

Form No (M) 34

FORM A

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, DARJEELING Present : Shri Amar Chandra Das Chief Judicial Magistrate, Darjeeling Date of the Judgment : 30.03.2026 G.R. Case No. 189 of 2013 Reg. No. 873 of 2014 T.R. No. 55 of 2014 CNR: WBDJ020003542014 Pulbazar PS Case No. 16 of 2013 dated 30.07.2013 u/s 143/186 of the Indian Penal Code	
Complainant	STATE OF WEST BENGAL
REPRESENTED BY	NAME OF THE ADVOCATE/APP: SHRI PANKAJ PRASAD
ACCUSED	NAME WITH ALL PARTICULARS (A1): 1. Divya Prakash Rai, S/o Ashok Rai, r/o 5 No. Leafside, Singla TE PS Sadar, Dist. Darjeeling 2. Biren Tamang, S/o Lt Lal Bahadur Tamang, R/o Lapchey Busty, Tukver TE, PS Sadar, Dist. Darjeeling. 3. Sujal Rai, S/o Lt. Putraman Rai, R/o Kamjore Busty, PS Pulbazar, Dist. Darjeeling 4. Jagadish Baraily, S/o Lt. Karna Bahadur Baraily , r/o Kamjore, PS Pulbazar, Dist. Darjeeling. 5. Binay Mukhia, S/o Joy Bahadur Mukhia, 5 No. Leafside, Singla TE, PS Sadar, Dist. Darjeeling. 6. Sahadew Subba, S/o Padam Bahadur Subba, R/o Harkabir Dhura, Singla TE, PS Sadar, Dist. Darjeeling. 7. Ram Rai, S/o Himal Dhoj Rai, R/o Sunsari Busty, PS Pulbazar, Dist. Darjeeling. 8. Laxman @ Lachhu Rai, S/o Himal Dhoj Rai, R/o Sunsari Busty, PS Pulbazar, Dist.

	Darjeeling. 9. Ranhang Limbu, S/o Purna Dhoj Limbu, Lamagaon, PS Pulbazar, Dist. Darjeeling. 10. Sashi Doma Rai, W/o David Rai, R/o Lower Lama Gaon, PS Pulbazar, Dist. Darjeeling. 11. Buddhimaya Subba, W/o Dhan Singh Subba, R/o Bijanbari, Parijat Gram, PS Pulbazar, Dist. Darjeeling. 12. Neena Chettri, W/o Dimunath Chettri, R/o Chainpuria, PS Pulbazar, Dist. Darjeeling. 13. Babuni Chettri, W/o Buddhiraj Rai, R/o Hospital Line, Chainpuria, PS Pulbazar, Dist. Darjeeling. 14. Sarmila Chettri, W/o Ambar Chettri, R/o Parijat Gram, PS Pulbazar, Dist. Darjeeling. 15. Satish Pokhrel, S/o Narhari Pokhrel, R/o Upper Relling, PS Pulbazar, Dist. Darjeeling. 16. Pasang Tamang, S/o Pema Tamang, R/o Upper Relling, PS Pulbazar, Dist. Darjeeling.
REPRESENTED BY	NAME OF THE ADVOCATES: Sri. Prasanna Rai Sri. Sanjiv Thakur

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FORM B

Date of Offence	29.07.2013
Date of FIR	30.07.2013
Date of Charge-sheet	25.11.2013
Date of Framing of Charges/ Plea	04.08.2025
Date of commencement of Evidence	25.02.2026
Date on which Judgment is reserved	30.03.2026
Date of the Judgment	30.03.2026
Date of the Sentencing Order, if any	N.A.

Accused details :

Rank of the Accused	Name of Accused	Date of arrest/surrender	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.	Divya Prakash Rai	13.08.2013	13.08.2013	u/s 143/186 IPC	Acquitte d	NA	NA
2	Biren Tamang	13.08.2013	13.08.2013				
3	Sujal Rai,	13.08.2013	13.08.2013				
4	Jagadish Baraily,	13.08.2013	13.08.2013				
5	Binay Mukhia,	13.08.2013	13.08.2013				
6	Sahadew Subba,	13.08.2013	13.08.2013				
7	Ram Rai,	25.08.2013	25.08.2013				
8	Laxman @ Lachhu Rai,	25.08.2013	25.08.2013				
9	Ranhang Limbu,	25.08.2013	25.08.2013				
10	Sashi Doma Rai,	26.08.2013	26.08.2013				
11	Buddhimaya Subba,	26.08.2013	26.08.2013				
12	Neena Chettri,	26.08.2013	26.08.2013				
13	Babuni Chettri,	26.08.2013	26.08.2013				
14	Sarmila Chettri,	26.08.2013	26.08.2013				
15	Satish Pokhrel,	06.09.2013	06.09.2013				
16	Pasang Tamang,	06.09.2013	06.09.2013				

J U D G E M E N T

On the basis of the written complaint lodged by one Dipankar Roy the then O/C Pulbazar P.S. Darjeeling started the instant case vide no. 16 of 2013 dated 30.07.2013 u/s 143/186 IPC against the accused persons namely Divya Prakash Rai, Biren Tamang, Sujal Rai, Jagadish Baraily, Binay Mukhia, Sahadew Subba, Ram Rai, Laxman @ Lachhu Rai, Ranhang Limbu, Sashi Doma Rai, Buddhimaya Subba, Neena Chettri, Babuni Chettri, Sarmila Chettri, Satish Pokhrel and Pasang Tamang. After completion of investigation, a charge-sheet was submitted by the I.O against the FIR accused persons u/s 143/186 IPC. Accordingly, after taking cognizance against the charge-sheeted accused persons, the instant case was transferred to the personal file for disposal on 14.08.2014.

CASE HISTORY

The factual matrix of the prosecution case in brief is that on 29.07.2013 at around 09.00 hrs as the GJMM party had called strike for three days the accused persons asked the staff of BDO office not to enter into the office and when the defacto complainant requested

them the accused persons did not pay any heed. Hence this case.

CHARGE AND TRIAL

The charge-sheeted accused persons namely Biren Tamang, Sujal Rai, Jagadish Baraily, Binay Mukhia, Sahadew Subba, Ram Rai, Ranhang Limbu, Sashi Doma Rai, Buddhimaya Subba, Neena Chettri, Babuni Chettri, Sarmila Chettri, Satish Pokhrel and Pasang Tamang were examined u/s 251 of Cr.P.C. and the contents of the allegations u/s 143/186 IPC was read over and explained to them and they pleaded not guilty by saying “*kasur chaina*” and claimed for trial. Accordingly, the prosecution was directed to produce the witnesses in order to prove the allegations.

Accused person namely Laxman Rai has already expired and has been filed forever. Accused Divya Prakash Rai has been filed for the present vide order dated 18.07.2025.

During the course of proceedings, the prosecution could examine the one witness out of total eight charge-sheeted witnesses and cross-examined in full :-

PW1 Dipankar Roy (Defacto complainant)

The prosecution adduced document in support of the prosecution case as:

Ext.P-1/PW1 Intimation letter dated 29.07.2013.

Not a single document has been produced on behalf of the defence.

At the conclusion of the trial, the accused persons were examined u/s 313 Cr.P.C. and their detailed answers are recorded in separate sheets and kept in the record. As the accused persons declined to adduce any defence witness on their behalf, the matter was heard in argument from both sides at length.

POINTS FOR DETERMINATION

1. Whether the prosecution been able to prove the charges u/s 143/186 IPC against the accused persons ?

2. Whether the prosecution been able to prove the guilt of the accused persons beyond a reasonable doubt?

Heard argument from both sides.

EVALUATION OF THE PROSECUTION EVIDENCES

Let us discuss to find out how far the prosecution has been able to prove its case against the accused persons. The prosecution has been able to examine one witness in this case in order to prove the alleged offences charged against the accused persons.

Now let us discuss how far the prosecution has been able to prove the case.

PW1 Dipankar Roy stated that he was posted as BDO, Bijanbari on 29.07.2013 and he had intimated to the then DM, Darjeeling regarding the incident that occurred on 29.07.2013 as there was gathering in front of his office, restraining him to enter the office. He stated that probably the gathering belonged to GJMM party. He informed Pulbazar PS. Thereafter the police came and asked the gathering to vacate but they did not pay heed to it for which he intimated the same to the then DM, Darjeeling. He proved the intimation letter dated 29.07.2013 which has been marked as **Ext. P-1/PW1**.

His cross examination was declined.

DECISION WITH REASONS

Both the points are taken up together for their effective determination as they are connected with each other and will assist in arriving at the just determination of this case.

Therefore on scanning the materials placed before this Court in the form of oral and documentary evidence, this Court finds that this case was started after the then BDO intimated the matter to the DM, Darjeeling against the alleged supporter of GJMM political party who had assembled in front of the BDO office without taking any permission from competent authority and had wrongfully

restrained the BDO from entering his office. However while going through the deposition of witness this court does not find whispering of the name of any persons involved in the commission of alleged incident. Nothing has been brought on record against these accused persons about the role played by them to wrongfully restrain the defacto complainant. The entire materials placed before the court miserably failed to prove the case against the accused persons.

This case clearly lacks of sufficient evidence to prove the guilt of the accused persons beyond reasonable doubt for their conviction.

In view of the aforesaid evidence I hold that the prosecution has been unable to make out any case against the accused persons. As a result the aforesaid points are decided against the prosecution.

C O N C L U S I O N

After considering the entire material facts and circumstances of the case and after careful scrutiny of the evidence on record, I find that the prosecution has failed to establish the ingredients of the alleged offences charged u/s 143/186 IPC against the accused persons.

In the result, the prosecution case fails.

Hence it is,

O R D E R E D

that the accused persons namely Biren Tamang, Sujal Rai, Jagadish Baraily, Binay Mukhia, Sahadew Subba, Ram Rai, Ranhang Limbu, Sashi Doma Rai, Buddhimaya Subba, Neena Chettri, Babuni Chettri, Sarmila Chettri, Satish Pokhrel and Pasang Tamang are found not guilty to the alleged offences u/s 143/186 IPC and as such the accused persons are acquitted from this case u/s 255(1) CrPC.

Seized articles if any be disposed of as per law after the appeal period is over.

The bail bond which was filed on behalf of the accused persons stands extended for a period of six months from today.

Such bail bond shall be governed by the provisions of section 437A of the Cr.P.C.

Be it mentioned that in this case the defacto complainant, being the PW1 has a right to prefer an appeal under the proviso to section 372 of the Code of Criminal Procedure and, if necessary, to avail free legal assistance through the Legal Services Authorities concerned to prefer and prosecute such appeal.

Copies of this Judgment be forwarded to the District Magistrate, Darjeeling, and the Learned Secretary, D.L.S.A., Darjeeling, for due intimation to the victim about such right.

Note in TR and upload the judgment in the CIS at once.

Dictated and corrected by me:

(Amar Chandra Das)
Chief Judicial Magistrate,
Darjeeling.

(Amar Chandra Das)
Chief Judicial Magistrate,
Darjeeling.
UID No.WB01231

APPENDIX

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Form C

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	Dipankar Roy	(Defacto complainant)

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES**B. Defence Witnesses, if any :**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1		
DW2		

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW1		
CW2		

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS**A. Prosecution :**

Sr. No.		Description
1	Ext. P-1/PW1	Intimation letter dated 29.07.2013

B. Defence :

Sr. No.		Description
1	Exhibit D-1/DW1	
2	Exhibit D-2/DW2	

C. Court Exhibits :

Sr. No.		Description
1	Exhibit C-1/CW1	
2	Exhibit C-2/CW2	

D. Material Objects :

Sr. No.	Material Object Number	Description
1	MAT Ext.	

(AMAR CHANDRA DAS)
Chief Judicial Magistrate,
Darjeeling
JO Code WB01231