

WBDD060021082024



**IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE,
GANGARAMPUR AT BUNIADPUR, DAKSHIN DINAJPUR**

**Present: Bibek Tamang,
Additional Chief Judicial Magistrate,
Gangarampur at Buniadpur,
Dakshin Dinajpur.**

**Case No: G.R. No. 1113 of 2023
T.R. No. 1089 of 2024
C.I.S. No. 355 of 2024**

State

...Complainant

vs.

1) Maksudur Mia and another

..... Accused.

Date of delivery of Judgment on 16.06.2026

**THIS IS A CASE UNDER SECTION 341/323/34 OF THE INDIAN PENAL
CODE.**

CASE OF THE PROSECUTION

The case of the prosecution as per the written complaint is that on 09/10/2023 at about 5:00pm, the defacto complainant had left home on his cycle for Bazar when one Toto being driven by accused Maksedur Mia, hit him causing him to fall on the road. The defacto complainant is said to have protested and the accused Maksedur Mia is said to have verbally abused the defacto complainant. In the meantime, accused Ata Mia is said to have come to the spot and assaulted him with an iron rod on his body. The accused are then said to have assaulted the defacto complainant with fists and blows and the defacto complainant is said to have fallen on the ground. Local people are said to have rescued him and taken him to Kaldighi hospital. The defacto complainant is said to have been discharge the next day but he is said to have continued to suffer pain on his hip and as such, the defacto complainant is again said to have got admitted on 15/10/2023 for three days and finally got treated from Malda Dishari Nursing home. It is further alleged that the accused had snatched a sum of Rs. 15,000/- from the defacto complainant.

DATE OF FILING COMPLAINT-19.10.2023.

INVESTIGATION

After investigation the Investigating Officer submitted Charge-sheet under section 341/323/34 of the Indian Penal Code,1860 against 02 accused persons bearing Charge-sheet No. 522/ 2023 dated 30.11.2023.

PLEA

Substance of accusation against the accused persons for the offenses under sections 341/323/34 of the IPC was read over and explained to them in Bengali

language to which the accused pleaded “Not Guilty” by saying “Amra Nirdosh” and claimed to be tried in accordance to law.

WITNESSES

The prosecution has brought forth Two (02) witnesses to bring home the guilt of the accused persons. The evidence chapter of the prosecution was closed on prayer of Ld. APP.

Prosecution witnesses	Name	
P.W.1.	Bishnu Sarkar	PW1
P.W.2.	Jagaru Roy	PW2

EXHIBITS

SL No.	Exhibit	
1.	Exhibit 1	Signature of PW1 on Written Complaint.

EXAMINATION U/S 313 OF Cr.P.C

The accused were examined under section 313 of the Cr.P.C. to which the accused stated that they have nothing to say. Upon being asked, the accused declined to adduce any witness on their behalf.

FINDINGS

It is the settled principle of criminal law that the guilt of the accused must be proved beyond reasonable doubt and to the exclusion of reasonable doubt.

Before going into the merit of this case, let us go through the offenses for which the accused have been tried so as to better appreciate the evidence at hand.

Section 340 of Indian Penal Code, 1860 defines wrongful confinement as follows:

340. Wrongful confinement.—

Whoever wrongfully restrains any person in such a manner as to prevent that person from proceedings beyond certain circumscribing limits, is said "wrongfully to confine" that person.

Now, section 341 of Indian Penal Code, 1860 provides as follows:

Section 341 of Indian Penal Code, 1860 provides as follows:

341. Punishment for wrongful restraint.—

Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

So, in order to attract the provision of section 341 of Indian Penal Code, 1860, the prosecution must establish that the accused had voluntarily obstructed the defacto complainant from proceeding in a direction in which the defacto complainant had a right to proceed and the restraint was any legal justification

Secondly, section 319 of Indian Penal Code, 1860 defines hurt as follows:

319. Hurt.—

Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

Section 323 of Indian Penal Code, 1860 provides for punishment for causing hurt as follows:

323. Punishment for voluntarily causing hurt.—

Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Section 34 of the Indian Penal Code, 1860 provides for Acts done by several persons in furtherance of common intention as follows

34. Acts done by several persons in furtherance of common intention.—

When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

In this instant case, the allegation is that on 09/10/2023 at about 5:00pm, while the defacto complainant was going to bazar on his cycle, one Toto being driven by accused Maksedur Mia hit him causing him to fall and when the defacto complainant protested, accused Maksedur Mia is said to have verbally abused him. Subsequently, accused Ata Mia is said to have come to the spot and assaulted the defacto complainant with an iron rod. Thereafter, the accused are alleged to have assaulted the defacto complainant with fists and blows and the defacto complainant is said to have been rescued and taken to Kaldighi Hospital by locals. After being discharged, the defacto complainant is said to have continued to suffer pain and is again said to have got admitted and got treatment. However, PW1, the defacto complainant and the alleged victim deposed that about 3-4 years ago while he was going to Boula Bazar by his cycle from his home, one verbal altercation had taken place over the incident of an accident with a Toto and as such, he had filed this instant complaint. PW1 has completely deviated from the allegations of his written complaint and also the case

of the prosecution. PW1 did not utter a word regarding any incident of assault upon him and has merely stated that one verbal altercation had taken place and also even did not name the accused. Instead, during cross-examination, PW1 further reiterated that only verbal altercation had taken place and has also deposed that he does not know the contents of the written complaint and that the complaint itself had been written as per instructions of co-villagers. PW2, who is an independent witness, has completely denied having any knowledge regarding the incident. The prosecution witnesses have themselves completely demolished the entire case of the prosecution. Mere verbal altercation is not sufficient to attract the provision of section 341/323/34 of the Indian Penal Code, 1860.

As such, in view of the above discussion, I am inclined to hold that the prosecution has failed to establish the guilt of the accused for the offenses punishable under section section 341/323/34 of the Indian Penal Code, 1860 making the accused entitled to be acquitted from this case.

ORDER

that the accused persons namely Maksedur Mia and Ata Mia are found not guilty under section 278(1) of the BNSS. as such they are hereby acquitted from this case for the offenses punishable under Section **341/323/34** of the Indian Penal Code.

The accused persons are hereby discharged from their respective bail bonds.

Let all seized alamats, if any, be disposed off in accordance with law.

Dictated & Corrected by me.

Bibek Tamang (WB01235)
Addl. Chief Judicial magistrate,
Gangarampur at Buniadpur.
16.06.2026

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