

Case No. G.R. 2635 of 2013
CIS No. GR 2635 of 2013
CNR: WBHW12000808-2013

In the Court of the Judicial Magistrate, 1st Court, Uluberia, District: Howrah PRESENT: AKASH BOSE (U.I.D.WBJ01491) Judicial Magistrate, 1st Court, Uluberia, Howrah (Under Sections 195A/323/354/427/34 of IPC) (T.R. No 888 of 2014) DATE OF JUDGMENT: 30th DAY OF JUNE, 2026	
COMPLAINANT	STATE OF WEST BENGAL
REPRESENTED BY	LD APP ASIT KUMAR HAIT
ACCUSED	A-1. ASTABIHARI PAUL @ ASTA A-2. PROSANTA PAUL A-3. SUSANTA PAUL A-4. SREEMANTA PAUL A-5. JAYANTA PAUL A-6. ANANTA PAUL ALL OF VILL – MUKUNDAPUR, PS – SHYAMPUR, DIST – HOWRAH.
REPRESENTED BY	ASISH KUMAR RAY, MOINUR RAHAMAN MOLLAH
Date of Offence	10/05/2013
Date of FIR	31/10/2013
Date of Chargesheet	31/03/2014
Date of Framing of Charge / plea	28/06/2018
Date of commencement of Evidence	03/09/2022
Date on which Judgment is reserved	30/06/2026
Date of Judgment	30/06/2026
Date of Sentencing Order, if any	NIL

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ACCUSED DETAILS							
Rank of the Accused	Name of the Accused	Date of Arrest	Date of release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during Trial for purpose of Section 428 Cr.P.C.
A-1	ASTABIHARI PAUL @ ASTA	Surrendered on 24.03.2014	Released on 24.03.2014	195A/323/354/427/34 of IPC	Acquitted	N/A	N/A
A-2	PROSANTA PAUL	Surrendered on 02.06.2014	Released on 02.06.2014	195A/323/354/427/34 of IPC	Acquitted	N/A	N/A
A-3	SUSANTA PAUL	Surrendered on 02.06.2014	Released on 02.06.2014	195A/323/354/427/34 of IPC	Acquitted	N/A	N/A
A-4	SREEMANTA PAUL	Surrendered on 02.06.2014	Released on 02.06.2014	195A/323/354/427/34 of IPC	Acquitted	N/A	N/A
A-5	JAYANTA PAUL	Surrendered on 25.03.2014	Released on 25.03.2014	195A/323/354/427/34 of IPC	Acquitted	N/A	N/A
A-6	ANANTA PAUL	Surrendered on 25.03.2014	Released on 25.03.2014	195A/323/354/427/34 of IPC	Acquitted	N/A	N/A
LIST OF PROSECUTION WITNESS							
RANK		NAME			NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)		
PW1		Sukumar Samanta			DEFACTO COMPLAINANT		
PW2		Lalina Mohan Pal			WITNESS		
PW3		Avijit Hazra			OTHER WITNESS		
LIST OF DEFENCE WITNESS							
RANK		NAME			NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)		
NIL		NIL			NIL		
LIST OF COURT WITNESS							
RANK		NAME			NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL		

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		WITNESS, PANCH WITNESS, OTHER WITNESS
NIL	NIL	NIL
LIST OF PROSECUTION EXHIBITS		
Sr. No.	Exhibit Number	Description
01	P1 (with objection)	Written Complaint
02	P1/1, P1/2, P1/3 & P1/4, P1/5, P1/6	Signatures upon the Written Complaint

LIST OF DEFENCE EXHIBITS		
Sr. No.	Exhibit Number	Description
	NIL	NIL

LIST OF COURT EXHIBITS		
Sr. No.	Exhibit Number	Description
	NIL	NIL

LIST OF MATERIAL OBJECTS		
Sl. No.	Material Object Number	Description
	NIL	NIL

POINTS FOR DETERMINATION

- i) Whether the accused persons have committed offence punishable under Sections **195A/323/354/427/34 of IPC** as alleged ?
- ii) Has the prosecution been able to prove the charge under Sections **195A/323/354/427/34 of IPC** against the accused persons ?

DECISION WITH REASONS

- 1 . Both the points are taken up together for convenience of discussions and to avoid repetition.
- 2 . The instant case was initiated on the basis of a written complaint filed before ACJM Court that complainant is residing in a rented premises since last 30 years and is doing business of painting cycle and it is alleged that since March, 2009, accused A-1 tried to evict him illegally and for that the complainant has filed a civil case being no – TS – 98 of 2009 before Ld CJJD, Uluberia, Howrah. That, it is alleged that on 05.05.2013 at about 10 am morning, the accused evicted the complainant from the shop room and broke his all articles and also damaged near about amount of Rs 1,77,000/-. The matter was informed before Shyampur PS case no – 165/2013. Despite that the same cause of action arose on 10.05.2013 at about 22.00 hrs. The accused assaulted the complainant and abused him badly and also outraged the modesty of his

wife with accused no 2 and 3. Further, accused no 4 has taken away one silver chain from him and also took away valuable articles from his shop. The matter was informed on said day before concerned PS but no action has been taken and it was further informed to the upper higher authority or police department. Being aggrieved the instant case was filed before Ld ACJM, Uluberia U/s 156(3) CrPC.

3. On the basis of such written complaint vide Shyampur PS Case no – 425/2013, dated 31.10.2013 under Sections **195A/323/354/379/427/34 of IPC** was initiated against the accused persons A-1 to A-6 and police took up investigation in the case.
4. The I/O of this case, namely ASI Avijit Hazra of Shyampur PS upon completion of the investigation submitted Charge-Sheet being No. 127/2014, dated 31.03.2014 under Sections **195A/323/354/427/34 of IPC** against the accused persons A-1 to A-6 in compliance with section 173(5) of the Code of Criminal Procedure.
5. On receipt of the Charge-Sheet, the then Ld. A.C.J.M., Uluberia, took cognizance of the offence and after complying the provisions of Section 207 of the Code of Criminal Procedure, transferred the case to this court for trial and final disposal vide order dated 07.08.2014.
6. On consideration of the materials on record and on hearing the Ld. A.P.P and the Ld. Counsel for the defence, charge was framed against the accused persons for the offences punishable under Sections **195A/323/354/427/34 of IPC** to which each of them claimed to be NOT GUILTY and pleaded to be tried and hence the trial commenced.
6. Out of the seven (07) prosecution witnesses named in the charge-sheet, the prosecution examined complainant as PW-1 and other witnesses as PW-2 and PW-3.
7. Now before entering into the merit of the prosecution case, this Court would like to reiterate the cardinal principle of criminal law and justice that the prosecution has to establish its case beyond all reasonable doubt. Through the testimony of the witnesses fortified by documentary proof, the prosecution has to build or form a chain of circumstances and the same should be so complete that there is no escape from the conclusion that within all probability the crime was committed by the accused persons and none else and the evidence is consistent with the guilt of the accused persons and inconsistent with the plea of innocence. There must be clear and unequivocal proof of the *corpus delicti*.
8. PW-1/CSW-1 namely Sukumar Samanta has stated that the instant case was filed against all the accused and he was on rent in the shop namely Joy Maa Rakshakali Rong Ghar for 30 years and accused asked him to vacate and for that he has filed a civil suit. Further on 05.05.2013 at about 10 am, the accused person damaged and broke his articles and he incurred loss of Rs 1,77,200/-. The same cause of action again arose on the same day at 8 pm when the

accused assaulted him badly and outraged the modesty of her wife. The matter was informed before concerned PS of Shyampur and upper higher authority of police but no action has been taken. The complainant has identified his signature upon the complainant and which is being marked as Ext – P1/P2/P3/P4/P5/P6. Further at the time of cross examination, the PW1 has admitted all the alleged incident made in his complaint. Further, the said witness has stated the alleged incident lasted for 15 minutes and he has no enmity with the adjacent shopkeepers and he further stated that during that period no one came to intervene into this matter.

Further, another witness namely Lalina Mohan Paul has came before this court as PW-2 and stated that she know the complainant and a dispute but did not know regarding the brief of alleged incident. She further does not know whether any case has been filed by the complainant against the accused. Though during cross examination, she admitted that she does not know who are involved in this case and she know the accused as her neighbour.

Further, prosecution failed to adduce any further independent witness as per charge sheet to corroborate the evidence of CSW1 and at last the I/O of this case is appeared. Ld APP failed to produce the CD and injury report before this court. The I/O appeared on dock and has stated that after investigation submitted the charge sheet being no – 127 of 2014, dated 31.03.2014 against accused A-1 to A-6 and he was done the investigation as per procedure.

Then PW evidence stands closed as per verbal submission made by Ld APP.

Perusing the record and materials for the proper adjudication, the verbal prayer of Ld APP to close the prosecution evidence is hereby closed.

9. Considering the trend of deposition of PW-1 to PW-3, Ld. APP prayed for closing the evidence of the other witnesses in connection with this case and accordingly the prayer was allowed and evidence for the prosecution was closed on 08.06.2026 and due to lack of inculpatory statement of PWs and after that 313 has been given by all the accused on 30.06.2026. After discharge, the prosecution witness as per prayer of Ld APP, I perused all the record and evidences and from bare perusal of the aforesaid document, I find that no such inculpatory material arise against the accused and thus if the 313 will be taken on same date, it would not be infringed or breach of justice.

10. From the thorough study and scrutiny of the evidence on record and also in the light of the arguments put forward by the Ld. APP and the Ld. Counsel for the defence, it is clear that the witnesses have failed to corroborate the complaint and the case and allegations leveled against the accused persons in totality. None of the witnesses were successful in fully corroborating the FIR or naming or identifying the accused persons. From the above deposition, it is appeared before this court, there was a dispute between the both parties and the dispute is civil in nature and due to that property dispute, the above mentioned complainant has filed this case before this court out of rage and presently at the time of examining witness, the concerned person failed to state

any material facts and thus after perusing the materials on record, I do not find any inculpatory materials arose from this case. Moreover, the female witness has not corroborated or did not bring any material witness before this court regarding the offences relating to woman and both the witnesses on dock have admitted that they did not remember anything regarding this case.

11. It is pertinent to refer the case of **Kathi Bharat Vajsur & Anr. Vs. State of Gujrat [(2012) 5 SCC 724]** wherein the Hon'ble Apex Court reiterated that, *"It is a well settled principle of criminal trial that the guilt of the accused must be proved beyond reasonable doubt...."* Thus, putting the case on the touchstone as narrated above, I find that the evidences cited are not awe inspiring in forming up a string of events to establish the prosecution case beyond reasonable doubt. With such state of the evidences on record this court has no hesitation to declare that the prosecution has failed to prove the charges against the accused persons A-1 to A-6. Accordingly, both the points for determination are decided in negative against the prosecution. Thus, the case failed and the accused persons A-1 to A-6 are liable to be acquitted.

DECISION THEREOF

12. Hence,
it is,

ORDERED

that the accused persons A-1 to A-6 are found **not guilty** of committing the offence punishable under sections **195A/323/354/427/34 of IPC** and they are **acquitted** from this case under section 248(1) of the CrPC.

The accused persons A-1 to A-6 are on Court bail and they are discharged forthwith from their bail bonds and set at liberty. The concerned sureties are also discharged from their obligations.

BC II to enter in relevant register. Update CIS.

The case being no. GR – 2635 of 2013 is disposed of.

Dictated by me.

Judicial Magistrate, 1st Court
Uluberia, Howrah

Judicial Magistrate, 1st Court
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Order dated : 30.06.2026

Today is fixed for 313, argument and judgment if possible.

The accused are present.

Ld APP is also present.

The accused A-1 to A-6 are present today and files hazira and they have been examined U/s 313 CrPC.

Heard argument at 2.00 pm and judgment passed on 4.30 pm.

Both parties are directed to be remain present.

Upon consideration of the materials on record and perusing the 313 and argument submitted by both Advocate of the respective parties and thus I consider that the accused A-1 to A-6 are not guilty and liable to be acquitted from this case.

Later ,

Both the parties are present.

Judgment is delivered in open court.

Judgment is written in separate sheets containing 6 pages are kept with the record.

As per judgment it is

ORDERED

that the accused persons A-1 to A-6 are found **not guilty** of committing the offence punishable under sections **195A/323/354/427/34 of IPC** and they are **acquitted** from this case under section 248(1) of the CrPC.

The accused persons A-1 to A-6 are on Court bail and they are discharged forthwith from their bail bonds and set at liberty. The concerned sureties are also discharged from their obligations.

BC II to enter in relevant register. Update CIS.

The case being no. GR – 2635 of 2013 is disposed of.

Judgment is pronounced in open court on this 30th day of June, 2026 at 4.30 PM.

Let a copy of this order be sent to Ld. Secretary, DLSA, Howrah.

Take a note in relevant register and cause list.

D/C by me

Akash Bose
J.M. 1st Court, Uluberia, Howrah

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