



HIGH COURT FORM NO.9(J)2

**HEADING OF JUDGMENT OF SESSIONS CASE
DISTRICT- DARJEELING
IN THE COURT OF ADDITIONAL SESSIONS JUDGE,
1ST COURT, DARJEELING**

FORM-A

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, 1st COURT, DARJEELING
Present : Sri Akhilesh Kumar Pandey [JO Code WB00784] Additional Sessions Judge, 1 st Court, Darjeeling
Date of judgment : 24.03.2026
Sessions case No. 27 of 2022
CNR No. WBDJ01-0007582022
CIS No. 23 of 2022

(Details of FIR/Crime and Police Station) Pulbazar PS Case No.29 of 2021 dated 29.11.2021	
Complainant	State of West Bengal
REPRESENTED BY	Md. Sadab
ACCUSED	Biden Pradhan @ Bidhan Pradhan
REPRESENTED BY	Apeksha Kulung Rai

FORM-B

Date of Offence	28.11.2021
Date of FIR	29.11.2021
Date of charge sheet	22.02.2022
Date of Supplementary charge sheet	Nil
Date of framing charge	22.09.2023
Date of commencement of evidence	07.12.2023
Date of judgment	24.03.2026
Date of sentencing order, if any	Nil

Accused details

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 the purpose of Section 428 CrPC
Biden Pradhan @ Bidhan Pradhan	29.11.2021	08.03.2022	Charge u/s 326/307 of IPC			From 29.11.2021 to 08.03.2022

FORM-C**List of Prosecution/Defence/court Witnesses****A. Prosecution :**

Rank	Name	NATURE OF WITNESS(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
P.W. 1	Man Prasad Chettri	The complainant.
P.W. 2	Tek Bahadur Chettri	The victim.
P.W. 3	Sanjay Chettri	The son of victim.
P.W. 4	Sushma Chettri	The wife of victim.
P.W. 5	Pritam Pradhan	The scribe.
P.W. 6	Yogendra Rai	Other witness
P.W. 7	Syaron David Rai	Other witness
P.W. 8	Dipen Subba	Other witness
P.W. 9	Rajesh Gupta	Other witness
P.W. 10	Sailendra Rai	Other witness
P.W. 11	Youwan Gurung	Other witness
P.W. 12	Dr. Subhayam Das	Medical witness

B. Defence Witness, if any :

Rank	Name	NATURE OF WITNESS(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW	Nil	

C. Court Witness, if any :

Rank	Name	NATURE OF WITNESS(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW	Nil	

List of Prosecution/Defence/Court Exhibits

A. Prosecution :

Sr. No.	Exhibit Number	Description
01	Exhibit-P1	The written complaint
2	Exhibit-P1/1	Signature of PW 5 on the written complaint
3	Exhibit-P2	164 statement
4	Exhibit-P3	Seizure list dated 18.12.2021
5	Exhibit-P4	Injury report of PW 2

B. Defence :

Sr. No.	Exhibit Number	Description

C. Court Exhibit :

Sr. No.	Exhibit Number	Description

D. Material Objects :

Sr. No.	Exhibit Number	Description

Additional Sessions Judge,
1st Court, Darjeeling

JUDGMENT

In this present case, the accused namely Biden Pradhan @ Bidhan Pradhan stood trial for offences punishable u/s 326/307 of IPC and after consideration of the evidence of the witnesses examined for the prosecution, the Court passes the following judgment as hereunder :-

The prosecution case in short is that on 29.11.2021 the complainant Man Prasad Chettri submitted a written complaint with the OC Pulbazar Police Station stating the fact that on 28.11.2021 at about 21:30 hrs. when the victim/Tek Bahadur Chettri had been to watch local function in front of local Panchayat Office at Bijanbari market, the accused Biden Pradhan @ Bidhan Pradhan hit the victim by his foot and protested against him for which scuffle took place between them. Then the local people separated them from scuffle and the accused left for his house. When the victim was still watching the function, the accused again came to him and stabbed him with knife several times on his back and tummy causing bleeding injury resulting to unconscious and was taken to Bijanbari Rural hospital and from there he was referred to Darjeeling Sadar hospital and again he was shifted to Ananda Lok Nursing Home, Siliguri, where he regained his sense after admitting there for 17 days and prays for taking necessary legal action against Biden Pradhan @ Bidhan Pradhan under the law and on the basis of the said complaint of the complainant Man Prasad Chettri, Pulbazar PS case No.29 of 2021 dated 29.11.2021 u/s 326/307 of IPC was started against the accused, Biden Pradhan @ Bidhan Pradhan and investigation was taken up.

After completion of the investigation, charge sheet has been submitted by the police in this case against sole accused namely, Biden Pradhan @ Bidhan Pradhan for offences punishable u/s 326/307 of IPC.

As the offences complained against the accused u/s 326/307 of IPC is exclusively triable by the Court of the Ld. Sessions Judge, after compliance of the necessary legal formalities as per Section 207 of the CrPC, the case was committed before the Court of the Ld. Sessions Judge, Darjeeling. Cognizance was taken and thereafter the case was transferred to this Court for trial.

After the receipt of the case record by this Court and in course of trial, from the materials available in the charge sheet against the accused prima facie charges was made out against the accused u/s 326/307 of IPC. Accordingly, charges u/s 326/307 of IPC was framed against the accused in separate sheet. The content of charges so framed against the accused was read over and explained to the accused to which, he plead not guilty and claimed to be tried.

The accused is also examined u/s 313 of CrPC where he plead innocent and claimed to be falsely implicated in this case by the prosecution. The accused also declined to adduce any evidence in his defence.

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The prosecution in course of the trial examined 12 of its witnesses and they were cross-examined in defence and from the trend of cross-examination of the prosecution witnesses, the defence of the accused is denial of the prosecution case.

Prosecution in course of trial examined as many as 12 witnesses and the documents that has been produced in the evidence of the prosecution witnesses are marked as Exhibits -P1 to P4.

Now the point of consideration before this Court is that :

POINTS FOR CONSIDERATION

Whether the prosecution has been able to prove the charge against the accused from the evidences of the prosecution witnesses examined beyond all reasonable doubts ?

DECISION WITH REASONS

Prosecution in course of trial, examined 12 of its witnesses mentioned in the charge sheet and the documents that has been produced in the evidence of the prosecution witnesses are marked as Exhibits -P1 to P4.

PW1 examined by the prosecution, Man Prasad Chettri in his evidence stated that on 28.11.2021 his brother(victim) Tek Bahadur Chettri was stabbed by the accused Biden Pradhan @ Bidhan Pradhan with knife for three/four times and became semiconscious. He further stated that his injured brother was taken to Bijanbari hospital for treatment, for that reason, he was called from Bijanbari hospital and he immediately rushed to the Bijanbari hospital and accompanied him for his treatment. From there his injured brother was referred to Sadar Hospital for better treatment and later he was shifted to Ananda Lok Nursing Home, Siliguri. PW 1 further stated that at Bijanbari hospital his brother told him that the accused stabbed him 3/4 times with knife and many people were present at the PO at that time and on the same day of the incident he went to the PS and lodged the written complaint against the accused Biden Pradhan @ Bidhan Pradhan with the help of one Pritam Pradhan under his instruction, which was read over and explained to him and signed on the written complaint which is marked as Exhibit P1. He knows the accused Biden Pradhan@ Bidhan Pradhan as his co-villager and identified him in Court.

PW 2 (victim) examined by the prosecution, in his evidence stated that the incident took place on 28.11.2021 at around 8:30 PM in front of local Panchayat Office at Bijanbari. He stated in his evidence that on that day, a local function was going on at the PO and he was present in the local function and when the accused hit him by his foot, he protested against accused and scuffle took place between them. Then the local people separated them

from scuffle and the accused left for his house. The PW2 (victim) further stated that when he was still watching the function, the accused again came to him and stabbed him with knife five/six times on his back and tummy causing bleeding injury resulting which he became unconscious and regained his sense at Ananda Lok Nursing Home, Siliguri, where he was admitted there for 17 days. His intestine got badly damaged and he still suffers pain in his abdomen. He narrated the incident to all his family members and his statement was also recorded by the Ld. Judicial Magistrate and he identified the said statement recorded by the Ld. Magistrate bearing his signature which is marked as Exhibit P2. He was interrogated by the police in connection with this case and he identified the accused present in Court.

PW-3 examined by the prosecution, Sanjay Chettri in his evidence stated that the PW2/victim is his father. On the relevant date of incident, he was at Rampurhat and received telephonic call from his mother about the alleged incident of stabbing his father by the accused on his back at local market of Bijanbari. He further stated that on the following day, he came to see his father (PW2/victim) at Ananda Lok Nursing Home, Siliguri, where he was admitted. After discharged from the Ananda Lok Nursing Home, Siliguri entire story of alleged incident was narrated to him by the PW2/victim, from where he came to know that the accused had stabbed him on his abdomen with knife. Later on 18.12.2021 police seized wearing apparel of his father/victim under seizure list in his presence and he signed the seizure list, which has been marked as Exhibit P3 and he was interrogated by the police in connection with this case and he identified the accused present in Court.

PW-4 examined by the prosecution, Sushma Chettri in her evidence stated that she is the wife of victim in this case. At the time of the incident, she was not at her home and she was informed by her co-villager, Dipen Subba about the alleged incident of stabbed by the accused with knife on his back and stomach. She further stated that the victim/husband was taken to Bijanbari hospital and was referred to Sadar hospital and later shifted to Ananda Lok Nursing Home, Siliguri for better treatment. Her co-villager Dipen Subba informed her about the incident over phone and after recovery, her husband told her about the entire incident. She further stated that had the accused been present in Court, she could have identified him.

PW-5 examined by the prosecution Pritam Pradhan in his evidence stated that on 28.11.2021 he scribed a written complaint under the dictation of PW1 which he read over and explained to him and thereafter he put his signature on the same. The signature of PW5/scribe on the written complaint is marked as Exhibit P1/1.

PW-6 examined by the prosecution Yogendra Rai in his evidence stated that he knows the complainant as his co-villager and that the alleged incident occurred in the evening of 29.11.2021 and on that day, they organized a local function in their village and during the function, there was a commotion and later he heard from the public that the accused assaulted the victim/PW 2 with knife. Local people shifted the victim to the local hospital and that he do not know anything more about the incident. Contd..pg.no.7/-

PW-7 examined by the prosecution Syaron David Rai in his evidence stated that he knows the complainant as his co-villager and the victim/PW 2 as friend of his brother. The alleged incident took place two years before in their village. There was a local function and it was crowded and he heard that someone assaulted someone. He do not know anything more about the incident.

PW-8 examined by the prosecution Dipen Subba in his evidence stated that the incident took place on 28.11.2021 around 09:30 hrs.at Bijanbari bazar and there is a Panchayat Office at the PO and on the alleged date and time while his wife Reshma Subba and many others were playing "Housy" at the PO. At that time, a musical programme was going on at Bijanbari market and they suddenly heard a halla from their back and they then rushed to the PO and saw the victim/PW 2 was lying on the ground with bleeding being stabbed with knife. He saw the police taking away the accused from the PO. He along with other shifted the victim at Bijanbari hospital and informed the incident to the wife of the victim over phone. He also informed the incident to his friend Basant Gurung and he along with others then went to local PS where PW 1 lodged the written complaint. He further stated that he heard from the others at the PO that the accused stabbed the victim/PW 2 on his back with knife. After one and half months from the incident, he had talked with the victim about the alleged incident and the victim told him that the accused stabbed him on his back with knife and identified the accused present in Court. He was examined by the police.

PW-9 examined by the prosecution Rajesh Gupta in his evidence stated that he knows the victim as his neighbour and he also knows the accused as his co-villager. The alleged incident took place one and half years before at Bijanbari bazar and in the eveing of the date of the incident, there was a local function at the PO. He was also present in the function and suddenly there was a halla and thereaftter he heard from others that the accused stabbed the victim with knife. He cannot say from whom he heard about the alleged incident and that he do not know anything more about the incident.

PW-10 examined by the prosecution Sailendra Rai in his evidence stated that he knows the complainant and the victim as his neighbour. He also knows the accused as his neighbour. The incident took place 2/3 years back in the month of November/December in the evening at Bijanbari bazar and at the time of the incident, a musical programme was going on at the PO. He was not present at the PO and was at a little distance. Suddenly he found that people were running away from the PO and heard from them and there was an altercation between the accused and the victim/PW 2 and that he do not know anything more about the alleged incident.

PW 11 examined by the prosecution Youwan Gurung in his evidence stated that the alleged incident took place 2/3 years back in winter at Bijanbari bazar. There was a musical programme on the day of the incident at the PO. When the programme was going on, there was a halla at the PO. He was present in the musical programme. The PO was crowded with many people and he heard that the accused stabbed the victim/PW 2 with knife. He then left the PO. He was examined by the police and he identified the accused present in the Court.

PW-12 examined by the prosecution Dr. Subhayan Das in his evidence stated that on 28.11.2021 he was attached with Bijanbari Rural hospital as Medical Officer and on that day he had examined PW2/victim with a history of physical assault and on examination he found multiple stab injury by sharp weapon at his chest, abdomen and back with bleeding injury. He further stated that the victim was unconscious and he had referred him to the Sadar hospital, Darjeeling. The injury report prepared by him is marked as Exhibit P4.

I have heard the arguments made by the learned advocate for the accused as well as the Ld.PP for the prosecution and have gone through the evidence of the witnesses examined by the prosecution and the documents exhibited in evidence of the prosecution witnesses.

As per the case of the prosecution on the day of the incident, there was a musical function at the PO at the time of the incident and the victim/PW 2 was present there watching the function where the accused Biden Pradhan @ Bidhan Pradhan hit the victim by his foot and the victim protested against him for which scuffle took place between them. Then the local people separated them from scuffle and the accused left for his house. When the victim was still watching the function, the accused again came to him and stabbed him with knife several times on his back and tummy causing bleeding injury resulting to which, the victim became unconscious and was taken to Bijanbari Rural hospital and from there he was referred to Darjeeling Sadar hospital and again he was shifted to Ananda Lok Nursing Home, Siliguri, where he regained his sense and on the basis of he complaint of the complainant, hence this case.

Out of the 12 witnesses examined by the prosecution, PW 1 is the complainant, PW 2 is the victim, PW 3 is the son of the victim, PW 4 is the wife of the victim, PW 5 is the scribe, PW 6, PW 7, PW 8, PW 9, PW 10 and PW 11 examined are the local witnesses and PW 12 is the Medical Officer who examined the victim at Bijanbari Rural hospital.

Out of the above witnesses, examined by the prosecution, PW 6 in his evidence stated that there was a commotion and later he heard from the public that the accused assaulted the victim/PW 2 with knife. Local people shifted the victim to the local hospital and that he do not know anything more about the incident.

PW 7 in his evidence stated that there was a local function and it was crowded and he heard that someone assaulted other person. He do not know anything more about the incident.

PW 8 in his evidence stated that they suddenly heard a halla from their back and they then rushed to the PO and saw the victim/PW 2 was lying on the ground with bleeding being stabbed with knife. He saw the police taking away the accused from the PO. He along with other shifted the victim at Bijanbari hospital and informed the incident to the wife of the victim over phone. He also informed the incident to his friend Basant Gurung and he along with others then went to local PS where PW 1 lodged the written complaint. He further stated that he heard from the other at the PO that the accused stabbed the victim/PW 2 on his back with knife.

PW 9 in his evidence stated that he was also present in the function and suddenly there was a halla and thereafter he heard from others that the accused stabbed the victim with knife. He cannot say from whom he heard about the alleged incident and that he do not know anything more about the incident.

PW 10 in his evidence stated that suddenly he found that people were running away from the PO and heard from them and there was an altercation between the accused and the victim/PW 2 and that he do not know anything more about the alleged incident.

PW 11 in his evidence stated that when the programme was going on, there was a halla at the PO. He was present in the musical programme. The PO was crowded with many people and he heard that the accused stabbed the victim/PW 2 with knife. He then left the PO.

All the above witnesses examined by the prosecution being PW 6 to PW 11 are hearsay witnesses and non of them have witnessed the incident of stabbing the victim by the accused on the day and place of the incident.

PW 8 examined by the prosecution in his evidence stated that he along with other shifted the victim at Bijanbari hospital and informed the incident to the wife of the victim over phone. He also informed the incident to his friend Basant Gurung and he along with others then went to local PS where PW 1 lodged the written complaint. This friend of the victim Basant Gurung has neither been examined by the prosecution nor has been cited as witness in the charge sheet.

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PW1 examined by the prosecution, Man Prasad Chettri in his evidence stated that on 28.11.2021 his brother(victim) Tek Bahadur Chettri was stabbed by the accused Biden Pradhan @ Bidhan Pradhan with knife for three/four times and became semiconscious. He further stated that his injured brother was taken to Bijanbari hospital for treatment, for that reason, he was called from Bijanbari hospital and he immediately rushed to the Bijanbari hospital and accompanied him for his treatment. From there his injured brother was referred to Sadar Hospital for better treatment and later he was shifted to Ananda Lok Nursing Home, Siliguri. PW 1 further stated that at Bijanbari hospital his brother told him that the accused stabbed him 3/4 times with knife and many people were present at the PO at that time and on the same day of the incident, he went to the PS and lodged the written complaint against the accused Biden Pradhan @ Bidhan Pradhan with the help of one Pritam Pradhan under his instruction.

PW 8 in his evidence stated that he along with others then went to local PS where PW 1 lodged the written complaint whereas, PW 1 in his evidence stated that as his injured brother was taken to Bijanbari hospital for treatment, for that reason, he was called from Bijanbari hospital and he immediately rushed to the Bijanbari hospital and accompanied him for his treatment. From there his injured brother was referred to Sadar Hospital for better treatment and later he was shifted to Ananda Lok Nursing Home, Siliguri. He further stated that at Bijanbari hospital his brother told him that the accused stabbed him 3/4 times with knife and many people were present at the PO at that time and on the same day of the incident, he went to the PS and lodged the written complaint against the accused.

PW 1 in his evidence stated that at Bijanbari hospital his brother told him that the accused stabbed him 3/4 times with knife and many people were present at the PO at that time whereas, the doctor who examined the victim at Bijanbari hospital PW-12 examined by the prosecution in his evidence stated that on 28.11.2021 he was attached with Bijanbari Rural hospital as Medical Officer and on that day he had examined PW2/victim with a history of physical assault and on examination he found multiple stab injury by sharp weapon at his chest, abdomen and back with bleeding injury. He further stated that the victim was unconscious and he had referred him to the Sadar hospital, Darjeeling. So what has been stated by the PW 1 in his evidence that at Bijanbari hospital his brother told him that the accused stabbed him 3/4 times with knife and many people were present at the PO at that time is not reliable in the context what has been stated by PW 12.

What has been stated by the PW 12 that the victim was unconscious at the time of his examination at Bijanbari hospital, this evidence of PW 12 is being corroborated by the evidence of the victim himself. PW 2, the victim in his evidence himself has stated that he became unconscious and regained his sense at Ananda Lok Nursing Home, Siliguri,

PW-3 examined by the prosecution, Sanjay Chettri the son of the victim in his evidence stated that the PW2/victim is his father and on the relevant date of incident, he was at Rampurhat and received telephonic call from his mother about the alleged incident of stabbing his father by the accused on his back at local market of Bijanbari. He further stated that on the following day, he came to see his father (PW2/victim) at Ananda Lok Nursing Home, Siliguri, where he was admitted. After discharged from the Ananda Lok Nursing Home, Siliguri entire story of alleged incident was narrated to him by the PW2/victim, from where he came to know that the accused had stabbed him on his abdomen with knife. As per this evidence of PW 3 after discharge of his father from Ananda Lok Nursing Home, Siliguri he came to know about the story of alleged incident narrated to him by his father that the accused stabbed him on his abdomen with knife.

The victim/PW 2 also in his evidence stated that he became unconscious and regained his sense at Ananda Lok Nursing Home, Siliguri, where he was admitted there for 17 days. His intestine got badly damaged and he still suffers pain in his abdomen and he narrated the incident to all his family members. As per the evidence of PW 2 himself, the story of alleged incident was narrated by him to his family members at Ananda Lok Nursing Home, Siliguri.

PW 4 the wife of the victim also in her evidence stated that her co-villager Dipen Subba informed her about the incident over phone and after recovery, her husband told her about the entire incident. From the evidence of PW 3 and PW 4, it is very much clear that they came to know about the incident from the victim/PW 2 at Ananda Lok Nursing Home, Siliguri after he recovered.

PW 5 the scribe in his evidence stated that he scribed the complaint as per the dictation of PW 1. PW 1 in his cross-examination has stated that he did not witness the alleged incident and when the victim was unconscious at the time of his treatment at Bijanbari hospital from where or from whom the complainant came to know about the incident which was stated by him in his written complaint has not been brought on record by the prosecution.

What has been stated by the PW 2 in his evidence that when he was still watching the function, the accused again came to him and stabbed him with knife five/six times on his back and tummy causing bleeding injury resulting which he became unconscious whereas, this injured in his cross-examination has stated that he was drunk at the time of alleged incident and that he did not see the knife in the hand of the accused when he saw the accused approaching towards him. So when he saw the accused approaching towards him, he did not see the knife in his hand so how he was hit on his back by the accused from behind with knife stated by the injured is not reliable.

The incident took place in a local function where many people were present and non of them had seen the accused stabbing the victim with knife. The witnesses examined PW 6 to PW 11 are all hearsay witnesses and the complainant as well as the PW 3, the son of the victim and PW 4, the wife of the victim are also not the witness to the incident and they came to know about the incident from the victim after his discharge from the Nursing Home. In the absence of any corroborating evidence to the story of the prosecution, as made out in the written complaint, the facts stated by the victim in his evidence that when he was still watching the function, the accused again came to him and stabbed him with knife five/six times on his back and tummy causing bleeding injury resulting which he became unconscious is not trustworthy to rely upon the sole evidence of the injured and to hold the accused guilty of the offence charged and in the absence of any other corroborating evidence, it is very much clear that the prosecution has failed to prove the charges against the accused beyond all reasonable doubts and extending the benefit of doubts, in favour of the accused, the charges against the accused is given a go bye, and the accused is entitled to be acquitted of the charges.

In the result, the prosecution case against the accused fails, and
hence, it is,

ORDERED

that the accused Biden Pradhan @ Bidhan Pradhan is found not guilty for commission of offences punishable u/s 326/307 of IPC and is hereby acquitted from the said charges u/s 235(1) of the CrPC.

In view of the provision u/s 437A of the CrPC, the accused to continue on same bail bond for the period of next six months.

Seized alamats if any, be confiscated to the State and destroyed after the period of appeal is over.

Dictated and corrected by me,
Additional Sessions Judge,
1st Court, Darjeeling.

Additional Sessions Judge,
1st Court, Darjeeling