

Case No. G.R. 52 of 2017
CIS No. GR 2762 of 2017
CNR: WBHW12004481-2017

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 435/427/34 of IPC) (T.R. No 1094 of 2017) DATE OF JUDGMENT: 1st DAY OF JULY, 2026	
COMPLAINANT	STATE OF WEST BENGAL
REPRESENTED BY	LD APP ASIT KUMAR HAIT
ACCUSED	A-1. SK MOKSED ALI A-2. ANGURA BIBI A-3. SK HIRULAL A-4. MAIROM BIBI A-5. TUMPA KHATUN A-6. MAIBUL A-7. AFO BIBI ALL OF VILL – SRIKOLE, PO – DEULI, PS – SHYAMPUR, DIST – HOWRAH.
REPRESENTED BY	RAKESH NANDAN PURAKAIT, ARUNANSU BERA & SUMITA BERA
Date of Offence	10/02/2011
Date of FIR	10/02/2011
Date of Chargesheet	18/03/2011
Date of Framing of Charge / plea	20/09/2019
Date of commencement of Evidence	30/06/2026
Date on which Judgment is reserved	01/07/2026
Date of Judgment	01/07/2026
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	SK MOKSED ALI	Surrendered on 10.08.2017	Released on 10.08.2017	435/427/34 of IPC	Acquitted	N/A	N/A
A-2	ANGURA BIBI	Surrendered on 10.08.2017	Released on 10.08.2017	435/427/34 of IPC	Acquitted	N/A	N/A
A-3	SK HIRULAL	Surrendered on 05.05.2017	Released on 05.05.2017	435/427/34 of IPC	Acquitted	N/A	N/A
A-4	MAIROM BIBI	Surrendered on 05.05.2017	Released on 05.05.2017	435/427/34 of IPC	Acquitted	N/A	N/A
A-5	TUMPA KHATUN	Surrendered on 05.05.2017	Released on 05.05.2017	435/427/34 of IPC	Acquitted	N/A	N/A
A-6	MAIBUL	Surrendered on 05.05.2017	Released on 05.05.2017	435/427/34 of IPC	Acquitted	N/A	N/A
A-7	AFO BIBI	Surrendered on 05.05.2017	Released on 05.05.2017	435/427/34 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		Samsa Begum			DEFACTO COMPLAINANT		
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 WITNESS, PANCH WITNESS, OTHER WITNESS)		
NIL		NIL			NIL		

LIST OF PROSECUTION EXHIBITS		
Sr. No.	Exhibit Number	Description
01	P1/PW1	Signatures upon the Complaint
02	P2/PW1	Signatures upon the formal FIR

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 435/427/34 of IPC as alleged ?
- ii) Has the prosecution been able to prove the charge under Sections **435/427/34 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 O/C Shyampur PS that there was a property dispute between the both partis which is adjudicating before civil court and due to the said issue on 03.01.2017 at about 10 am morning accused and his wife and his family came together and broke the wall of the complainant intentionally and illegally entered upon there and also put fire. Further, the complainant who is residing over there with her children in the absence of her husband got assaulted and abused by the accused. Being aggrieved, the instant case was filed.
3. On the basis of such written complaint vide Shyampur PS Case no – 10 of 2017, dated 05.01.2017 under Sections 435/427/34 of IPC was initiated against the accused persons A-1 to A-7 and police took up investigation in the case.
4. The I/O of this case, namely SI Sudipto Das of Shyampur PS upon completion of the investigation submitted Charge-Sheet being No. 17/2017, dated 23.01.2017 under Sections 435/427/34 of IPC against the accused persons A-1 to A-7 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 10.08.2017.

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 435/427/34 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 five (05) prosecution witnesses named in the charge-sheet, the prosecution examined complainant as PW-1.
 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 Samsa Begum has stated that the instant case was filed against all the accused A-1 to A-7 and all are present today. She further identified his signature upon the complaint. Let it be marked as Ext – P1/PW1 (Series). At the time of evidence, the said witness who is the main victim of this case did not state any material facts against the accused.

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, 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 18.05.2026 and due to lack of inculpatory statement of PWs and after that 313 has been given by all the accused on 01.07.2026. 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 property in nature and due to that 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 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-7. 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-7 are liable to be acquitted.

DECISION THEREOF

12. Hence,
it is,

ORDERED

that the accused persons A-1 to A-7 are found **not guilty** of committing the offence punishable under sections 435/427/34 of IPC and they are **acquitted** from this case under section 248(1) of the CrPC.

The accused persons A-1 to A-7 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 – 52 of 2017 (New GR – 2762 of 2017) is disposed of.

Dictated by me.

Judicial Magistrate, 1st Court
Uluberia, Howrah

Judicial Magistrate, 1st Court
Uluberia, Howrah

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Order dated : 01.07.2026

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-7 are present today and files hazira and they have been examined U/s 313 CrPC.

Let the 313 CrPC be kept with record.

Heard argument at 2.00 pm and judgment passed on 4.40 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-7 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 5 pages are kept with the record.

As per judgment it is

ORDERED

that the accused persons A-1 to A-7 are found **not guilty** of committing the offence punishable under sections **435/427/34 of IPC** and they are **acquitted** from this case under section 248(1) of the CrPC.

The accused persons A-1 to A-7 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 – 52 of 2017 (New GR – 2762 of 2017) is disposed of.

Judgment is pronounced in open court on this 1st day of July, 2026 at 4.40 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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