

Form No (M) 34

## FORM A

<b>IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, DARJEELING</b>  <b>Present : Shri Amar Chandra Das</b> <b>Chief Judicial Magistrate,</b> <b>Darjeeling</b>  <b>Date of the Judgment : 30.03.2026</b>  <b>G.R. Case No. 208 of 2013</b> <b>Reg. No. 870 of 2014</b> <b>T.R. No. ....of 20.....</b> <b>CNR: WBDJ020003562014</b>  <b>Pulbazar PS Case No. 17 of 2013 dated 10.08.2013</b> <b>u/s 143/341 of the Indian Penal Code</b>	
Complainant	STATE OF WEST BENGAL
REPRESENTED BY	NAME OF THE ADVOCATE/APP: SRI. CHAMAN RAI
ACCUSED	NAME WITH ALL PARTICULARS (A1): <b>1. Divya Prakash Rai, S/o Ashok Rai, r/o 5 No. Leafside, Singla TE PS Sadar, Dist. Darjeeling</b> <b>2. Biren Tamang, S/o Lt Lal Bahadur Tamang, R/o Lapchey Busty, Tukver TE, PS Sadar, Dist. Darjeeling.</b> <b>3. Sujal Rai, S/o Lt. Putraman Rai, R/o Kamjore Busty, PS Pulbazar, Dist. Darjeeling</b> <b>4. Jagadish Baraily, S/o Lt. Karna Bahadur Baraily , r/o Kamjore, PS Pulbazar, Dist. Darjeeling.</b> <b>5. Binay Mukhia, S/o Joy Bahadur Mukhia, 5 No. Leafside, Singla TE, PS Sadar,Dist. Darjeeling.</b> <b>6. Sahadew Subba, S/o Padam Bahadur Subba, R/o Harkabir Dhura, Singla TE, PS Sadar, Dist. Darjeeling.</b> <b>7. Ram Rai, S/o Himal Dhoj Rai, R/o Sunsari Busty, PS Pulbazar, Dist. Darjeeling.</b> <b>8. Laxman Rai, S/o Himal Dhoj Rai, R/o Sunsari Busty, PS Pulbazar, Dist. Darjeeling.</b>

	<p><b>9. Ranhang Limbu, S/o Purna Dhoj Limbu, Lamagaon, PS Pulbazar, Dist. Darjeeling.</b></p> <p><b>10. Sashi Doma Rai, W/o David Rai, R/o Lower Lama Gaon, PS Pulbazar, Dist. Darjeeling.</b></p> <p><b>11. Buddhimaya Subba, W/o Dhan Singh Subba, R/o Bijanbari, Parijat Gram, PS Pulbazar, Dist. Darjeeling.</b></p> <p><b>12. Neena Chettri, W/o Dimunath Chettri, R/o Chainpuria, PS Pulbazar, Dist. Darjeeling.</b></p> <p><b>13. Babuni Chettri, W/o Buddhiraj Rai, R/o Hospital Line, Chainpuria, PS Pulbazar, Dist. Darjeeling.</b></p> <p><b>14. Sarmila Chettri, W/o Ambar Chettri, R/o Parijat Gram, PS Pulbazar, Dist. Darjeeling.</b></p> <p><b>15. Jiten Tamang S/o Lt. Sang Dorja Tamang, Bijanbari, PS Pulbazar, Dist. Darjeeling.</b></p> <p><b>16. Satish Pokhrel, S/o Narhari Pokhrel, R/o Upper Relling, PS Pulbazar, Dist. Darjeeling.</b></p> <p><b>17. Pasang Tamang, S/o Pema Tamang, R/o Upper Relling, PS Pulbazar, Dist. Darjeeling.</b></p>
REPRESENTED BY	NAME OF THE ADVOCATES: Sri. Amrit K.S Maden Sri. Prasanna Rai Sri. Sanjiv Thakur

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## FORM B

Date of Offence	10.08.2013
Date of FIR	10.08.2013
Date of Charge-sheet	27.11.2013
Date of Framing of Charges/ Plea	04.08.2025
Date of commencement of Evidence	05.12.2025
Date on which Judgment is reserved	<b>30.03.2026</b>
Date of the Judgment	<b>30.03.2026</b>
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 143/341 IPC	Acquitte	NA	NA
2	Biren Tamang	13.08.2013	13.08.2013		d		
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	Ramhang 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,	06.09.2023	06.09.2013				
16	Pasang Tamang,	06.09.2013	06.09.2013				
17	Jiten Tamang	22.08.2013	22.08.2013				

**J U D G E M E N T**

On the basis of the written complaint lodged by one Raju Tamang the then O/C Pulbazar P.S. Darjeeling started the instant case vide no. 17 of 2013 dated 10.08.2013 u/s 143/341 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, Jiten Tamang, 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 143/341 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 10.08.2013 in between 11.30 hrs to 16.00 hrs the accused persons along with 100/150 GJMM supports of Yuva/Nari Morcha gathered in front of the house of Santosh Pradhan at Kaijalia Bazar and organized street corner meeting without any valid permission from competent authority causing obstruction to the free flow traffic.

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, Jiten Tamang, Satish Pokhrel and Pasang Tamang were examined u/s 251 of Cr.P.C. and the contents of the allegations u/s 143/341 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 three witnesses out of total seven charge-sheeted witnesses and cross-examined in full :-

PW1 ..... Sunil Subba (Witness)

PW2 ..... Ajuta Chettri (Witness)

PW3 ..... Santosh Kumar Pradhan (witness)

The prosecution did not adduce any document in support of the prosecution case.

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 143/341 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 three witnesses 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 Sunil Subba** stated that on 10.08.2013 he was posted at Pulbazar PS as ASI of IRB 2nd Battalion. On that day he being accompanied with other force had been to Kainjalay Bazar where crowd had assembled under the banner of Gorkha Janmukti Morcha at Kaijalay Bazar road in the morning. There was disturbance in the said meeting and someone had pelted stones and due to the said meeting free flow of movement was restricted.

His cross examination was declined.

**PW2 Ajuta Chettri** stated that she was posted as constable at Pulbazar PS on 10.08.2013. On that day she along with others accompanied by SI Raju Tamang went to Kainjalay Bazar for patrolling. On reaching there they found there was gathering of GJMM party supporters and they were conducting meeting on the road obstructing the passerby. She stated that it is not possible to recall the face of those persons.

Her cross examination was declined.

**PW3 Santosh Kumar Pradhan** stated that the incident took place on 10.08.2013. A procession was organized by GJMM, a political party at Kainjalay in front of his house at noon. When police came to disperse the said procession some hassle took place between the police personnel and gathering. He failed to identify the miscreants.

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 is a suo moto case started by SI Raju Tamang against the alleged supporter of GJMM political party assembled in front of the house of Santosh Pradhan at Kaijalay Bazar without taking any permission from competent authority and they also gathered on the public road causing wrongful restrain to the passerby during the meeting hour and the said meeting was held on the leadership of Jiten Tamang and Satish Pokhrel., However while going through the deposition of witnesses this court does not find whispering of the name of any persons involved in the commission of alleged incident whereas two names were clearly surfaced in the FIR. Nothing has been brought on record against these two accused persons about the role played by them along with other accused persons creating the wrongful restrain to the passerby at the road. Further the vital witness Sri. Santosh Pradhan by his deposition did not support the prosecution case at all. 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 143/341 IPC against the accused persons.

In the result, the prosecution case fails.

Hence it is,

**ORDERED**

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, Jiten Tamang, Satish Pokhrel and Pasang Tamang are found not guilty to the alleged offences u/s 143/341 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, 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 judgement 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	Sunil Subba	(Witness)
PW2	Ajuta Chettri	(witness)
PW3	Santosh Kumar Pradhan	(witness)

**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	

**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