

IN THE COURT OF THE JUDICIAL MAGISTRATE,
4th COURT, HOWRAH

Present: KEYA SARKAR
(J.O. Code No.WB01123)
Judicial Magistrate,
4th Court, Howrah

JUDGMENT DATED 16th JUNE, 2026

N.G.R. Case No. 201 of 2009

CIS 195 of 2014

CNR No.WBHW04-001071-2009

T.R. Case No. 514 of 2009

Manikpur I/C GDE No 559 dt. 17.04.09 & GDE No. 611 dt. 24.05.2009

U/S. 323 of IPC

Defacto- Complainant	Hemonta Kr. Garai
Respresented by	Ld. APP
Accused	(1) Motiar Rahaman Purkayet
Represented by	Adv. Anjali Naskar

Date of Offence	17.04.2009
Date of P/R	24.05.2009
Date of Plea	01.02.2010
Date of commencement of Evidence	01.07.2010
Date of the Judgment	16.06.2026
Date of the Sentencing Order, if any	Not applicable

Accused details:

Rank of the accused	Name of accused	Date of arrest	Date of release	Offenes charged with	Whether acquitted or convicted	Sentence imposed	Period of detension undergone during trial for purpose of ection 427 Cr.P.C.
01.	Motiar Rahaman Purkayet	Surrendered on 08.07.2009	08.07.2009	U/S. 323 of IPC	acquitted	N.A	N.A

**LIST OF PROSECUTION/ DEFENCE/
COURT WITNESSES**

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE
PW1	Hemonta Kr. Garai	Complainant
PW2	Nazmul Gani Molla	Prosecution Witness

B. Defence witness

RANK	NAME	NATURE OF EVIDENCE (EYE Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witness)
DWI	N.A.	N.A

C. Court witness, if any.

RANK	NAME	NATURE OF EVIDENCE (EYE Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witness)
CWI	N.A.	N.A

LIST OF PROSECUTION/
DEFENCE/ COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Exhibit 1	GDE being No. 599 dt. 17.04.2009

B: Defence :

Sr. No.	Exhibit Number	Description
1	N.A.	N.A.

PREFACE

A brisk venture into the factual aspects of this case is undergone in order to appreciate the case in its proper perspective.

The prosecution case, in brief, is that on 17.04.2009 at about 15:45 hrs a quarrel took place over the issue of previous grudge. Then the accused assaulted the victim with fists and blows on his body and thereby he received simple injury on his body. Therefore the matter has been diarized and submitted a prayer before

Ld. CJM Howrah for allowing the P.S. to cause enquiry and submit prosecution under proper section of law.

On the basis of the said order, the concerned O.C. started **Manikpur I/C GDE No 559 dt. 17.04.09 & GDE No. 611 dt. 24.05.2009 U/S. 323 of IPC.** against the accused person and the I.O. of the case took up the investigation and after completion of the investigation the concerned officer submitted the P.R. being DR No. 834/09 dt. 24.05.2009 **U/S. 323 of IPC** against the accused person. The Ld. C.J.M., Howrah took cognizance of the offence and transferred the case to this court for disposal.

On 01.02.2010 plea was done **U/S. 323 of IPC** against the accused person to which they pleaded not guilty and claimed to be tried.

On the other hand, the defence case is that of total denial of prosecution case. It is also the case of the defence that the accused person has been falsely implicated by the complainant in this case.

POINTS FOR DETERMINATION

- 1) Whether the prosecution has been able to prove the case against the accused person beyond all reasonable doubt?
- 2) Whether the accused person can be convicted **U/S. 323 of IPC**?

EVIDENCE

In order to prove its case, the Prosecution has examined only two witnesses i.e. Hemonta Kr. Garai as PW1 and Nazmul Gani Molla as PW2.

Hemonta Kr. Garai as PW1 during his evidence stated that on 17.04.2009 he was posted at Manikpur I.C. as ASI of police. He is now posted in the same place in same post. On 17.04.2009 he received a GDE from Abdul Gani Molla and told him that on that date he went to the house of one Motier Rahaman Purkait to collect money but he was assaulted by said Motier Rahaman. After taking diary he send him to Hazi ST Mullick Hospital. After being endorsed the case he took permission from the Court to enquire in the said GDE, which is marked as Exbt.1. He went to the PO and examined the local witnesses i.e. Masud Ali Laskar and Samsud Laskar. They told that two victims came to the house of the accused to collect money but the accused assaulted him. He collected injury report from the

victim. After collecting the same he submitted the P.R. against the accused u/S 323 IP.C. vide PR No. 161/09 dt. 24.05.09.

In cross examination he stated that he mentioned in his PR that the incident took place over the issue of previous grudge. The victim did not mention the fact of demanding of money at the time of diary. He does not know why victim demanded money from accused. He did not make enquiry to that effect. On the basis of the witness he prepared the P.R.

Nazmul Gani Molla as PW2 stated that incident occurred on 17.04.2009 at 05:00 PM near Motin Rahaman's house. He had given a machine to him on hire valuing of Rs.48000/-. He had gone for the money but the accused assaulted him and got treated at Sankrail Health centre. He lodged complaint before Manikpur I/C. He identified him at the time of his testimony.

In cross examination he stated that he cannot file any document relating to his treatment. The machines were given in the name of his wife but the goods are not his own, he used to take it from a company and give it on hire. He cannot say the name of the company. Rs. 18000/- was remain pending from the accused not 48000/-. He cannot show any document that he has money due by the accused. He did not informed about the incident before the local club.

Thereafter evidence from the side of prosecution has been closed on submission of prosecution and accused person were examined u/s 313 of Cr.P.C. Though the accused person have declined to adduce any evidence.

DECISION WITH REASONS

It is well-settled principle of law that initially burden of proof lies upon the Prosecution in order to prove its case and, if there is any doubt the accused person will get the benefit of that doubt.

However, on going through the evidence produced by the Prosecution this court does not find any evidence to show that he voluntarily caused hurt to the complainant or other witnesses. The P.W. 1 & 2 who are the complainant and witness in this case, could not give any concrete statement regarding the incident and the manner in which the accused person committed the alleged offence and also the role played by the accused person or his involvement in the commission of the crime. So it is clear that the Prosecution has produced neither any material nor the prosecution examined any material witnesses of this case. Nothing has

been seized from the custody of the accused person. No injury report has been submitted, nor any doctor has been examined in this case .

The evidence of witnesses hardly shows existence of any material to sustain the charge **U/S. 323 of IPC**. The prosecution did not adduce any further evidence. Therefore, considering the entire, oral and documentary evidence and in view of my above discussions, this court is of the opinion that the Prosecution has failed to prove the charge against the accused person beyond any shadow of doubt, and, as such, the accused person is entitled to get benefit of doubt in the instant case.

Hence, it is

O R D E R E D

that the accused person namely, Motiar Rahaman Purkayet is found not guilty of the offence **U/S. 323 of IPC**. They are acquitted **U/S. 255(1) of Cr.P.C.** They are also discharged from their respective bail bonds.

The seized alamats, if any, be disposed off as per law.

Surety, if any, be discharged.

Send the copy of this Judgment to the defacto complainant/victim through the District Magistrate, Howrah.

The case is hereby disposed of.

Note in concern registers.

Dictated and corrected by me

Judicial Magistrate,
4th Court, Howrah

(Keya Sarkar)
(JO Code WB01123)
Judicial Magistrate,
4th Court, Howrah