

FORM A

**IN THE JUVENILE JUSTICE BOARD
COOCH BEHAR**

Present: **Smt. Peden Dukpa, W.B.J.S.**

Principal Magistrate,
Juvenile Justice Board
Cooch Behar
JO Code: WB01362

Smt. Runa Ganguly

Member, Juvenile Justice Board
Cooch Behar

Sri Kamalesh Ch. Biswas,

Member, Juvenile Justice Board
Cooch Behar

State of West Bengal

V.

Two Child

JVTR No: 08/2020

Regd No. GR-04/2020

CNR No: WBCB09-000007-2020

In connection with Pundibari PS Case No-39/2020 dated 20.01.2020 under section 143/186/332/353/307/283/431 of IPC R/W & Section 3/4 of PDPP Act & R/W Section 8B of N.H Act.

Proceeding under the Juvenile Justice (Care and Protection of Children) Act 2015 read with West Bengal Juvenile Justice (Care and Protection of Children) Rule, 2017.

[Date of the Final Order/Judgment: **07-09-2024**]

COMPLAINANT	State of West Bengal
REPRESENTED BY	Mr. Ranjit Kundu Ld. P.P In- Charge,
CHILD	Two
REPRESENTED BY	Mr. Ranjan Chakraborty Ld. Advocate for the CCLs

DISTRICT: COOCH BEHAR

FORM B

Date of offence/act	20.01.2020
Date of FIR	20.01.2020
Date of Charge-sheet/Final Report	31.12.2021
Date of plea	22.07.2020
Date of commencement of trial/inquiry	11.10.2022
Date on which Judgment/Final order is reserved	07.09.2024
Date of the Judgment/Final Order	07.09.2024
Date of the sentencing order, if any	N.A.

Child(ren) details:

Rank of the child (ren)	Name of the Child (ren)	Date of apprehension / production	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period detention undergone during trial for purpose of section 428 Cr.P.C.
2	XXX	24.01.2020	03.02.2020	Under section 143/186/332/353/307/283/431 of IPC R/W & Section 3/4 of PDPP Act & R/W Section 8B of N.H Act	Acquitted	NA	NA

FORM C

LIST OF PROSECUTION /DEFENCE/COURT WITNESSES

A. Prosecution:

Rank	Name	Nature of Evidence (Eye witness, Police witness, Medical witness, Panch Witness, Other witness)
PW-1	SI Rathindra Nath	Complainant

	Barman	
PW-2	Alok Deb Sharma	Public Witness
PW-3	Shubhendu Mahanto	Public Witness
PW-4	Chanchal Sarkar	Public Witness
PW-5	Shyam Sundar Gantait	Public Witness
PW-6	Bikram Sarkar	Public Witness
PW-7	Shankhu Banda	Public Witness
PW-8	Gouranga Sarkar	Public Witness

B. Defence witness, if any: No defence witness adduced.

Rank	Name	Nature of Evidence (Eye witness, Police witness, Medical witness, Panch Witness, Other witness)
Nil	Nil	Nil

C. Court witnesses, if any: No Court witness adduced.

Rank	Name	Nature of Evidence (Eye witness, Police witness, Medical witness, Panch Witness, Other witness)
Nil	Nil	Nil

LIST OF PROSECUTION /DEFENCE/COURT EXHIBITS

A. Prosecution:

SI No	Exhibit number	Description
1	Exhibit-1	Certified copy of written complaint dated 20.01.2020
2	Exhibit-1/1	Signature of PW-1 on the certified copy of written complaint.
3	Exhibit-2	Certified copy of seizure list dated 20.01.2020

B. Defence: No defence witness.

SI No	Exhibit number	Description
Nil	Nil	Nil

C. Court Exhibits:

SI No	Exhibit number	Description
Nil	Nil	Nil

D. Material Objections:

SI No	Exhibit number	Description
Nil	Nil	Nil

FINAL ORDER

1. The brief fact of the case, as culled out from the First Information Report (hereinafter referred to as FIR) is that the complainant namely SI Rathindra Nath Barman of Pundibari PS on 20.01.2020 at about 12:05 pm, received a telephonic information that some persons have assembled in front of Cooch Behar Mission Hospital by blocking NH-31. Accordingly, he diarized the said information by GDE No: 921 dated 20.01.2020. Thereafter he along with his force left for the spot to work out the source information. At around 12.30 pm, he along with his force arrived at Cooch Behar Mission Hospital and found around 60-70 people blocking the NH-31 illegally. On being asked, it is revealed that on 21.1.2020 at about 9 am , one patient namely Partha Bhowmik aged about 17 years old had succumbed to his injury at Cooch Behar Mission Hospital and the patient party alleged that he died due to their foul treatment. He tried to convince them but they became furious and threatened the police personnel. At about 1.25 pm, they started pelting stone and attacked police personal. As a result, I/C Kotwali namely Soumyajit Roy, SI Uttam Saharma, SI Prasanta Biswas, ASI Uttam Chhetri, ASI Debashih Ranjan Deb, ASI Basanta Murmu, Constable Bhulu Mahanta, Constable Bipul Sutradhar, Constable Subhankar Das sustained injury. The gathered mob also damaged one police vehicle being Registration No. WB64A/5967 and some private vehicle standing at NH31. The mob also entered into the compound of Mission Hospital and damaged some private vehicle including three ambulances, CCTV, Furniture of Hospital premises. Upon reinforcement of DY.SP HQ, the agitators fled away from the spot and after a long chase he managed to apprehend some of them and other mob were identified with the help of local people.
2. After receiving the said written complaint, One Pundibari Police Station Case No. 39/2020 dated 20.01.2020 under section 143/186/332/353/307/283/431 of IPC R/W & Section 3/4 of PDPP Act & R/W Section 8B of N.H Act was started.
3. On 24.01.2020 this instant file was opened at this Board for inquiry under the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as "the Act").

4. After the completion of the investigation, the final report has been submitted against the CCLs under section 143/186/332/353/307/283/431 of IPC R/W & Section 3/4 of PDPP Act & R/W Section 8B of N.H act. The plea of the CCL was recorded accordingly on 19.04.2022 for the offence punishable under section 143/186/332/353/307/283/431 of IPC R/W & Section 3/4 of PDPP Act & R/W Section 8B of N.H act to which CCLs denied their involvement in the alleged activities by pleading not guilty and claimed to be tried.
5. After recording of evidence of the prosecution, the CCLs were examined under sections 313/281 of Cr.P.C. read with section 14(5) of the Act on 07.09.2024.

EVIDENCE ON RECORD

1. Eight witnesses were examined as stated above by the prosecution. Three documents have been admitted in this case from the side of the prosecution.
2. No defense witness has been examined.

POINTS FOR DECISION

- i. Whether the CCLs are involved into commission of activities punishable under section 143/186/332/353/307/283/431 of IPC R/W & Section 3/4 of PDPP Act & R/W Section 8B of N.H act?
- ii. Whether the prosecution has been able to prove this proceeding against the CCLs?

DECISION WITH REASONS

1. The points for consideration are taken up together for consideration for the sake of brevity and as they are intertwined. The facts of the case will have been considered through the evidence available in record to decide the points.
2. The complainant namely SI Rathindra Nath Barman has been examined as PW-1 in this case. He stated that on 20.01.2020, he got information that around 32-40 people have gathered

unlawfully on NH-31 at Chakchaka gram in front of Cooch Behar Mission Hospital with an intention to protest since one of the patient had died due to wrong treatment by one of the Doctor of the said Hospital. As per the direction of the then O/C of Pundibari PS namely SI Mahim Adhikary, they went there. He along with his force went to the spot and asked them immediately to leave the P.O but they started pelting stones upon them and also damaged the public property. The I/C of Kotwali PS also came to the spot and apprehended 10 persons from the spot but he does not recollect their names. He also stated that he cannot identified them. Through his evidence, C/C of written complaint dated 20.01.2020 has been marked as Exhibit-1, his signature on the same has been marked as Exhibit-1/1. He also stated that he seized some bamboo sticks and stone chips from the P.O and prepared seizure list dated 20.01.2020 which has been marked as Exhibit-2 in this case.

During his cross examination he stated that does not know the scribe of the written complaint. He also stated that he does not know the name of Officers who have gone for the duty along with him on that day.

3. The Public witness namely Alok Deb Sharma has been examined as PW-2 in this case. He stated that on 20.01.2020, he was working as ward boy at Cooch Behar Mission Hospital and he heard that one dispute took place in the Hospital but he does not know the details of the same.
4. The public witness namely Shubhendu Mahanta has been examined as PW-3 in this case. He stated that on 20.01.2020, he was working as ward master at Cooch Behar Mission Hospital. He stated that on that day when he reached hospital for his duty at about 03:00 pm in the afternoon he saw that the Hospital window pans have been broken and even the hospital ambulances were damaged. Further he stated that he heard that one dispute took place in the hospital since one patient had died on that day but he does not know the details of the same.

5. The public witness namely Chanchal Sarkar has been examined as PW-4 in this case. He stated that on 20.01.2020, he was working as ICU Technician at Mission Hospital. He stated that on that day, he was on duty and the patient party have broken and destroyed the property of Mission Hospital since one of the patient had died. He further stated that the police came to the hospital and one dispute took place in between the patient party and the police.
6. The another public witness namely Shyam Sundar Gantait has been examined as PW-5 in this case. He stated that on 20.01.2020, he was working as ward boy at Mission Hospital, Cooch Behar. He stated that he was on duty from 02:00pm-08:00 pm and he heard that one student had died at the said Hospital and over the said reason one dispute took place in their hospital.
7. The public witness namely Bikram Sarkar has been examined as PW-6 in this case. He stated that on 20.01.2020 he was on duty since he work as MRI Supervisor at Mission Hospital, Cooch Behar. He further stated that he heard that one patient had died at the Hospital and over the said reason, one dispute took place in the Hospital.
8. The public witness namely Shankhu Banda has been examined as PW-7 in this case. He stated that on 20.01.2020 he was an employee of Mission Hospital, Cooch Behar. He stated that after going to his duty, at about 01:00-01:30 pm in the afternoon, he found that the main door glass and office glass have been damaged by the mob over the issue of death of patient. Further he stated that he has no personal knowledge about this case nor he knows who all were arrested in connection with this case.
9. The public witness namely Gouranga Sarkar has been examined as PW-8 in this case. He stated that on 20.01.2020, he was an employee of Mission Hospital, Cooch Behar. He stated that on that day, one dispute took place over the issue of death of a patient. After the dispute took place, he closed the cash counter and went to the top floor of Mission Hospital, Cooch Behar for his safety and security. Further he stated that apart from that he knows nothing.

Lastly he stated that he does not know how all were arrested in connection with this case.

10. After perusing the record and the evidence of the prosecution witnesses together with the documents marked as Exhibits, we find that none of the prosecution witnesses including the complainant stated anything adverse against the CCLs. The prosecution witnesses failed to identify the CCLs and as such, we do not find any incriminating materials or the involvement of the CCLs in the alleged incident.
11. As such, there is nothing before this board to conclusively hold that CCLs can be associated with the accusation of the complainant. During their examination u/s 313 Cr.P.C, the CCLs have also denied their any involvement with the allegation.
12. Now since the prosecution failed to prove the case as put forward by them and there is no proper and cogent evidence against the CCLs, we are satisfied to hold that the children brought before this Board has not committed any offence and as such they deserve to be acquitted under section 255 (1) of the Cr.P.C. The points are decided accordingly.
13. Hence it is,

O R D E R E D

that the CCLs have not committed any offence punishable under section 143/186/332/353/307/283/431 of IPC R/W & Section 3/4 of PDPP Act & R/W Section 8B of N.H Act and hereby they have declared to be child found not in conflict with law under section 17 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

14. Their guardians are, hereby, discharged from the guardian bond forthwith respectively.

15. The seized assets, if any, be disposed off after the expiry of appeal period.

16. Let a copy of this judgement be forwarded to Secretary, DLSA, Cooch Behar for information.

17. Note in the Register and CIS.

Typed, printed and corrected by me:

Sd/-
[Smt. Peden Dukpa]
Principal Magistrate
Juvenile Justice Board
Cooch Behar
J.O. Code: WBCB01362

Sd/-
[Smt. Peden Dukpa]
Principal Magistrate
Juvenile Justice Board
Cooch Behar
J.O. Code: WBCB01362

01. I agree.

Sd/-
[Smt. Runa Ganguly]
Member-I

02. I agree.

Sd/-
[Sri. Kamalesh Ch. Biswas]
Member-II