

Form A

IN THE COURT OF THE LD. JUDICIAL MAGISTRATE, 5th COURT AT HOWRAH	
 Present : Smt. Anusha Lama, J.O. Code: WB01108 Judicial Magistrate, 5th Court, Sadar, Howrah. <u>[DATE OF DELIVERY OF JUDGMENT: 24.07.2026]</u> <u>G.R.NO: 2141 of 2021</u> <u>(CIS Number 2378/2023)</u> <u>T.R. Number No.360/2023</u> <u>(C.N.R No.WBHW04-004730-2023)</u> Arising out of Panchla P.S. Case no. 113/2021 dated 10.04.2021 under Sections 341/427/432/506/34 of I.P.C.	
COMPLAINANT	STATE OF WEST BENGAL
REPRESENTED BY	Ld. APP in-charge Keya Bakshi
ACCUSED	1. Aulad Ali Molla @ Aulat Ali Molla, 2. Najimal Mallick, 3. Makbul Mallick, 4. Atik Mallick, 5.Akrajul @ Ekrajul Mollah, 6. Likai Golder @ Laksman Ali Goldar, 7. Akib Mollah, 8. Asfatul Mallick @ Md. Sodaruddin Mallick, 9.Mehedin Middey @ Alauddin Ali Middey, 10.Faridul Middey, 11.Sk. Basarul @ BasarulTaher Saikh, 12. Sk. Abdul, 13.Billa Mallick @ Hasibul Mallick, 14.Tofarjel Mallick @ Tofarjel Ali Mallick.
REPRESENTED BY	Ld. Advocate AMIT KUMAR MALIK

Form B

<i>Date of Offence</i>	08.04.2021
<i>Date of FIR</i>	10.04.2021
<i>Date of Charge Sheet</i>	22.02.2022
<i>Date of Framing of Charges</i>	13.10.2023
<i>Date of Commencement of Evidence</i>	11.06.2026
<i>Date on which Judgment is reserved</i>	N.A.
<i>Date of the Judgment</i>	24.07.2026
<i>Date of the Sentencing Order, if any</i>	N.A.

Accused details :

<i>Rank of the Accused</i>	<i>Name of Accused</i>	<i>Date of arrest</i>	<i>Date of release on bail</i>	<i>Offences charged with</i>	<i>Whether acquitted or convicted</i>	<i>Sentence imposed</i>	<i>Period of Detention Undergone during Trial for purpose of Section 428, Cr.P.C</i>
01.	Aulad Ali Molla @ Aulat Ali Molla	Not arrested	21.05.2021	U/S 341/427/432/506/34 OF I.P.C.	ACQUITTED	N.A	N.A
02.	Najimal Mallick	Not arrested	21.05.2021	U/S 341/427/432/506/34 OF I.P.C.	ACQUITTED	N.A	N.A
03.	Makbul Mallick	Not arrested	21.05.2021	U/S 341/427/432/506/34 OF I.P.C.	ACQUITTED	N.A	N.A
04.	Atik Mallick	Not arrested	21.05.2021	U/S 341/427/432/506/34 OF I.P.C.	ACQUITTED	N.A	N.A
05.	Akrajul @ Ekrajul Mollah	Not arrested	21.05.2021	U/S 341/427/432/506/34 OF I.P.C.	ACQUITTED	N.A	N.A
06.	Likai Golder @ Laksman Ali Goldar	Not arrested	21.05.2021	U/S 341/427/432/506/34 OF I.P.C.	ACQUITTED	N.A	N.A

07.	Akib Mollah	Not arrested	21.05.2021	U/S 341/427/432/506/34 OF I.P.C.	ACQUITTED	N.A	N.A
08.	Asfatul Mallick @ Md. Sodaruddin Mallick	Not arrested	21.05.2021	U/S 341/427/432/506/34 OF I.P.C.	ACQUITTED	N.A	N.A
09.	Mehedin Middey @ Alauddin Ali Middey	Not arrested	21.05.2021	U/S 341/427/432/506/34 OF I.P.C.	ACQUITTED	N.A	N.A
10.	Faridul Middey	Not arrested	21.05.2021	U/S 341/427/432/506/34 OF I.P.C.	ACQUITTED	N.A	N.A
11.	Sk. Basarul @ BasarulTaheer Saikh	Not arrested	21.05.2021	U/S 341/427/432/506/34 OF I.P.C.	ACQUITTED	N.A	N.A
12.	Sk. Abdul	Not arrested	21.05.2021	U/S 341/427/432/506/34 OF I.P.C.	ACQUITTED	N.A	N.A
13.	Billa Mallick @ Hasibul Mallick	Not arrested	21.05.2021	U/S 341/427/432/506/34 OF I.P.C.	ACQUITTED	N.A	N.A
14.	Tofarjel Mallick @ Tofarjel Ali Mallick	Not arrested	21.05.2021	U/S 341/427/432/506/34 OF I.P.C.	ACQUITTED	N.A	N.A

Form C**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES****A. Prosecution :**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Abdul Momin Mallick	De facto complainant
PW2	Goutam Bhuiya	Other witness

B. Defence Witness, if any : NO DEFENCE WITNESS HAS BEEN ADDUCED

C. Court Witness, if any : NO COURT WITNESS HAS BEEN EXAMINED

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

<i>Sr. No</i>	<i>Exhibit Number</i>	<i>Description</i>
<i>1</i>	<i>EXHIBIT - P/1</i>	<i>The signature of de facto complainant on the typed complaint</i>

B. Defence Exhibits: NO DOCUMENTS HAS BEEN PRODUCED.

C. Court Exhibits: NOT APPLICABLE.

D. Material Exhibits: NONE.

JUDGMENT

The above named accused persons stood trial for committing offences punishable under Sections **U/S 341/427/432/506/34** of the **Indian Penal Code** (Hereinafter called as the “**IPC**”).

The prosecution case in brief is that, the de facto complainant namely, Abdul Momin Mallick, S/o- Lt. Abdul Daiyan Mallick of Banharishpur Mullick Para, P.S. Panchla and District- Howrah, submitted one written complaint before the O/C Panchla P.S to the effect that, on 08.04.2021 at about 03:00 hours the above named accused persons abused filthy language to the de facto complainant and his family members. The accused persons tried to break the house gate of de facto complainant and also caught fire of his four wheeler. Hence, this case.

On the basis of the complaint one FIR was lodged and **Panchla P.S** case number **113/2021** dated **10.04.2021** was started against the above named accused persons. After completion of the investigation, the Investigation Officer submitted **Charge-Sheet** being number **51/2022** dated **22.02.2022** was submitted against the above named accused persons for the offences punishable under Sections **U/S 341/427/435/506/34** of the **IPC**.

CHARGE FRAMED

On **13.10.2023** charge was framed against the accused persons **U/S 341/427/432/506/34 of the IPC**. The contents of the charge was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried in open court. Hence this trial.

POINTS FOR CONSIDERATION :-

1. Whether the prosecution has been able to prove the guilt of the above-named accused persons?
2. Whether the prosecution has been able to prove offences punishable under Sections **341/427/432/506/34 of the IPC** beyond any shadow of reasonable doubt?

EVIDENCE ADDUCED :-

In order to substantiate the charge, the prosecution has examined only **three** witnesses i.e. **Abdul Momin Mallick**, who deposed as **PW-1** and **Goutam Bhuiya** as **P.W.2** respectively.

After the closure of the Prosecution evidence the accused persons were examined U/S 313 Cr.P.C. The accused persons declined to adduce any witnesses in their favour. Defence case so far as it appears from the examination of the accused persons U/S 313 Cr.P.C is the plea of innocence and the denial of the prosecution story.

DECISION WITH REASONS:-

For the sake of brevity and convenience both the points are taken up together for adjudication.

PW-1, Abdul Momin Mallick has deposed in his evidence that, he filed the instant complaint before Panchla P.S. in the year 2021 against Nazimul Mullick, Mukbul Mullick, Atik Mullick, Ekrazul Mollah, Lakai Goldar, Akib Mollah, Asfatul Mullick, Mehedin Middey, Faridul Middey, Sk. Basarul, Sk. Abdul, Billa Mullick, Sk. Mukbul, Jakir Ali Mullick, Tofarjel Mullick. He stated that he filed the case due to a misunderstanding and small dispute but the same has been settled. He was slightly injured during the scuffle and his vehicle was damaged. The signature of P.W.1 on the typed complaint is marked as **Exhibit-P/1**.

In his cross-examination he could not explain the contents of his typed complaint. He could not say how he received the injuries. He does not have any grievance against the accused persons.

PW-2, Goutam Bhuiya has deposed in his evidence that he knew Abdulmonin Mullick, he is his co-villager and he filed the instant complaint before Panchla P.S. against Nazimul Mullick, Mukbul Mullick, Atik Mullick, Ekrazul Mollah, Lakai Goldar, Akib Mollah, Asfatul Mullick, Mehedin Middey, Faridul Middey, Sk. Basarul, Sk. Abdul, Billa Mullick, Sk. Mukbul, Jakir Ali Mullick, Tofarjel Mullick. He did not know anything about the incident.

Ld. Defence Counsel declined to cross-examine the witness.

These are all we get from the evidences.

Given as such, it appears that the evidence of the above witness is not consistent and as such is not reliable and they have not supported the prosecution case at all. PW1 deposed that, there was a misunderstanding and small dispute but the same has been settled at present. Further they do not have any grievance against the accused persons. P.W.2 did not know anything about the incident. I find no corroboration-nexus in their evidence with the prosecution case as contained in the FIR. This withholding speaks volume against the prosecution case.

Therefore, evidence of this witnesses are not consistent and as such, is not reliable. I, therefore, find no corroboration-nexus in their evidence with the prosecution case as contained in the F.I.R.

It is well-settled that the accused would not be brought to book merely on bald allegations of the complainant. Rather, the same has to be proved beyond reasonable doubt. This is the celebrated principle upon which the case against the accused persons has to be tested. In case the charge is found to be proved, the accused persons are sent to gallows, but if it is not proved, the accused must be set at liberty giving them the benefit of doubt. In the present case, the evidence on record, when tested on the touchstone of the often-quoted principle of “proof beyond reasonable doubt”, it appears to me that the prosecution has failed to prove the charges against the accused persons.

Considering the foregoing discussion, it appears that none of the essential ingredients is proved by the prosecution beyond reasonable doubt to establish the offence U/S **341/427/432/506/34 of IPC.**

Thus, the prosecution has miserably failed to prove its case beyond reasonable doubts. So, in this case the accused persons are not liable to be punished since the charge against them has not been proved by the prosecution. Hence, they must be acquitted for absence of conclusive proof. So, I do not find any reason to believe that the accused persons have committed the offence punishable U/S **341/427/432/506/34 of IPC.** Accordingly, the prosecution case fails and accused persons merit acquittal.

Hence, it is

ORDERED

That all the **fourteen (14)** accused persons namely, **1. Aulad Ali Molla @ Aulat Ali Molla, 2. Najimal Mallick, 3. Makbul Mallick, 4. Atik Mallick, 5. Akrajul @ Ekrajul Mollah, 6. Likai Golder @ Laksman Ali Goldar, 7. Akib Mollah, 8. Asfatul Mallick @ Md. Sodaruddin Mallick, 9. Mehedin Middey @ Alauddin Ali Middey, 10. Faridul Middey, 11. Sk. Basarul @ BasarulTaher Saikh, 12. Sk. Abdul, 13. Billa Mallick @ Hasibul Mallick and 14. Tofarjel Mallick @ Tofarjel Ali Mallick,** are found not guilty of the offence punishable U/S **341/427/432/506/34** of the **IPC.** Accordingly, they are acquitted **U/S 248(1) Cr.P.C.** and set at liberty at once.

The acquitted persons also be released from their respective bail bonds.

The sureties are also discharged.

The I.O. is hereby directed to return the original document and seizure materials, to its owner, if any, in due course of time as per the provision of law. Inform the I.O. accordingly.

Let a copy of this Judgment of acquittal be forwarded to the District Magistrate and D.L.S.A concerned for due intimation to the victim as defined under Section 2(wa) of the Code of Criminal Procedure and the victim has every right to prefer appeal under Section 372 Proviso of the Code of Criminal Procedure and if necessary the victim has right to avail free legal Aid.

D.A. to take steps.

Note in the T.R.

Dictated and corrected by me:

**Judicial Magistrate, 1st Class,
5th Court, Sadar, Howrah.**

**Judicial Magistrate, 1st Class,
5th Court, Sadar, Howrah.**