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 : 19.03.2026

G.R. Case No. 45 of 2025
Reg. No. 213 of 2025
T.R. No. 139 of 2025
CNR: WBDJ020022322025

Sadar PS Case No. 24 of 2025 dated 01.03.2025
u/s 318(2) of BNS

Complainant	STATE OF WEST BENGAL
REPRESENTED BY	NAME OF THE ADVOCATE/APP: **SRI. CHAMAN RAI**
ACCUSED	NAME WITH ALL PARTICULARS (A1): **1. Md. Alam, S/o Khurshed Ali, R/o Lujali, Kalughat, Dholigaon Sujali, PS Islampur, Dist. Uttar Dinajpur**
REPRESENTED BY	NAME OF THE ADVOCATES: Ms. Smridhi Chettri. Ms. Archana Tamang Ms Triveni Rai

Form No (M) 35

FORM B

Date of Offence	06.02.2025
Date of FIR	01.03.2025
Date of Charge-sheet	21.06.2025
Date of Framing of Charges/ Plea	26.08.2025
Date of commencement of Evidence	13.03.2026
Date on which Judgment is reserved	19.03.2026
Date of the Judgment	19.03.2026
Date of the Sentencing Order, if any	NA

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.	Md. Alam	04.06.2025	04.06.2025	u/s 318(2)BNS	Acquittted	NA	NA

J U D G E M E N T

On the basis of the written complaint lodged by one Yonden Tshering Bhutia the then I/C Sadar P.S. Darjeeling started the instant case vide no. 24 of 2025 dated 01.03.2025 u/s 318(2) BNS against the accused person namely Md. Alam. After completion of investigation, a charge-sheet was submitted by the I.O against the FIR accused person u/s 318(2) BNS. Accordingly, after taking cognizance against the charge-sheeted accused person, the instant case was transferred to the personal file for disposal on 10.10.2025.

CASE HISTORY

The factual matrix of the prosecution case in brief is that on 06.02.2025 the accused person deceitfully took the mobile phone of the complainant. He manipulated the device and initiated NEFT transaction of Rs.5,00,000/- from the account of the defacto complainant to his account. After the transaction the accused person left the work without intimating the defacto complainant which raised suspicion and when the defacto complainant tried to contact the accused did not answer the calls. Thereafter the defacto complainant tried to search the accused person at his residence but was unable to locate him. Hence this case.

CHARGE AND TRIAL

The charge-sheeted accused person namely Md. Alam was

examined u/s 263 of BNSS and the contents of the allegations u/s 318(2) BNS was read over and explained to him and he pleaded not guilty by saying "*Ami Nirdosh*" and claimed for trial. Accordingly, the prosecution was directed to produce the witnesses in order to prove the allegations.

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

PW1 .....Yonden Tshering Bhutia (Defacto complainant)

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

Ex.P-1/PW1 ..... FIR

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

At the conclusion of the trial, the accused person was examined u/s 351 of BNSS and his detailed answers are recorded in separate sheets and kept in the record. As the accused person declined to adduce any defence witness on his behalf, the matter was heard in argument from both sides at length.

POINTS FOR DETERMINATION

1. Whether the prosecution been able to prove the charge u/s 318(2) BNS against the accused person?
2. Whether the prosecution been able to prove the guilt of the accused person beyond a reasonable doubt?

EVALUATION OF THE PROSECUTION EVIDENCES

The prosecution has been able to produce examine one witness, the de-facto complainant out of seven charge-sheeted witnesses. The Ld. APP representing the prosecution case, claimed that the prosecution witness have been able to prove the case beyond the shadow of reasonable doubt and prays for conviction of the accused person facing trial.

On the other hand the Ld. Advocate for the defence side claims that the prosecution has failed to prove his case beyond the shadow of reasonable doubt and pleads for acquittal of the accused person from this case.

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.

Let us discuss to find out how far the prosecution has been able to prove his case against the accused person. The prosecution has been able to examine the complainant in this case in order to prove the alleged offences charged against the accused person.

Heard argument from both sides.

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

PW1 Yonden Tshering Bhutia stated that he had lodged this case against the accused and identified the accused on the dock. He deposed that a sum of Rs. 5 Lakh had been wrongly debited in the bank account, Bank of Baroda, Islampur Branch of the accused. He called the accused several times but he did not respond. He proved the FIR has been marked as Ext P-1/PW1.

During his cross examination he stated that the dispute has been settled and he does not have any objection if the accused is acquitted from this case.

Therefore on scanning the materials placed before this Court in the form of oral and documentary evidence, this Court finds that although the de facto complainant had made a serious allegation against the accused in the written complaint for cheating but the matter has been settled out of court, he retracted himself from uttering a single word against the accused person in his deposition. He also stated during his cross examination that he does not have any objection if the accused person is acquitted from this case.

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

In view of the aforesaid evidence I hold that the prosecution has been unable to make out any case against the accused person.

As a result the aforesaid points are decided against the prosecution.

Hence, it is,

ORDERED

that the accused person, namely Md. Alam is acquitted, under section 271(1) of the BNSS from the charge u/s 318(2) of BNS.

Seized alamat if any be returned to its actual owner after the appellate period is over.

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

Such bail bond shall be governed by the provisions of section 481 BNSS.

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 413 BNSS 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 relevant register and CIS.

Dictated and corrected by me:

(Amar Chandra Das)
Chief Judicial Magistrate,
Darjeeling.

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

APPENDIX

Form No. (M) 36

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	Yonden Tshering Bhutia	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	Exhibit-P-1/PW1	FIR

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	MO 1	

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