

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, CALCUTTA

Present : Smt. Payel Banerjee, [J.O Code: WB01117]

Chief Judicial Magistrate, Calcutta.

[Date of the Judgement: 12.08.2026]

[Case No. GR/724/2021]

T.R No. 56/2022

Reg. No. GRS/724/2021

CNR No. WBCS02-114407-2021

(FIR No.144/2021 dt. 17.07.2021, U/s.120B/406/420 of IPC, Police Station- Hare
Street)

COMPLAINANT	STATE
REPRESENTED BY	RADHANATH RONG, ADDITIONAL PUBLIC PROSECUTOR
ACCUSED	1. SHYAM BIHARI SHARMA, S/O LATE JAMNA PRASAD SHARMA, ADDRESS: GEMUS ENGINEERING LTD, E BLOCK, 8, N.S ROAD, KOLKATA-01 AND ALSO AT 402, KEYATALA LANE, KOLKATA-29. (FILED FOR EVER VIDE ORDER DATED 12.11.2024) 2. PUSHPA RANI SHARMA, W/O SHYAM BIHARI SHARMA, ADDRESS: GEMUS ENGINEERING LTD, E BLOCK, 8, N.S ROAD, KOLKATA-01 AND ALSO AT 402, KEYATALA LANE, KOLKATA-29. 3. RAJEEV SHARMA, S/O SHYAM BIHARI SHARMA, ADDRESS: GEMUS ENGINEERING LTD, E BLOCK, 8, N.S ROAD, KOLKATA-01 AND ALSO AT 402, KEYATALA LANE, KOLKATA-29.

REPRESENTED BY	PRATIM BHATTACHARYA
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Form No. (M) 35

Date of Offence	On and from July 2020 to 17.07.2021
Date of FIR	17.07.2021
Date of Charge-sheet	02.04.2022
Date of framing of charge	24.11.2025
Date of commencement of Evidence	28.01.2026
Date on which Judgement is reserved	12.08.2026
Date of the Judgement	12.08.2026
Date of the Sentencing Order, if any	Acquitted

Accused details:

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.
1	Shyam Bihari Sharma	Surrendered on 31.05.2022	31.05.2022	120B/406/420 of IPC	Filed for ever on 12.11.2024	—	—
2	Pushpa Rani Sharma	Surrendered on 11.06.2014	11.06.2014	120B/406/420 of IPC	acquitted	N/A	NIL
3	Rajeev Sharma	Surrendered on 11.06.2014	11.06.2014	120B/406/420 of IPC	acquitted	N/A	NIL

Form No. (M) 36

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)
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PW1	Yashwant Singh	De facto complainant
PW2	Navin Chowdhury	Independent witness
PW3	Soumitra Das	Investigating officer

B. Defence Witnesses, if any:

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

C. Court Witnesses, if any:

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

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Exhibit P-1/PW-1	The signature of witness on the written complaint
2	Exhibit P-2/PW-2	Signature of witness on the seizure list dated 23.09.2021
3	Exhibit P-3/PW-3	The endorsement of the then O/C Hare Street P.S
4	Exhibit P-4/PW-3	Formal FIR
5	Exhibit P-5/PW-3	Seizure list dated 23.09.2021

B. Defence:

Sr. No.	Exhibit Number	Description
1	NIL	NIL

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
1	NIL	NIL

D. Material Objects:

Sr. No.	Exhibit Number	Description
1	NIL	NIL

PROSECUTION CASE IN A NUTSHELL:

The compendium of the prosecution case, as unfolded during trial stands as follows:

The prosecution case details apart in short is that the accused persons being the directors of Gemus Engineering Ltd. Hatched a criminal conspiracy and in pursuant thereof they induced and managed the petitioner company with a false assurance of a better business prospect. That being so induced to their proposition the petitioner company had delivered pig iron amounting to Rs. 29,20,083.25/-. But thereafter the accused company neither made payment nor returned the materials and thereby cheated the petitioner company. That in the month of July, 2020 accused company represented by the directors of Shyam Bihari Sharma, Pushpa Rani Sharma and Rajeev Sharma approached the petitioner company and managed them to supply pig iron of 19.940 metric tonnes. Believing their proposition of a good business prospect, the petitioner company had delivered the said quantity of material. Subsequently, several other orders were also placed by alleged company and the petitioner company also supplied the same time to time. Thereby the outstanding payment reached upto Rs. 29,20,083.25/-. When the complainant on behalf of his company approached for requisite payment before the alleged company the accused persons of alleged company had issued tow cheques dated 19.01.2021 and 22.01.2021. But those cheques got dishonoured on the instruction of “stop payment”. Thereafter, when petitioner company approached further before the alleged company and accused persons had refused to pay anything.

DEFENCE CASE IN NUTSHELL:

Defense case as can be captured from the cross examination of the prosecution witnesses and examination of the accused persons u/s 313 of Cr.P.C is the total denial of the prosecution case.

THE INVESTIGATION

After receiving complaint O.C. of Hare Street Police Station started this case being no. 144 dated 17.07.2021 u/s 120B/406/420 of the Indian Penal Code (in short IPC) was initiated against the above named accused persons and S.I, Soumitra Das was endorsed with the investigation. The said I.O. of this case visited the place of occurrence, recorded the statement of the witnesses under section 161 of CrPC. When he collected sufficient evidence and a prima-facie case has been well established the I.O of this case as per the direction of his superior submitted the Charge Sheet No. 31/2022 dated 02.04.2022 under section 120B/406/420 of IPC against the accused persons.

During trial the case against accused no 01 namely Shyam Bihari Sharma has been filed for ever vide order dated 12.11.2024.

THE CHARGE:

After considering all materials of record Charge was framed against the accused persons for offence u/s- 120B/406/420 of IPC and the same as made out in C.S is read over and explained to the accused persons in Bengali to which the accused persons pleaded not guilty and claimed to be tried vide order dated 24.11.2025.

EXAMINATION U/S 313 CR.P.C:

In their examination under section 313 of CrPC, on 12.08.2026, the accused persons denied all the allegation made against them and claimed that they are not guilty and denied to give any evidence in their support.

THE ARGUMENT:

Ld. A.P.P. argued that the prosecution witnesses failed to corroborate the story of prosecution and left the entire matter upon court for adjudication. On

the other hand, Ld. Advocate for the accused persons argued that the independent witnesses did not make any incriminating allegation against the accused persons and therefore, the accused persons are liable to be acquitted.

POINTS FOR DETERMINATION:

1) Whether the accused persons committed offences punishable u/s 120B/406/420 of IPC?

2) Whether the prosecution story is worth credence and whether the prosecution has been able to prove the accusations beyond reasonable doubt as against the accused persons?

DECISION WITH REASONS:

Let us scan through the evidence adduced by the prosecution in the following paragraphs in order to reach a judicially acceptable determination.

Both the points for determination are taken up for brevity of discussion.

The PW-01 deposed that his company had supplied pig iron to the accused company and he was given a cheque but when he went to the bank he found that instruction for stop payment was given. He could not recollect the amount of the cheque. No document has come before the court to show that pig iron was supplied to the accused or that there was a business contract for supplying pig iron to the accused. No cheque has been proved in this case.

The PW-02 is a seizure list witness and proved his signature on the seizure list and deposed that documents were seized in his presence. He did not say about the documents in his evidence in chief. During cross-examination he stated that original documents, cheque, invoice, weightment slip, kata slip were seized but from seizure list I find that these documents were not seized and only cheque and cheque return memo were seized. The said cheque or the cheque return memo were not produced before the court for proving it by the witness. No books of accounts has been produced. No other documents have come before the court which would show transactions between the complainant company and the

accused persons. The PW-02 did not know the accused Pushpa Rani.

The PW-03 is the IO and deposed regarding the steps taken by him for the investigation of the case. He deposed in his cross-examination that he did not seize any document regarding supply of goods, quantity of goods supplied, mode of supplying the goods and the period when the goods were supplied. He also did not seize any books of accounts from which transaction could be seen. There is nothing before the court from which it can be proved that there was a business of supplying pig iron in between the complainant and the accused persons and that pig iron was supplied and no payment was made. Not a single document pertaining to the books of accounts, cash book or other books of business has been seized which could have thrown light on the transaction that allegedly took place and the payment that was allegedly due. There is nothing which would show that the accused had an intention of cheating the complainant or that the accused cheated the complainant in any manner.

Thus, the above points under determination are therefore answered in the negative.

In view of the discussion made herein and considering the above findings as a whole, this Court has no alternative but to hold that the prosecution has miserably failed to prove their case beyond all reasonable doubts and as such the accused persons deserve to be acquitted from this case.

Hence, it is,

ORDERED

That the accused persons namely, Pushpa Rani Sharma and Rajeev Shar are not found guilty for the offence punishable u/s 120B/420/406 of the IPC and they are accordingly acquitted from this case as per Section 248(1) Cr. P.C.

In terms of Section 437A of Cr.P.C the existing bail bond of the the accused person shall remain in force for a period of 06 months with condition that he shall appear before the Higher Court as and when such court issues notice in respect of any appeal or petition filed against the judgment. After expiry of 06 months such bail bond shall automatically seize to operate and the accused as

well as the surety/sureties would be deemed to have been discharged from such bail bonds without any further order.

Note in T.R.

The judgment is pronounced in the open Court in presence of the accused persons and given under my hand and seal of the Court today.

Dictated & Corrected
read over and explained

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GRS- 724/2021

CNR No.- WBCS02-114407-2021

(Present : Payel Banerjee JO Code-WB01117)

Order dated: 12.08.2026

Today is fixed for examination of accused U/S.313 of CrPC.

Accused persons are examined U/S.313 CrPC in which they denied to tender any witness in their support.

Hence, record is taken up for argument.

Heard argument in full.

Judgement will be delivered at 2.30 p.m.

D/c,

CJM, Calcutta.

Later:

12.08.2026

Record is taken up for passing judgement.

Accused persons are present.

Judgement is delivered in open Court in presence of accused.

Operative part of judgement is as follows:

Hence, it is,

O R D E R E D

That the accused persons namely, Pushpa Rani Sharma and Rajeev Sharma are not found guilty for the offence punishable u/s 120B/420/406 of the IPC and they are accordingly acquitted from this case as per Section 248(1) Cr. P.C.

In terms of Section 437A of Cr.P.C the existing bail bond of the the accused person shall remain in force for a period of 06 months with condition that he shall appear before the Higher Court as and when such court issues notice in respect of any appeal or petition filed against the judgment. After expiry of 06 months such bail bond shall automatically cease to operate and the accused as well as the surety/sureties would be deemed to have been discharged from such bail bonds without any further order.

Note in T.R.

The judgment is pronounced in the open Court in presence of the accused persons and given under my hand and seal of the Court today.

D/c,

CJM, Calcutta.

Payel Banerjee
CJM, Calcutta
Date: 12.08.2026