

**GR 1199 of 2016**  
**Reg No. GR 1199 of 2016**

Form No. (M) 34

**FORM A**

<b>IN THE COURT OF THE JUDICIAL MAGISTRATE, DINHATA, DIST. COOCH BEHAR</b>	
<b>Present: Sri Pratyay Pal, Judicial Magistrate, Dinhata, Dist. Cooch Behar JO Code WB01376</b>	
<b>Date of delivery of Judgment: <u>The 07<sup>th</sup> day of March, 2026</u></b>	
<b><u>GR 1199 of 2016</u> <u>Reg No. GR 1199 of 2016</u> <u>CNR WBCB 07-004695-2018</u> <u>T.R. No. 823 of 2018</u></b>	
<b><u>Dinhata P.S. case No. 1143 of 2016 dated 26.12.2016 under section 448/427/379/506/34 IPC</u></b>	
COMPLAINANT	State of West Bengal
REPRESENTED BY	Ld. APP-in-charge Nihar Ranjan Gupta
ACCUSED	<b>1) Saddam Miah S/O Sekend Miah 2) Saheb Ali Mia S/O Lt. Ongga @ Nachhimuddin Mia 3) Mahir Miah S/O Manchhur Miah 4) Eja Miah S/O Babar Ali 5) Noor Islam Miah S/O Achhi Miah 6) Belal Miah S/O Nachhimuddin Miah 7) Noorjamal Miah S/O Bhunju Miah 8) Babu Sekh S/O Asraf Sekh 9) Samchhul Sekh S/O Neta Sekh 10) Korpan Sekh S/O Rahaman Sekh</b> <b>All are residence of Poyaturkuthi, P.O. Bamanhat P.S Dinhata, Dist. Cooch Behar.</b>
REPRESENTED BY	Ld. Advocate Sujay Saha

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**FORM B**

Date of Offence	25.12.2016
Date of FIR	26.12.2016
Date of Chargesheet	31.08.2017
Date of Framing of Charges	01.10.2018
Date of commencement of Evidence	14.03.2019
Date on which Judgment is reserved	18.02.2026
Date of Judgment	07.03.2026
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.	<b>Saddam Miah</b>	N.A	12.02.2018	<b>Section 447/427/506/34 of IPC</b>	Acquitted	N.A.	N.A.
2.	<b>Saheb Ali Mia</b>	N.A	12.02.2018	<b>Section 447/427/506/34 of IPC</b>	Acquitted	N.A.	N.A.
3.	<b>Mahir Miah</b>	N.A	12.02.2018	<b>Section 447/427/506/34 of IPC</b>	Acquitted	N.A.	N.A.
4.	<b>Eja Miah</b>	N.A	12.02.2018	<b>Section 447/427/506/34 of IPC</b>	Acquitted	N.A.	N.A.
5.	<b>Noor Islam Miah</b>	N.A	12.02.2018	<b>Section 447/427/506/34 of IPC</b>	Acquitted	N.A.	N.A.
6.	<b>Belal Miah</b>	N.A	12.02.2018	<b>Section</b>	Acquitted	N.A.	N.A.

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				<b>447/427/506/34 of IPC</b>			
7.	<b>Noorjamal Miah</b>	N.A	12.02.2018	Section 447/427/506/34 of IPC	Acquitted	N.A.	N.A.
8.	<b>Babu Sekh</b>	N.A	12.02.2018	Section 447/427/506/34 of IPC	Acquitted	N.A.	N.A.
9.	<b>Samchhul Sekh</b>	N.A	12.02.2018	Section 447/427/506/34 of IPC	Acquitted	N.A.	N.A.
10.	<b>Korpan Sekh</b>	N.A	12.02.2018	Section 447/427/506/34 of IPC	Acquitted	N.A.	N.A.

**JUDGMENT**

1. This case arose out of a written complaint filed by one Salam Sikdar before I/C Dinhata P.S with allegation that on 25.12.2016 at about 3/3:30 p.m. the accused persons along with others attacked his house with arms. They destroyed the house and household articles. They also took away gold ornaments worth Rs. 1 lakh and cash of Rs. 75,000/-. They also broke power tiller and pump and threatened his family members as they are supporters of BJP. Due to fear of the accused he had to reside away from his house. Hence, the written complaint.

2. On the basis of the complaint Dinhata P.S. case No. 1143 of 2016 dated 26.12.2016 under section 448/427/379/506/34 IPC was registered. Investigation of the case was taken up and after completion of investigation, Charge Sheet no. 748 of 2017 dated 31.08.2017 was submitted against the above named accused persons under Section 448/427/506/34 of IPC. Cognizance of the case was taken and it was transferred to this Court for disposal on 13.07.2018. Charge was framed against the accused persons U/S-447/427/506/34 of IPC on 01.10.2018. 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- Salam Sikdar
- P.W.2- Jaynal Miah
- P.W.3- Tamiz Sekh
- P.W.4- Hazra Bibi

No document has been marked on behalf of the prosecution.

4. After closure of the prosecution evidence on 11.02.2026, the accused persons were examined under Section 313 Cr.P.C.. As they declined to adduce any evidence the D.W was closed, then argument was heard on 18.02.2026 and the case was fixed for judgment.

**POINTS FOR DETERMINATION**

5. 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 447/427/506/34 of IPC?
- 2. Has the prosecution been able to prove its case beyond all reasonable doubts?

**DECISION WITH REASONS**

6. 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.

7. P.W.1 is the defacto complainant who stated that the incident took place on 25<sup>th</sup> day three years ago at 3:00 to 3:30 pm at his house. Their village was a chit before. Their leader Diptiman Sen and he joined BJP and as such the accused had damaged his house and all the household articles. They took away gold chain, gold bangles, cash of Rs. 75,000/-, land deeds, ration card, voter identify card and Aadhar Card. The accused also damaged one power tiller. He sustained loss of Rs. 4,00,000/-. After seeing the accused he fled from the spot to avoid assault. In his cross-examination he failed to state specific month and year. He further admitted that he was not present at the time of incident. He further stated that about 200 to 250 people came but he failed to state who did what. He further admitted that the accused are supporters of TMC party. The P.W2 though stated about seeing house of P.W.1 in broken condition but he failed to state against whom this case was filed. The P.W.3 also failed to state against whom this case was filed but he stated about destruction of house of P.W.1 due to political rivalry and taking away of ornaments and cash in an incident which occurred three months at about 1 to 1:30 p.m. In his cross-examination he admitted that he had not seen the incident and failed to state that who destroyed the house and carried away articles. The P.W.4 stated about incident which occurred 2 to 3 years ago at 12:00 pm when the accused carried away utensils, ornaments, cash, important documents and broke the house of P.W.1. In her cross-examination she failed to state the exact date of incident. She stated that the incident took place for 1 to 1 ½ hours. She also stated that 400 to 500 people came at the P.O. at the time of incident. She admitted that she was activist of BJP at that time.

8. From the above mentioned evidence, this Court finds that there no eye witness of the alleged

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incident of destruction of house of the P.W.1 as well as taking away articles from there. The P.W.1, P.W.2 and P.W.4 are clear in this regard that they were not present at the time of incident. The P.W.4 also did not state anything positive about witnessing of the incident. In her evidence she mentioned a different time than the time mentioned by the P.W.1. There is also no direct allegation against the accused persons in the evidence of P.W.2 and P.W.3. The evidence of P.W.1 and P.W.4 reflect about their political affiliation at that time and it is also mentioned by the P.W.1 that the accused are supporters of rival political party. In this context, this Court is of the opinion that, without any corroboration there evidences can not form basis of proof of fact. It is pertinent to mention here that, the charge sheet reflects no seizure in connection with this case as such there is no support in respect of claim of destruction of property or taking away of articles. The P.O. as well as its ownership has not been established from the side of prosecution and as such the offence of trespass can not be proved against the accused. There is no iota of evidence regarding criminal intimidation. As a result, it is safe to hold that the ingredients of offences charged are not present in the available evidences from the side of prosecution.

9. 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.

10. Hence, it is

**ORDERED**

that the accused persons are found not guilty of the offence under Section 447/427/506/34 of IPC.

That the accused persons are acquitted in terms of Section 255(1) of Cr.P.C.

The accused persons be released from their respective bail bonds.

Sureties are discharged from their liabilities.

Seized alamats 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:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS OTHER WITNESS)</b>
1.	Salam Sikdar	Defacto complainant
2.	Jaynal Miah	Other witness
3.	Tamiz Sekh	Other witness
4.	Hazra Bibi	Other witness

**B. Defence Witnesses, if any:**

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

**C. Court Witnesses, if any:**

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

**LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS**

**A. Prosecution:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
N.A.	N.A.	N.A.

**B. Defence:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
N.A.	N.A.	N.A.

**C. Court Exhibits:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
N.A.	N.A.	N.A.

**D. Material Objects:**

<b>Sr. No.</b>	<b>Material Object Number</b>	<b>Description</b>
N.A.	N.A.	N.A.

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