



Form No. (M) 34

<u>IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE-I, CALCUTTA</u>	
Present : Sri Dibyendu Nath, [J.O Code: WB01098] Additional Chief Judicial Magistrate-I, Calcutta.	
[Date of the Judgement: 08.07.2026]	
[Case No. GR/2013/2017]	
T.R No. 22/2025	
Reg. No. GRN/2013/2017	
CNR No. WBCS02-079494-2017	
(FIR No. 550/2017 dated 04.12.2017, U/s. 323/341/379/427/506/114 of IPC, Police Station- Jorasanko)	
COMPLAINANT	STATE
REPRESENTED BY	SHRI DIP NARAYAN PAKRASI, ADDITIONAL PUBLIC PROSECUTOR
ACCUSED	1. ELLIAS AKHTAR S/O NOOR MD. ADDRESS: PUDUMDASAM, PS- TAMLUK, MEDINIPUR (EAST), PIN- 721636. 2. TARULATA TUDU D/O KHELA TUDU ADDRESS: GHOSHPARA MANGALBAR, PS- MALDA, PIN- 732142. 3. RUPAM DUTTA S/O PRADIP DUTTA ADDRESS: DASHINPARA MILAN SAMITY, HOWRAH- 7111035.
REPRESENTED BY	SIDDHARTHA SANKAR ROY

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Date of Offence	04.120.2017
Date of FIR	04.12.2017
Date of Charge-sheet	16.06.2021
Date of plea	14.10.2025
Date of commencement of Evidence	17.06.2026
Date on which Judgement is reserved	08.07.2026
Date of the Judgement	08.07.2026
Date of the Sentencing Order, if any	08.07.2026

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	Ellias Akhtar	Surrendered on 14.10.2025	14.10.2025	U/s 341/323/427 /506/114 of IPC	acquitted	N/A	NIL
2	Tarulata Tudu	Surrendered on 14.10.2025	14.10.2025	U/s 341/323/427 /506/114 of IPC	acquitted	N/A	NIL
3	Rupam Dutta	Surrendered on 14.10.2025	14.10.2025	U/s 341/323/427 /506/114 of IPC	acquitted	N/A	NIL

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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)
PW1	Deep Poddar	De facto Complainant

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/PW1	The written complaint.
2	Exhibit-P-1/1/PW1	The signature of PW-1 on written complaint

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

A. Prosecution Case:-

1. The prosecution case, in brief, is that one **Deep Poddar**, S/o Depen Poddar of 14/2, Vivekananda Road, PS- Dumdum, Kolkata-65, lodged a written complaint against the accused persons to the effect that on 04.12.2017 at about 6:30 p.m, the accused FIR named accused persons being aided and abetted with each other and wrongfully restrained the complainant and physically assaulted him and his friend with at fists and blows and also committed theft in respect of one gold chain of de-facto complainant and also caused mischief of one mobile phone. Hence this case.

B. DEFENCE CASE IN NUTSHELL:

2. 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.

C. THE INVESTIGATION

3. After receiving complaint, O.C. of Burtolla Police Station started this case being no. **550/2017 dated 04.12.2017 u/s 341/323/379/427/506/114 of IPC** against the above named accused persons and **S.I, Debashis Ghosh** was endorsed with the investigation.

During investigation, the IO visited the place of occurrence, recorded the statement of the witnesses under section 161 of Cr. P. C. On the basis of the material evidence, a *prima-facie* case has been well established by the I.O against the accused persons and accordingly as per the direction of his superior, he submitted **Charge Sheet No. 169/2021 dated 16.06.2021 under section 341/323/427/506/114 of IPC** against the accused persons.

D. THE PLEA:

4. After hearing the Learned Additional Public Prosecutor for the State as well as Learned Defence Counsel, substance of the accusations for the offence punishable u/s **341/323/427/506/114 of IPC** were 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 on **14.10.2025**.

E. EVIDENCE ADDUCED

5. In order to prove the case the prosecution adduced 01 witness:

1) Deep Poddar as PW1 (Defacto complainant)

In course of trial, the prosecution examined 01 witness and he is examined, cross examined and thereafter discharged. Accordingly, upon the prayer of the Ld. A.P.P. that there is no requirement to examine any further witness considering the evidence adduced by the prosecution so far examined. Thus, the stage for witness of prosecution stood closed.

F. Examination of accused person u/s 313 of Cr. P. C:

6. After closure of the evidence of the prosecution, the three accused persons have been examined u/s 313 of Cr. P. C on 08.07.2026 and the examination is reduced into writing and kept with the record. The defence case as emerged from such examination is of general denial in respect of the allegation made in the complaint and the accused persons had pleaded their innocence and denied to give any evidence in their support.

G. THE ARGUMENT:

7. 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.

H. POINTS FOR CONSIDERATION :

- (I) Whether or not the accused persons have committed the offence under sections **341/323/427/506/114 of IPC** ?
- (ii) Whether the prosecution has been able to prove the case beyond all shadow of reasonable doubt ?

I. DECISION WITH REASONS :

8. The main fact-in-issue of this case is whether or not the accused persons have committed the offence under sections **341/323/427/506/114 of IPC**. In order to get the answer to such bone of contention, it is to be seen how far the prosecution has been successful in bringing home the charge under sections **341/323/427/506/114 of IPC** against the accused persons through its evidence on record. It is the settled position of the law of evidence (now BSA) that '*one who asserts certain facts must prove the same*'.

9. In other words, the burden of proof lies upon the persons who are asserting a fact. In as much as the prosecution has brought the charge under sections **341/323/427/506/114 of IPC**, the accused persons in the instant case, the burden of proof lies strictly upon the prosecution to bring home the said charges against them. It is also the settled position in criminal law that the prosecution has to prove its case beyond all shadow of reasonable doubt.

10. According to **section 101 of Indian Evidence Act**, the general burden of proof is always upon the shoulder of the prosecution. The Hon'ble High Court of Delhi in Sunil Kr. Sharma vs State (CBI) 139 (2007) DLT 407, I (2007) BMC 654, was pleased to observe that there are three well settled cardinal principles of criminal jurisprudence and they are as follows:-

i) That the onus lies affirmatively on the prosecution from the beginning to the end to prove its case beyond reasonable shadow of doubt and it cannot derive benefit from weakness or falsity of the defense version while proving its own case.

ii) That in a criminal trial the accused must be presumed to be innocent unless they are proved to be guilty.

iii) That the onus of the prosecution to prove its own case never shifts upon the shoulder of the accused persons.

11. In this background and in order to prove the said charge, the evidence of the prosecution becomes very important and it is to be seen whether or not the prosecution has been able to prove its case beyond all shadow of reasonable doubt. In order to prove its case, the prosecution has adduced the evidence of the 01 prosecution witness and then it has been closed.

12. **Firstly**, I can start my discussion with the evidence of **Deep Poddar (PW-01)** who happens to be the *de-facto* complainant of this case. PW-01 is the written complaint maker and for that reason his evidence assumes supreme importance. The fate of the prosecution case largely depends on how he deposes in his examination-in-chief and how steadily he faced the acid test of cross examination.

13. He stated in his examination-in-chief that he filed this case against the accused persons. He further stated that the incident took place on 04.11.2017 but he do not remember anything about the incident as the matter was very old and on that time he was college student.

14. During his examination-in-chief he proved his written complaint which has been marked as **Exhibit-P1/PW1** and also proved his signature in the written complaint which has been marked as **Exhibit-P1/1/PW1**.

15. At the time of cross examination PW-1, **Deep Poddar** has stated that he has no objection if the accused persons are acquitted from this case.

16. From the aforesaid oral evidence of PW-1, it also reveals that the de-facto complainant was physically assaulted somebody else with fist and blows and due to which he sustained simple injury on his person. However, the prosecution has failed to bring any injury report to corroborate the FIR statement and the version of PW-1.

17. Now let me consider whether the Ld. Defence Counsel succeeded in shaking the veracity and credibility of this witness by dint of his cross-examination. At the time of cross-examination PW-1 has specifically stated that if the accused persons are acquitted from this case he has no objection.

18. Thus, in the end of this part of my discussion, I may safely conclude that the evidence of this witness (PW-1) stands not credible even after going through the ordeal as set up by the defence. From the aforesaid oral evidence of PW1, I do not find any corroboration the material evidence of written complaint as well as the evidence of victim.

19. Considering all the material evidence of the prosecution, I have come to the reasoned opinion that there is indeed importance of corroboration of FIR by an independent witness but same shall not be considered as a *sine qua non* for contemplating conviction.

20. Conviction can even be awarded when there is no other witness excepting the victim, provided the prosecution case is otherwise believable.

21. Despite being given several opportunities the prosecution failed to substantiate its case by giving proper cogent and reliable evidence. Failure on the part of the prosecution in this regard negates the case of the prosecution. Practically the prosecution case has got no basis to stand up.

22. After a detailed critical analysis of the entire materials on record and after considering both sides' argument, I may decisively reiterate that the prosecution witness, has not effectively corroborated each other as well as the prosecution case as to the material particulars.

23. On the basis of the prosecution witnesses and after considering the surrounding factors, I am inclined to hold that the prosecution case loses its gravity as the same is not proved substantially. There is inherent lack of propriety in the prosecution case. The prosecution case is too feeble and there is indeed no room to contemplate conviction. Thus the accused would get every benefit of doubt in their favour.

24. Therefore, the allegation could not be proved as there is no cogent corroboration of the evidence of the prosecution witnesses. Therefore, I am of the opinion that the alleged offence u/s **341/323/427/506/114 of IPC** is not established by prosecution beyond all reasonable doubt against the accused persons from the testimony of the witnesses.

25. In the facts and circumstances, the prosecution has hopelessly failed to bring home the charge u/s **341/323/427/506/114 of IPC**. In other words, the version stated in the F.I.R. or the ingredients described in the charge sheet does not get established from the testimony of the prosecution witnesses beyond all reasonable doubt so as to warrant conviction against the accused persons. That being so, the accused persons are entitled to an order of acquittal.

26. All the points are thus answered in the negative.

27. As a result, the instant case fails.

28. Hence, it is

ORDERED

That the accused persons namely, **Ellias Akhtar, Tarulata Tudu and Rupam Dutta** are not found guilty for the offence punishable u/s **341/323/427/506/114 of IPC**, and they are accordingly acquitted from this case as per **Section 255(1) of Cr. P. C.**

The accused persons are discharged from their bail bonds and set at liberty forthwith.

Documents if there any filed by the parties be returned to the concerned party after necessary identification and notes in the case-record.

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.

Let a soft copy of the judgment be uploaded in the CIS within 48 Hours from now as per Rule 186A of the Cr.R.O of Hon'ble High Court, Calcutta.

Let a copy of this judgement be sent to the defacto complainant.

**Dictated & Corrected
read over and explained**

**(Dibyendu Nath)
ACJM-I, Calcutta**

**(Dibyendu Nath)
ACJM-I, Calcutta**