

FORM – A [FORM NO. M- (34)]

In the Court of Additional Sessions Judge, Fast Track 1st Court
Contai,
District : Purba Medinipur

Present: Shri Sarad Kumar Chhetri
Additional Sessions Judge, Fast Track 1st Court,
Contai, Purba Medinipur.
JO Code: WB-00786

Delivery of Judgment: Wednesday, the 8th day of April 2026

Sessions Trial No: 52 of 2024
Sessions Case No: 586 of 2023
CNR No: WBEM09-002466-2023

Having reference to: GR Case No.2197 of 2023 of the file
of Ld. Additional Chief Judicial Magistrate, Contai and
corresponding to Bhupatinagar PS Case No.308/23 dated
8-8-2023 u/S.341/323/325/307 of the Indian Penal Code.

COMPLAINANT	State of West Bengal
REPRESENTED BY	Rudratanu Jana, Ld.PP-in-charge
ACCUSED	Tapas Bankura S/o Shri. Atul Ch. Bankura, Resident of Saktia PS: Bhupatinagar, District: Purba Medinipur
REPRESENTED BY	Shri. Pradip Kumar Mondal, Ld. Advocate for the Accused person.

JUDGEMENT

INTRODUCTION:

The accused person named above have been called upon in this trial
to answer to a charge under Section 341/323/325/307 of the Indian Penal
Code.

CASE OF THE PROSECUTION:

The prosecution case finds its genesis in a written information lodged by Swapan Tripathi [*hereinafter referred to and called as the complainant*] at Bhupatinagar PS based on the alleged fact that when he was going to attend the nature's call in front of Vivekananta club, accused person assaulted him with iron rod on his head with intention to kill him and he sustained bleeding injury and became senseless. Local people rushed to the spot and rescued him and shifted to Bhupatinagar Mukberia BPHC for his medical treatment.

THE PROBE:

On the basis of the said written complaint, Bhupatinagar PS police authority had registered a case being Bhupatinagar PS Case No. 308/23 dated 8-8-2023 against the accused person named above alleging the commission of an offence punishable under Section 341/323/325/307 of the Indian Penal Code and started investigation. The charge of investigation of this case was entrusted upon SI Uttam Bangal and on completion of investigation he submitted a report in this case in the form of a charge-sheet being Bhupatinagar PS Chare-Sheet No. 266/23 dated 31-8-2023 alleging that the investigation of the case has revealed the commission of an offence punishable under Section 341/325/307 of the Indian Penal Code being prima facie made out against the accused person named above.

ANCILLARY MATTERS:

The case record goes to show that the charge-sheet noted above was received by the Court of Ld. Additional Chief Judicial Magistrate, Contai on 04-10-2023 and the said Ld. Court took cognizance of the offence as mentioned in the said charge-sheet on the same day. The record further reveals that the copies of the documents collected during the course of investigation were supplied to the accused person named above on 13-09-2023. It is also found that thereafter the Ld. Additional Chief Judicial Magistrate, Contai had committed the case to the court of Ld. Additional Sessions Judge, 1st Court Contai who then transferred the record to this court on 04-10-2023 and received by this court on 10-10-2013 for trial.

THE CHARGE:

On consideration of the materials on the case record as well as the case diary, this Court found that there were sufficient materials to frame charge against the accused person named above for commission of an offence punishable under Section 341/307 of the Indian Penal Code. Accordingly, the charge was framed against him on 31-1-2024. The contents of the charge was read over and explained to the accused person to which he pleaded innocent by pleading not guilty and claimed to be tried. Hence, this trial.

THE CASE OF THE ACCUSED PERSON:

On the other hand even though no witness has been examined from the defence side but defence case as it appears from the trend of cross-examination and also from the examination of the accused person u/s 313 Cr.P.C. and from the argument as advanced by the Ld. Defense advocate is the total denial of the prosecution case, claiming innocence. Accused person refused to give any defence evidence.

EVIDENCE:

In order to bring home the charge against the accused person, the prosecution has examined as many as four witnesses and produced the documents in evidence as noted in Form – C as appended to this judgment. No article was produced in evidence from the side of the prosecution.

On the other hand, no oral or documentary evidence was produced on behalf of the accused persons named above in support of their case.

ARGUMENT ON BEHALF OF THE PROSECUTION:

Commencing the argument for the State of West Bengal, Rudratanu Jana, the Ld. PP-in-charge, was candid enough to submit that in the instant case the prosecution has failed to prove the charge against the accused persons named above as because none of the witness cited by the prosecution supported the case of the prosecution. On the above score, the Ld. PP-in-charge prays for passing necessary order.

ARGUMENT OF THE ACCUSED PERSON:

On the other hand, Shri. Pradip Kumar Mondal the Ld. Counsel for the accused persons named above submitted that in the present case, the prosecution has miserably failed to bring home the charge leveled against the accused person named above and accordingly the accused person is liable to be acquitted from this case. On the above score, the Ld. Counsel for the accused person named above prays for passing necessary order.

POINTS FOR CONSIDERATION:

1. Whether the accused person have committed the offence under the alleged Sections they have been charged?
2. If so, is the prosecution succeeded to bring home the charge against the accused persons beyond all reasonable doubt?

DECISION WITH REASONS:

In the present case, it is the allegation of the prosecution that when the defacto complainant had gone to attend the natures call in front of Vivekananda club, accused person assaulted him with iron rod on his head with intention to kill him and he sustained bleeding injury and became senseless. Local people rushed to the spot and rescued him and shifted to Bhupatinagar Mukberia BPHC for his medical treatment.

Before proceeding for discussion let me discuss the evidence adduced by the prosecution to prove the guilt of the accused person.

PW-1 Swapan Tripathi deposed on oath that the incident occurred on 7-8-23 at about 22:30hrs. The accused person Tapash Bankura had restrained him and assaulted by iron rod with an intention to kill him over the issue of previous grudge. He sustained injury and treated himself at Mugberia Rural Hospital. The witness did not specifically mention on which part of his body he received the injury and what was the nature of such injury which he sustained.

During his cross Examination he stated that he knows nothing about the FIR as it was not written by him nor the contents were read over to him. Since the incident occurred during night hours and many people had assembled there and amongst the crowd someone had assaulted him but he could not recognize the assailant. He was taken to hospital by the people present there but failed to say their name and address. Rather he admitted that due to previous enmity with the accused person, he named the accused in the FIR.

PW-2 Kalipada Yadav deposed that hearing hue and cry from nearby the Vivekananda club he went there and saw Swapan Tripathy lying down on the earth and heard from Raju that he was assaulted by Tapash. Swapan had received injury on his head and some bruise mark all over his body. He with the help of Sudangshu Maity, Raju

Mondal and others taken Swapn to Mukberia BPHC. After his treatment the complainant lodged the FIR.

While facing cross-examination he stated that he did not find the accused at the alleged place of incident. He stated to the IO that Swapn was lying on the ground when he reached there but did not state that Swapn had received bruise all over his body.

PW.3 Sudhangshu Maity and PW.4 Rajkumar Mondal have stated that the incident was taken place almost 2 years ago around 21:00 hrs. They were in Viveknanda yuvak Sangha club when the incident was taken place and heard hue and cry outside the club at about 150 ft. distance. They heard that Swapn Tripathy fell down and received injury on his head and treated himself at Bhupatinagar Mugberia BPHC. They have admitted that he personally did not witness the incident and whatever have been stated were all hearsay.

On perusal of the evidencne of the prosecution witness, though they have stated that the victim Swapn Tripathy got injured and also named the accused person but none of them have stated that they witnessed the incident save and except the victim and also failed to state on which part of the body, the victim had sustained injury. PW2 has stated that he had seen Swapn lying on the earth and heard the incident from one Raju, who told him that Tapas had assaulted Swapn. He further stated that Swapn had received injury on his head amd some bruise

marks were seen all over the body and he with the help of Sudhangshu Maity, Raju Mondal and other had taken Swapan to Mukberia BPHC for treatment. But the witness Sudhangshu did not tell to the court that he along with PW2, PW3 and others had taken the victim to the hospital but stated that the victim himself went to the hospital for treatment. He also did not witness the incident. PW4 Raj Kr Mondal @ Raju also stated that he did not see the incident occurred and heard that Swapan and Tapash was fighting with each other and Swapan got injury on his head and treated himself at Mukberia BPHC but did not seen the incident. PW1 Swapan Tripathy, the victim-cum-defacto complainant contradicted his own statement during his evidence. Though in chief he stated about the incident that accused person restrained him and assaulted with iron rod and sustained injury but did not utter anything as to which part of the body he sustained injury. However, during cross examination he stated that the incident occurred during night hours, many people had assembled there and someone from the crowd assaulted him but could not recognise the assailant. Due to previous enmity with the accused, he had dragged him in this case by pointing out his name in the written complaint. From the evidence that has been traversed in the case, none of the statement of the prosecution have any corroboration about the factum of incident. The victim himself did not state that how and on which part of his body he sustained injury. The doctor who had treated the patient was not produced before the court for deposition nor the prosecution has submitted any

injury report. Considering the evidence as a whole, it seems that the parties have settled their dispute among themselves and did not divulge the acutula fact before the court. Hence the benefit of doubt definitely goes in favour of the accused person.

To conclude with after perusal of the entire evidence both oral and documentary in the estimation of this Court does not substantiate the imputations of the allegations made against the accused person named above and the prosecution case cannot be said to have been established beyond all shadows of reasonable doubts.

FINAL VERDICT:

In view of the discussion made above, it is found that the prosecution has failed to bring home the charge against the accused person named above and accordingly the prosecution case fails.

Hence, it is

ORDERED

that the accused person namely Shri Tapas Bankura is found not guilty to the offence punishable under Section 341/307 of the Indian Penal Code and accordingly acquitted in terms of Section 235 (1) of The Code of Criminal Procedure.

Accused person named above is set at liberty at once and also discharged from his bail bond.

The victim has right to prefer an appeal under 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.

Let a copy of this judgement be forwarded to the District Magistrate and to the DLSA, Purba Medinipur for due intimation to the victim as defined under Section 2(wa) of the Code of Criminal Procedure.

Seized alat, if any, be destroyed after expiry of period of appeal.

Dictated and corrected by me:

sd/-
Addl. Sessions Judge,
Fast Track 1st Court, Contai.

sd/-
(Sarad Kumar Chhetri)
Addl. Sessions Judge
Fast Track 1st Court, Contai.

FORM – B [FORM NO. M (35)]

Date of offence	7-8-2023
Date of FIR	8-8-2023
Date of Charge Sheet	31-8-2023
Date of framing Charge	31-1-2024
Date of commencement of evidence	17-5-2024
Date when Judgment is kept reserved	8-4-2026
Date of Judgment	8-4-2026
Date of Sentencing Order, if any	NA

ACCUSED DETAIL(S)

Rank of the accused	Name of the accused	Date of arrest	Date of release on bail	Offence charged under Section/s	Whether acquitted or convicted	Sentence Imposed	Period of detention undergone during trial for the purpose of S. 428 CrPC
A1	Tapas Bankura	29-8-2023	18-10-2023	341/307 IPC	Acquitted	NA	NA

FORM – C [FORM NO. M-(36)]

LIST OF PROSECUTION / DEFENSE / COURT WITNESSES:

a. Prosecution Witness:

Rank	Name	Nature of evidence
PW-01	Swapan Tripathi	Defacto complainant
PW-02	Kalipada Yadav	villager
PW-03	Sudhangshu Maity	villager
PW-04	Raj Kumar Mondal	villagers

b. Defense Witness:

Rank	Name	Nature of evidence
NA	NA	NA

c. Court Witness:

Rank	Name	Nature of evidence
NA	NA	NA

LIST OF PROSECUTION / DEFENSE / COURT EXHIBITS:

Prosecution Exhibit:

Sl. No.	Exhibit Number	Description
1	1	Written complaint along with the signature of PW1

Defense Exhibit:

Sl. No.	Exhibit Number	Description
NA	NA	NA

Court Exhibit:

Sl. No.	Exhibit Number	Description
NA	NA	NA

Material Object:

Sl. No.	Exhibit Number	Description
NA	NA	NA

sd/-
Addl. Sessions Judge,
Fast Track 1st Court, Contai.