">PRESENT : NILANJANA BANERJEE</p> <p style="text-align: center;">WB01192</p> <p style="text-align: center;">A.C.J.M., 2nd COURT, DINHATA, COOCH BEHAR</p> <p style="text-align: center;"><u>DATE OF JUDGMENT:-15.05.2026</u></p> <p style="text-align: center;"><u>GR CASE NO. 561 OF 2015</u></p> <p style="text-align: center;">(Sitai P.S. Case No. 33 of 2015 dated 17.04.2015 under section 448/323/354 of IPC)</p>	
COMPLAINANT	STATE OF WEST BENGAL
REPRESENTED BY	Ld. A.P.P., Sangram Deb
ACCUSED	Montu Barman, S/o-Dilip Barman of Khamar Sitai, P.S. Sitai, Dist-Cooch Behar.
REPRESENTED BY	Ld. Defense Counsel, Bikash Ch. Barma Basunia

FORM-B

Date of offence	26.02.2015
Date of written complaint	17.03.2015
Date of Charge-Sheet	30.04.2015
Date of Framing of Charges	22.07.2025
Date of commencement of Evidence	01.09.2025
Date on which Judgment is reserved	N/A
Date of Judgment	15.05.2026
Date of the Sentencing Order, if any	N/A

Accused details:

Rank of the accused	Name of 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 of Cr.P.C
1.	Montu Barman	Arrested on 09.05.2018	Released on bail 09.05.2018	U/S 448/323/354 of IPC	Acquitted	NIL	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	Purnima Barman	Defacto complainant.
PW-2	Rabindra Nath Barman	Husband of the defacto complainant.
PW-3	Bablu Barman	Neighbour of the defacto complainant.
PW-4	Chinmoy Barman	Neighbour of the defacto complainant.

B. Defence Witnesses, if any:

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

C. Court Witnesses, if any:

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

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS:

A. Prosecution Exhibits:

Sl. No.	Exhibit Number	Description

B. Defence Exhibits:

Sl. No.	Exhibit Number	Description

C. Court Exhibits:

Sl. No.	Exhibit Number	Description

D. Material Objects:

Sl. No.	Exhibit Number	Description

JUDGEMENT

The case stems from the written complaint filed by one Purnima Barman before the Court of the Ld. A.C.J.M, Court, Dinhata which was treated as FIR.

On basis of that FIR, I/C, Sitai P.S. filed Case No. 33 of 2015 dated 17.04.2015 under section 448/323/354 of IPC against the accused person namely Montu Barman.

After investigation police has submitted charge-sheet under Sections 448/323/354 of I.P.C against the accused person namely Montu Barman.

On perusal of charge-sheet and other relevant documents, this Court read over and explained the substance of accusation and framed charge for offence 448/323/354 of I.P.C against the accused person namely Montu Barman who is facing trial.

Contents of the charge has been read over and explained to the accused person, wherein they pleaded not guilty and claimed to be tried.

Prosecution case in brief is that:

The defacto complainant filed the written complaint against her father-in-law, brother-in-law and another relatives. Police filed charge-sheet only against the brother-in-law of the defacto complainant namely Montu Barman. The husband of the defacto complainant resided outside for work purpose. On 26.02.2015 at about 11:00 A.M. the accused person abused the defacto complainant and on protest he had beaten the defacto complainant and disrobed her. Hearing the hue and cry the local people rushed to the spot and rescued her. Then the defacto complainant was treated at Sitai hospital. Subsequently, she informed the incident to her husband. When her husband came, the defacto complainant filed the case before the Court as police denied to receive the FIR.

Defence has not adduced any evidence but from the answers of the questions u/sec. 313 Cr.P.C and the cross-examinations, the defence case appears to be nothing but the denial of the prosecution allegations.

POINTS FOR DECISIONS.

1. Whether the accused person committed hurt upon the de facto complainant or committed house trespass into the house of the defacto complainant or outraged the modesty of the defacto complainant?
2. Whether the prosecution has proved its case beyond all reasonable doubts?

DECISION WITH REASONS

Ld. A.P.P has submitted that the evidence is sufficient and the accused should be convicted.

On the other hand, learned advocate for the defence has argued that the accused person is falsely implicated in this case. The allegation of hurt upon the victim and committing trespass into the house and outraging the modesty of the defacto complainant is totally false and fabricated one. Learned defence Counsel has further argued that there is no evidence on record that the accused person have committed such offences upon the victim. Accused should be released from this case.

Considered the submissions of both sides.

Now, let me see, how far the prosecution has proved its case.

In this case on behalf of prosecution as many as four (04) witnesses have been examined and cross-examined and discharged.

PW-1 the defacto complainant deposed in examination in chief stated that she could not tell against whom she filed the case. Then she said, she filed this case against Mintu Barman, Dilip Barman, Judhistir Barman. The witness identified the accused

person. The incident took place 10 years ago at her matrimonial home at 10:00 A.M. There was dispute between her and the accused person on the date of the incident. Her father-in-law Dilip Barman and brother-in-law Mintu Barman had beaten her by fists and blows and had driven her out. Nothing else happened on the date of the incident. Thereafter, she filed complaint before Court.

In cross-examination PW-1 stated that there were houses of Bishnu Barman, Bimal Barman, Mantosh Barman, Sukumar Barman, Mayen Barman near her matrimonial home. There was dispute regarding property between her and the accused person. She could not remember how many persons were present at the time of the incident.

PW-2/husband of the defacto complainant deposed in examination in chief that Purnima Barman was his wife. The witness identified the accused person. In 2015 the incident took place at about 11:00 A.M. Mantu Barman was his brother. On that day his father Dilip Barman, his brother-in-law (sister's husband) Judhistir Barman, Mantu Barman had abused his wife Purnima Barman and had beaten his wife with fists and blows and lathi. Thereafter, his neighbour Chinmoy Barman took her to Sitai hospital. He (PW-2) was in Bangalore at that time. His wife was admitted at hospital for 2 days. His wife had informed him about the incident.

In cross-examination PW-2 stated that he could not tell the exact date of the alleged incident. He heard about the incident from his wife.

PW-3 and PW-4 deposed that they knew Purnima Barman. She was their neighbour. They could not tell about any case filed by her.

Charge in the case has been filed u/s 448/323/354 of IPC.

Now let us discuss whether the prosecution is able to prove all the ingredients of the above said sections against the accused person.

Section 448 of IPC provides for punishment for house-trespass. Section 442 of IPC defines house trespass as "Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit "house-trespass".

Explanation-The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass."

To commit the offence of house trespass, criminal trespass is necessary. Criminal trespass in IPC is defined under section 441 as "Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or

annoy any person in possession of such property,

Or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit "criminal trespass".

Section 323 of IPC provides for punishment for voluntarily causing hurt. The definition of hurt as mentioned in the IPC is as "Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt."

Section 319 of the IPC provides the definition of hurt as "Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt."

To prove an offence u/s 323 of IPC the following evidence is required:-

1. Proof of voluntary act: Evidence that the accused intentionally or knowingly caused bodily pain, disease or infirmity to the victim. The act must not be accidental or unintentional.
2. Testimony of the victim: The victim's statement describing how the hurt was caused, including details of the incident and the accused's involvement.
3. Eyewitness Testimony: Statements from people who witnessed the incident, corroborating the victim's account.
4. Medical Evidence: A medical report or injury certificate is not mandatory but can strongly support the case by documenting the nature and extent of injuries.
5. Other Evidence: CCTV footage, photograph, or any physical evidence showing the act of causing hurt can be used.
6. Absence of Exceptions: Evidence that the act was not committed under grave and sudden provocation, self defence, or any other legal exception.

The key elements to prove an offence under section 354 of IPC are:-

1. The victim is a woman.
2. The accused used assault or criminal force against the woman.
3. The act was intentional or done with knowledge that it was likely to outrage her modesty.
4. The act was without the woman's consent.
5. The conduct resulted in a violation of the woman's dignity or modesty, which includes acts causing humiliation, mental distress or a sense of threat.

Prosecution failed to adduce evidence of other witnesses including the investigating officer in the case inspite of getting several opportunities.

In the written complaint the defacto complainant alleged that the accused person had beaten her and outraged her by disrobing her. She was treated at Sitai hospital. In the

evidence the defacto complainant stated that the accused person had beaten her. She did not state that the accused person ever had outraged her modesty or that she was treated at hospital. The PW-2 in evidence stated that the PW-1 was admitted at hospital for 2 days. No medical document is filed in respect of treatment of the PW-1. Thus, there arise many contradictions between the evidence of PW-1 and PW-2. Moreover, from the FIR, evidence of PW-2 it appeared that local people had rescued the defacto complainant and the PW-2 specifically named one Chinmoy Barman who had taken the PW-1 to hospital. But PW-4/Chinmoy Barman stated in the evidence that he had no knowledge about the incident. Therefore, the evidence on the prosecution side did not corroborate with the FIR.

Prosecution failed to adduce any evidence to establish that the accused person had committed house trespass into the house of the defacto complainant or outraged her modesty or had beaten her.

On careful analysis of the evidences and materials on record and the discussion made in the foregoing paragraphs, I do not find any incriminating material against the accused person. Prosecution has miserably failed to prove any allegation against the accused person.

In result, prosecution case fails.

Hence, it is,

ORDERED

that the accused person namely, Montu Barman is found not guilty for commission of offence punishable under Sections 448/323/354 of IPC and he is acquitted from this case under the provision of Section 248(1) Cr.P.C. and set at liberty at once.

The accused person be released from his bail bond.

Copy of the Judgment be sent to the District Magistrate, Cooch Behar as well as Ld. Secretary, District Legal Service Authority, Cooch Behar so as to intimate the Victim/complainant about his/her right to appeal as well as to apprise his/her that he/she can seek legal assistance if he/she so desires through District Legal Service Authority, Cooch Behar.

Note in the Trial Register and CIS.

Typed & corrected by Me:

Addl. Chief Judicial Magistrate,
2nd Court, Dinhata,
Cooch Behar

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2nd Court, Dinhata,
Cooch Behar