

JUDICIAL MAGISTRATE KURSEONG, DARJEELING
GR Case No. 53 / 2025 (GR- 68/2025)
Date of Judgment: 12.03.2026
CNRWBDJ050001002025

DISTRICT: DARJEELING, WEST BENGAL
IN THE COURT OF THE JUDICIAL MAGISTRATE KURSEONG,
DARJEELING

Present: Abhisek Mukherjee
Judicial Magistrate 1st Class, Kurseong.
JO code WB-01405

GR Case No. 53/2025

CIS GR 68/2025

TR No. 146/2025

CNRWBDJ050001002025

Arising out of Kurseong P.S. Case No - 60/ 25, Dated 08.05.2025

Allegations under Sections 115(2)/126(2)/3(5) of BNS and
against the sole accused person.

State of West Bengal

.....Prosecution

Versus

1. Kunal Tamang @ Wangel Tamang

..... Accused person

JUDICIAL MAGISTRATE KURSEONG, DARJEELING
GR Case No. 53 / 2025 (GR- 68/2025)
Date of Judgment: 12.03.2026
CNRWBDJ050001002025

Date of Judgment : 12.03.2026

Complainant	State of West Bengal
Represented by	Sri Lendup SherpaLd. A.P.P.
Accused	Kunal Tamang @ Wangel Tamang
Represented by	Sri Adarsh LamaLd. Advocate
Date of Offence	07.05.2025
Date of FIR	08.05.2025
Date of Charge-Sheet	31.05.2025
Date of Charge/Plea	11.02.2026
Date of Commencement of Trial	11.03.2026
Date on which Judgment	12.03.2026
Date of Sentencing order if any	NA

Rank of the Accused	Name of the Accused	Date of Apprehension / Production	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.
1	Kunal Tamang @ Wangel Tamang	23.12.25	23.12.25	<u>Section 115(2)/126(2)/3(5) of BNS</u>	Acquitted	NA	NA

List of Prosecution Witness

Page 2 of 6

**JUDICIAL MAGISTRATE KURSEONG,
DARJEELING**

GR Case No. 53 / 2025 (GR- 68/2025)

Date of Judgment: 12.03.2026

CNRWBDJ050001002025

Rank	Name	Nature of Evidence (Eye witness, Police Witness, Medical Witness, Panch Witness, Other Witness)
PW-01	Md. Shamim	Complainant
PW-02	Rustam Alam	Witness

List of Defence Witness

Rank	Name	Nature of Evidence (Eye witness, Police Witness, Medical Witness, Panch Witness, Other Witness)
NIL	NIL	NIL

List of Court Witness

Rank	Name	Nature of Evidence (Eye witness, Police Witness, Medical Witness, Panch Witness, Other Witness)
NIL	NIL	NIL

List of Prosecution / Defence / Court Exhibits

A. Prosecution :

SL. No.	Exhibit No.	Description
1	P-1(as a whole)/PW1	Written Complaint along with Signature of PW 1

B. Defence :

SL. No.	Exhibit No.	Description
NIL	Nil	NIL

C. Court :

SL. No.	Exhibit No.	Description
NIL	Nil	NIL

D. Material Exhibits :

SL. No.	Exhibit No.	Description
----------------	--------------------	--------------------

JUDICIAL MAGISTRATE KURSEONG, DARJEELING
GR Case No. 53 / 2025 (GR- 68/2025)
Date of Judgment: 12.03.2026
CNRWBDJ050001002025

NIL	Nil	NIL
------------	------------	------------

J U D G M E N T

The Court delivered the following Judgment: -

1. The case was germinated on the basis of a written complaint made by the defacto complainant namely Md. Shamim. The de facto complainant filed this case against the accused to the effect that on 07.05.2025 around 09.30 PM to 10 PM while returning home, when he reached park location outside the super market, the defacto complainant was suddenly attacked and assaulted by three to four unknown individuals. Amongst them he could identify one attacker the accused herein above and the others were unknown to him. Due to the said assault, he received physical injuries on his head, back and other parts of his body and later he was treated at S.D. Hospital, Kurseong.
2. Thereafter, the de facto complainant alleging the said incident filed one written complaint before Kurseong PS on 08.05.2025 and the **I/C Kurseong PS registered the said complaint as FIR and started Kurseong P.S. Case No - 60/2025, Dated 08.05.2025 against Kunal Tamang @ Wangel Tamang.**
3. The I.O. submitted Charge-Sheet against the accused person namely Kunal Tamang @ Wangel Tamang under Sections 115(2)/126(2)/3(5) BNS after completion of investigation vide Kurseong PS C.S. No. 68/2025, dated 31.05.2025. Subsequently, Ld. ACJM Kurseong took cognizance of the offence in respect of the accused person and thereafter transfer the record to this Court for disposal.
4. Thereafter hearing both the sides and on perusal of the case record and materials, charge sheet etc., this Court has framed charge against the accused person under Sections 115(2)/126(2) BNS. Hearing the contents of such accusation, the accused person submitted that he is not guilty and he claimed trial of the instant case. Hence, the Court started the trial of the case.

Points for consideration: -

5. The pointst which are to be considered are mentioned below :-
 - (1) Whether the prosecution is successful to establish the case with evidence

beyond all shadow of doubt?

(2) Whether the accused person committed any offence as alleged against him?

(3) Whether the accused person is liable to be punished and if so, what will be the quantum of punishment?

6. After examination of the prosecution witnesses, the accused person was examined as per the provisions of the Section 351 of the Bharataiya Nagarik Suraksha Sanhita (BNSS). No witness deposed from the side of the accused person and no document was Exhibited from the side of the accused person.

DECISION WITH REASONS

7. All the points for consideration are discussed simultaneously for proper discussion. Now the Court is to consider the moot point as to whether the accused persons committed the offence alleged against them.
8. PW-1 namely Md. Shamim, being defacto complainant, deposed in his examination in chief that a dispute took place one year ago between him and some unknown persons and due to which he got injured and due to which he filed written complaint.
9. During his cross-examination it has come out that he admitted the fact that he does not know the contents of the written complaint.
10. PW 2 Rustam Alam stated during his evidence that he know the defacto complainant Md. Shamim who is his father but he does not why his father has lodged the written complaint or anything about the case.
11. This is a case in which the defacto complainant has admitted that he got injured but the defacto complainant has failed to state how he got injured or by whom his injury was caused.
12. The burden of proving the case against the accused lies heavily upon the Prosecution. It is general principle of criminal jurisprudence that accused must be presumed as innocent unless the presumption is rebutted by the Prosecution by producing evidences which show the accused has committed the offence charged with. The Prosecution is to prove its case against the accused beyond reasonable doubt. In this case Prosecution has miserably failed to prove the guilt of the accused boy. From the Prosecution side no credible evidence has been brought forward to hold that the accused boy has

JUDICIAL MAGISTRATE KURSEONG, DARJEELING
GR Case No. 53 / 2025 (GR- 68/2025)
Date of Judgment: 12.03.2026
CNRWBDJ050001002025

committed the alleged offence. Hence, the Prosecution has resultantly failed to prove its case beyond reasonable doubts. So, the accused person deserved to be acquitted from this case.

13. Hence it is,

ORDERED:

that the accused person namely **Kunal Tamang @ Wangel Tamang is found not guilty** of committing the offence **under Sections under Sections 115(2)/126(2) BNS and is hereby acquitted under Section 278(1) of the Bharataiya Nagarik Suraksha Sanhita (BNSS).**

Let the bail bond of the accused persons be extended for six months as per section 481 Bharataiya Nagarik Suraksha Sanhita (BNSS).

Seized articles, if any, be dealt with as per the provisions of law.

That the victim has the right to prefer an appeal and if necessary, to avail free legal assistant through the Legal Services Authorities to prefer and prosecute appeal.

Let a copy of this Judgment be forwarded to the District Magistrate, and DLSA, Darjeeling for due intimation to the victim/ victims.

The case thus stands disposed of.

Note in the relevant register and CIS.

Dictated and corrected by me.

**Abhisek Mukherjee
Judicial Magistrate
Kurseong, Darjeeling
(J.O. Code - WB 1405)**

**Abhisek Mukherjee
Judicial Magistrate
Kurseong, Darjeeling
(J.O. Code - WB 1405)**