



CNR NO:-WBHW040065432025
GR- 4862 of 2023 (Reg. 3421 of 2025)
T.R. No.120 of 2025

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE
Howrah

Present : GAIRIK ROY
Chief Judicial Magistrate,
Howrah
(JO Code- WB01022)



Date of Delivery of Judgment:- March, 9th, 2026.

CNR NO:-WBHW040065432025
GR- 4862 of 2023 (Reg. 3421 of 2025)
T.R. No.120 of 2025

Arising out of Bantra PS Case No.213 of 2023 dated 02.10.2023 u/s.
406/420 of the Indian Penal Code, 1860.

| | |
|-------------------------------------------|----------------------------------------|
| Complainant: | State of West Bengal |
| Represented By: | Shri. Taragati Ghatak , Ld. APP |
| Accused: | 1.Bharatjee Prasad |
| Represented By: | Rangan Kumar Dutta, Ld. Advocate |
| Date of Offence | 02.10.2023 |
| Date of First Information Report | 02.10.2023 |
| Date of Charge sheet | 21.04.2024 |
| Date of Framing of Charge/Plea | 15.12.2025 |
| Date of Commencement of Evidence | 27.02.2026 |
| Date on which Judgment is reserved | NA |
| Date of Judgment | 09.03.2026 |
| Date of Sentencing Order, if any, | NA |

Accused Details:

| Rank of Accused | Name of Accused | Date of arrest | Date of release on Bail | Offence changed with | Whether acquitted or convicted | Sentence imposed | Period of detention undergone during trial for the purpose of Section 428 CrPC |
|-----------------|-------------------------|----------------|-------------------------|----------------------|--------------------------------|------------------|--------------------------------------------------------------------------------|
| A-1 | Bharatjee Prasad | NA | 03.12.2025 | 406/420 of IPC | acquitted | NA | NA |

List of Prosecution / Defense / Court Witness:

A. Prosecution Witness

| Rank | Name | Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witness) |
|------|------|--------------------------------------------------------------------------------------------------------------------------|
|------|------|--------------------------------------------------------------------------------------------------------------------------|



| | | |
|-------|-----------------|----------------------|
| PW 01 | Manoj Santhalia | De facto complainant |
|-------|-----------------|----------------------|

B. Defense Witness, if any,

| Rank | Name | Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witness) |
|------|------|--------------------------------------------------------------------------------------------------------------------------|
| NIL | NIL | NIL |

C. Court Witness, if any,

| Rank | Name | Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witness) |
|------|------|--------------------------------------------------------------------------------------------------------------------------|
| NIL | NIL | NIL |

List of Prosecution / Defense / Court Exhibits:

A. Prosecution:

| Srl. No. | Exhibit Number | Description |
|----------|----------------------|----------------------------------------------------------------------|
| 01 | Exhibit – P1(1 to 4) | The signature of the de facto complainant over the written complaint |

B. Defense:

| Srl. No. | Exhibit Number | Description |
|----------|----------------|-------------|
| NIL | NIL | NIL |

C. Court Exhibit:

| Srl. No. | Exhibit Number | Description |
|----------|----------------|-------------|
| NIL | NIL | NIL |

D. Material Objects:

| Srl. No. | Exhibit Number | Description |
|----------|----------------|-------------|
| NIL | NIL | NIL |

J U D G M E N T

Factual Matrix:-

The instant case is under section **406/420 of the Indian Penal Code, 1860.**

This case was initiated on the basis of application FIR filed by the de-facto complainant, namely, **Manoj Santhalia** before the Officer In Charge of Bantra police station.

The factual matrix of the case as alleged by the de-facto complainant is that the de facto complainant gave rent of one motor having motor No.75 HP Motor, RMP-1440 with a monthly rental of



Rs.10,000/- to the accused but the but he did not pay the same . Hence, this case.

Ultimately, on receipt of the complainant Bantra PS case No. **213 of 2023 dated 02.10.2023** was started under section **406/420 of the Indian Penal Code, 1860.**

One **Samir Kumar Das** of Bantra PS investigated the matter and submitted Charge Sheet being **No. 37 of 2024 dated 21.04.2024** under sections **406/420 of the Indian Penal Code, 1860** was submitted against the aforesaid accused person.

After appearance of the accused person, charge was framed U/s 406/420 of Cr.P.C. The substance of accusation u/s. 406/420 of the Indian Penal Code, 1860 was read over and explained to the accused person, to which he pleaded “not guilty” and claimed trial.

Evidence Adduced :-

To prove the prosecution case prosecution has been able to examine only **the de facto complainant (01) witness arrayed** in charge sheet, as follows:-

Prosecution Witness

| | | |
|-------|-----------------|----------------------|
| PW 01 | Manoj Santhalia | De facto complainant |
|-------|-----------------|----------------------|

The witness was cross examined by the defence. However, no document has been exhibited on behalf of the prosecution.

:- Points for Consideration :-

a) Whether the prosecution has able to prove their case against the aforesaid accused person beyond reasonable doubt?

b) Whether the accused person is guilty of the offence punishable **under Sections 406/420 of the Indian Penal Code, 1860 ?**

:-Decision With Reason:-

Point number 01 and 02:-

Both the points being related with each other is taken up together for discussion and adjudication and this exercise will help to avoid prolixity. Ld lawyer for the accused persons during the



course of argument submitted that the prosecution has miserably failed to prove the charges framed against the accused person and for that reason the irresistible conclusion is acquittal of the accused person. Hence, there is no room to accept the version of the prosecution. There was no injury report in the case record not the same was exhibited to prove the exact bodily pain as alleged. In terms of the above submissions the ld lawyer for the accused person submitted that there are vital contradictions which have shaken very root of the prosecution case and it is hard to believe the prosecution story and the accused person is liable to be acquitted. Other points ventilated by the ld lawyer for the accused person will be discussed along with the facts and evidences, because that will help to relate and discuss the point so canvassed. Learned lawyer for the accused persons also submitted that whenever two opinions can be formed, the opinion which favour the accused persons has to be adopted by the court, and maintaining on this, the learned lawyer for the accused person submitted that in this case the prosecution case is clouded with suspicion and based on the evidences on record, two views can be taken and as per mandate of law the view which favours the accused person must be adopted by the court and the accused person must be acquitted from this case.

The learned A.P.P raised cavil and in his usual fairness submitted that there are limited materials against the accused persons and hence necessary order may be passed.

Before embarking on the adjudicative exercise, I must hasten to articulate that, it is clinched position of law that in criminal jurisprudence the accused always has a presumption of innocence in his favour and the rule of evidence which has received judicial sanction is; the prosecution must prove the guilt of the accused, i.e., it must establish all the ingredients of the offence with which they are charged. The anvil for testing and interpreting what constitutes 'prove of guilt' in a criminal trial has been formulated by the Honourable Apex Court. While in civil cases facts may be proved by a mere preponderance of evidence, whereas in criminal cases the prosecution must prove the charge beyond reasonable doubt.

Thus from the above discussion there is no quandary over the legal proposition that the general burden of proof is always upon the prosecution; and if, on the basis of the evidence adduced



by the prosecution or by the accused, there is a reasonable doubt whether the accused persons committed the offence, they are entitled to the benefit of doubt. Thus being guided by the above proposition of law; this court must set out a voyage in the evidences available on record to see whether the prosecution has been able to prove the act/occurrences which constitute the offence and whether it has managed to connect the accused persons with such offence.

Now, I am to analyze, assess and to take into account of the total evidence and materials on record to have a clear decision of the case.

It has transpired from the case record that the P.W.01 has stated nothing incriminating materials to the case against the accused person and the de-facto complainant did not turn up to prove her case though several attempts were being made on behalf of the prosecution.

The version as advertised in the FIR do not support the ocular evidence of the defacto-complainant. Thus it is limpid that the witnesses have retracted from their previous statement. The case of the prosecution garners no support from the evidence of the other witnesses arrayed in the charge sheet i.e. report as per section 173 of the Code of Criminal Procedure, 1973. Axiomatically thus; there is glaring contradiction between the facts averred in the FIR and the facts disclosed in the examination-in-chief of the witnesses. In this case the doctor was not examined and no injury report was exhibited. The case of the prosecution is taken to the brink by the cross-examination of the defacto-complainant which goes to show that the defacto-complainant has deviated from their version and there are misunderstanding between the parties.

After considering every gamut of this case I am of the opinion that it will be highly un-sagacious to act on the retracted testimony of the vital witness being the defacto-complainant and when the rest witnesses could not be examined by the prosecution. Hamstrung by such inherent infirmities of the prosecution case, I must conclude that the alleged assault of the complainant by the accused persons or any body by use of criminal force has not been proved. Be it mentioned here that when indeed the witness has chose not to support the case of the prosecution, which has paled into insignificance.

Considering all the aspects and after appreciation of all the materials produced before this Court in the form of oral evidence,



this Court has no other alternative but to hold that the evidence of the prosecution witnesses suffers from material lacuna insofar as against these accused persons. Practically speaking there is no materials on record to incriminate the accused persons and relate them with the alleged incident. Under such circumstances, the benefit arising out of that lack of evidence should go in favour of the accused persons.

This Court has no other alternative but to hold that there is no iota of ingredients to constitute the offence under section **406/420 of the Indian Penal Code 1860**. In this Court's opinion, there is no evidence and materials available on record where from an inference of the accused person having committed the offence may necessarily be drawn. Thus, the above points under determination are therefore answered in the negative.

Hence, it is

ORDERED

That the accused person namely **1.Bharatjee Prasad** is found not guilty of committing the offences punishable under section **406/420 of Indian Penal Code, 1860** and he is hereby acquitted **under section 248(1) of Code of Criminal Procedure, 1973**.

The accused person is present. He be discharged forthwith from his bail bonds and be set at liberty.

The case records be consigned to the DRR following the modalities of law.

The copy of order be sent to office of District Magistrate for his information and necessary with regard to the right of appeal of de-facto complainant/victim through DLSA.

Typed and corrected by me;

CJM
Howrah

(GAIRIK ROY)
Chief Judicial Magistrate,
Howrah