

G.R. 624 of 2009
CIS No. G.R. 624 of 2015

Form No. (M) 34

FORM A

IN THE COURT OF THE JUDICIAL MAGISTRATE, DINHATA, DIST. COOCH BEHAR	
Present: Sri Pratyay Pal, Judicial Magistrate, Dinhata, Dist. Cooch Behar JO Code WB01376	
Date of delivery of Judgment: <u>The 09th day of March, 2026</u>	
<u>GR 624 of 2009</u> <u>Reg No. GR 624 of 2015</u> <u>CNR WBCB 07-004364-2018</u> <u>T.R. No. 179 of 2013</u>	
<u>Dinhata P.S. case No. 554 of 2009 dated 11.10.2009 under section 342/325/307/34 IPC</u>	
COMPLAINANT	State of West Bengal
REPRESENTED BY	Ld. APP-in-charge Raja Kumar Kanu
ACCUSED	1)Abu Taleb S/O Mokbul Miah 2) Anjuara Bibi W/O Mokbul Miah 3)Aminur Islam @ Babu S/O Mokbul Miah 4)Mijajur Hossain S/O Hazarat Ali 5)Moksedul Hossain S/O Hazarat Ali All are residence of Pikhidhara, P.S Dinhata, Dist. Cooch Behar
REPRESENTED BY	Ld. Advocate Harihar Roy Singha

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FORM B

Date of Offence	08.10.2009
Date of FIR	11.10.2009
Date of Chargesheet	31.10.2010
Date of Framing of Charges	27.08.2013
Date of commencement of Evidence	20.05.2016
Date on which Judgment is reserved	09.03.2026
Date of Judgment	09.03.2026
Date of the Sentencing Order, if any	Not applicable

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, Cr.P.C.
1.	Abu Taleb	N.A	04.03.2010	Section 342/326/34 of IPC	Acquitted	N.A.	N.A.
2.	Anjuara Bibi	N.A	04.03.2010	Section 342/326/34 of IPC	Acquitted	N.A.	N.A.
3.	Aminur Islam @ Babu	N.A	04.03.2010	Section 342/326/34 of IPC	Acquitted	N.A.	N.A.
4.	Mijajur Hossain	N.A	04.11.2011	Section 342/326/34 of IPC	Acquitted	N.A.	N.A.
5.	Moksedul Hossain	N.A	04.11.2011	Section 342/326/34 of IPC	Acquitted	N.A.	N.A.

JUDGMENT

1. This case arose out of a written complaint filed by one Chhakila Bewa before I/C Dinhata P.S with allegation that on 08.10.2009 at about 3 p.m. her mentally disabled daughter Rafika was standing

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beside road holding one pole of a house At that time the accused no. 1 to 3 tied her hand and dragged her towards their house from the road. Hearing her hue and cry local people rescued her and took her to the house of Mir Humyun Kabir.. Later at about 4:30 .m. when her daughter was returning home from there the accused no. 4 and 5 grabbed her hair and slammed her head on the concrete and she sustained bleeding injury on her head. Nearby people rescued her. She was taken to Dinjata Hospital where she was admitted. Hence, the written complaint.

2. On the basis of the complaint Dinjata P.S. case No. 554 of 2009 dated 11.10.2009 under section 342/325/307/34 IPC was registered. Investigation of the case was taken up and after completion of investigation, Charge Sheet no. 513 of 2010 dated 31.10.2010 was submitted against the above named accused persons under Section 342/325/326/34 of IPC. Cognizance of the case was taken and it was transferred to this Court for disposal on 20.03.2013. Charge was framed against the accused persons U/S-342/326/34 of IPC on 27.08.2013 The contents of the charge was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

3. Accordingly, trial of the accused persons commenced. During trial the following witness is adduced from the side of prosecution:

P.W.1- Chhakila Bewa

P.W.2- Altap Hossain

4. The following document are marked as Exhibits:

Exhibit 1- Signature of P.W.1 on the written complaint.

5. After closure of the prosecution evidence on 11.02.2026, the accused persons were examined under Section 313 Cr.P.C. on 05.03.2026. As they declined to adduce any evidence the D.W was closed, then argument was heard and the case was fixed for judgment.

POINTS FOR DETERMINATION

6. On the basis of facts and circumstances of this case the following points are to be considered:

1. Whether the accused persons are guilty of offence under 342/326/34 of IPC?
2. Has the prosecution been able to prove its case beyond all reasonable doubts?

DECISION WITH REASONS

7. Both points are taken up together for convenience and to avoid unwanted repetition. At the first the evidence from the side of the prosecution are required to be discussed.

8. P.W.1 is the defacto complainant who stated that 7 years ago the accused assaulted her daughter Rafika Bibi thrice in a day. Firstly at about 6/7 a.m., Secondly at about 12 p.m. and thirdly at about 4 p.m. at about 6:30/7 a.m. her daughter was standing beside road by holding one pole. The accused no. 1 dragged her daughter and pinched on the throat of her daughter. She sustained bleeding injury. Then her daughter went to P.S. When her daughter returned at 12 p.m. the accused tied her with rope and took her to their house. There she was assaulted by the accused no. 1 and 2 with lathi. She sustained bleeding injury later the accused took her towards the road to Kursharhat at about 4 p.m. then they slammed her head in a stair and she sustained fracture bleeding injury on her head. Police of Nayarhat P.S. rescued her daughter and took her to Nayarhat hospital and then she was shifted to Dinjata Hospital where she was admitted for 4/5 days. Then she was shifted to Cooch Behar hospital where she was admitted for three days. The P.W.1 further stated that she had witnessed the incident. In her cross-examination she failed to state the date month year of the incident. She admitted that the accused are her relatives and they had dispute with her nephew and for that reason she had dispute with the accused. She further stated that the incident occurred for two hours and 10/12 people gather at that time. But she failed to recollect the names of the people gathered. She further stated that at them time of incident at 1 p.m. about 400/500 people had gathered. The incident at 6 p.m. lasted for 3/4 hours. The P.W.2 stated that the incident took place 8 to 9 years ago in the 9th or 10th month. When he returned home at 6 p.m. he heard that Rafika Bibi was assaulted. In his cross-examination he admitted that he had not witnessed the incident and he failed to recollect from whom he heard about the incident.

9. Now on meticulous perusal of the available evidences, this Court finds that the evidence of P.W.1 suffers from various inconsistencies. In the written complaint she had stated about two incidents of 3 p.m. and 4:30 p.m. but in her evidence she stated about three incidents of 6/7 a.m.,12 p.m. and 4 p.m. The narratives of incident of 6/7 a.m. has not been mentioned in the written complaint and the manner of incident narrated in the written complaint is appearing to be very much different from the second and third incident mentioned in the evidence. The cross-examination of the P.W.1 revealed that there was previous dispute between her and the accused. In the light of that, the nature of inconsistencies are appearing to be exaggeration on the part of the P.W.1. She in her evidence stated about witnessing the incident but nowhere in her evidence or in her written complaint she mentioned about any attempt of her to rescue her daughter from the accused. She only mentioned about presence of other persons at the time of rescue of her daughter in her written complaint but in her evidence she mentioned about rescue of her daughter by police of Nayarhat P.S. The manner of involvement of the accused are also found to be different in the

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written complaint than the evidence of P.W.1. So, it is clear that, the evidence of P.W.1 filled with inconsistencies and it is also lacking any specification as to date, month, year of the incident,. Such evidence can not be hold to be reliable to prove the offences charged against the accused. On the other hand, the evidence of P.W.2 is of no help of the prosecution as it is found to be hearsay evidence and unworthy of getting benefit of principle of res gestae. There is no evidence of any independent witnesses though the P.W.1 claimed about presence of other people at the time of incident. There is also no medical evidence on record to establish injury of the daughter of the P.W1. Accordingly it is safe to hold that, the available evidences from the side of prosecution are not bringing out any ingredients of the offence charged against the accused. As such, there is no other option before this Court but to hold that the charge levelled against the accused is not proved.

10. In view of the above discussion and regard being had to all the materials on record, this Court has no hesitation to hold that the prosecution has miserably failed to establish its case against the accused beyond all reasonable doubt and the accused persons are accordingly entitled to get an order of acquittal.

11. Hence, it is

ORDERED

that the accused persons are found not guilty of the offence under Section 342/326/34 of IPC.

That the accused persons are acquitted in terms of Section 248(1) of Cr.P.C.

The accused persons be released from their respective bail bonds.

Sureties are discharged from their liabilities.

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

Let a copy of this order be sent to District Magistrate, Cooch Behar as per direction of Hon'ble Calcutta High Court in the case of Sabitri Bhunya vs The State of WB and Others.

Copy of order be also sent to Chairman, SDLSC, Dinhata as per direction of Hon'ble Court in above referred case.

The victim as defined in Section 2(wa) of Cr.P.C. has the rights 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.

The case is disposed off.

Note in register and CIS.

D/C by me

Sd/-

(Pratyay Pal)

Judicial Magistrate, Dinhata

Sd/-

(Pratyay Pal)

Judicial Magistrate, Dinhata.

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APPENDIX
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.	Chhakila Bewa	Defacto complainant
2.	Altap Hossain	Other 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.

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1.	Exhibit 1	Signature of P.W.1 on the written complaint

B. Defence:

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

C. Court Exhibits: G.R. 624 of 2009
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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.

Sd/-
(Pratyay Pal)
Judicial Magistrate, Dinhata.