

Case No. C Case no 319 of 2021
CIS No. New C Case 319 of 2021
CNR: WBHW12003820-2021

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 323/34 of IPC) (<u>T.R. No. 463 of 2021</u>) DATE OF JUDGMENT: 1st DAY OF JULY, 2026	
COMPLAINANT	BRINDABAN PAUL
REPRESENTED BY	BIPLAB GHORAI
ACCUSED	A-1. APARNA PAUL A-2. TULSI CHARAN PAUL BOTH OF VILL – CHANDRAPUR PS – BAGNAN DIST – HOWRAH.
ACCUSED REPRESENTED BY	SK AZHARUDDIN
Date of Offence	20/10/2021
Date of Complaint	20/10/2021
Date of SA	07/04/2022
Date of framing of charge	13/09/2022
Date of commencement of evidence	18/08/2023
Date on which Judgment is reserved	01/07/2026
Date of Judgment	01/07/2026
Date of Sentencing Order, if any	01/07/2026

ACCUSED DETAILS							
Rank of the Accused	Name of the Accused	Date of Arrest	Date of release on Bail	Offences charged with	Whether acquitted or	Sentence imposed	Period of Detention Undergone

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					convicted	ed	during Trial for purpose of Section 428 Cr.P.C.
A-1	APARNA PAUL	Surrendered on 04.07.2022	Released on 04.07.2022	323/34 of IPC	Acquitted	N/A	N/A
A-2	TULSI CHARAN PAUL	Surrendered on 04.07.2022	Released on 04.07.2022	323/34 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		BRINDABAN PAUL		COMPLAINANT			
PW2		CHANDANA PAUL		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 WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

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

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

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

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

This is a case u/s **323/34 of IPC against all persons** initiated on lodging an complaint case U/s 156(3) Crpc by Defacto complainant namely Brindaban Pal, S/o Ramcharan Pal, of Vill – Chandrapur, PO & PS – Bagnan, Dist – Howrah against the above named accused persons.

Complainant's Case

The case of the complainant in short is that on 20/10/2021 at about 9 am, all the accused attacked upon him with kodak, sabal and tried to illegally pluck trees over the land being Dag no – 978, JL no – 58, Mouza – Chandrapur which is a pending civil suit matter before Hon'ble High Court at Calcutta. The complainant was badly assaulted by the accused and when his brother tried to rescue him, he was also badly assaulted by them and both the accused assaulted the complainant with fist, blow, slap and they further broke the household articles and the complainant suffered loss. Further, the female accused threatened the victim to file false case. The matter was informed before Bagnan PS but no action is taken. Further, the complainant went to local doctor for medical treatment. Being aggrieved, the instant case was filed before Uluberia Court U/s 156(3) CrPC so as to treat the matter as FIR. Hence, the case.

The Ld. ACJM vide order dated 02.12.2021 has ordered that the said case is not fit and required for investigation U/s 156(3) Crpc and thus rejected the prayer for investigation U/s 156(3) Crpc. Accordingly cognizance is taken on the same date and the record is transferred to JM, 1st Court, Uluberia for disposal and complainant is hereby directed to appear before JM, 1st Court, Uluberia on 02.12.2021. On 07.04.2022, the complainant is present by filing hazira and perused the petition of complaint. The complainant was examined U/s 200 CrPC on SA and considering the prima face material U/s 323/34 of IPC to proceed against the accused persons. Thus the process be issued U/s 323/34 of IPC against all the accused persons as per provisions of U/s 200 CrPC.

EVIDENCE BEFORE CHARGE

The accused persons duly surrendered before this court after receiving the summons and was enlarged on bail. The recording of evidence before charge commenced. The complainant in order to substantiate his claims has produced and examined three witnesses out of eight listed witnesses before charge, they are:-

Brindaban Pal (Complainant)	PW1
Chandana Pal	PW2

CHARGE FRAMED

The matter was fixed for charge dated 07.04.2022 and on the said date, a prima facie case U/s 323/34 of IPC has been well made out against all the accused persons have been framed. The charge was read over and explained to the accused persons to which all the accused individually pleaded not guilty and claimed it to be tried and the matter was fixed for evidence on 04.07.2022.

EVIDENCE

At the stage of evidence, the complainant was adduced himself as PW1 and his wife as PW2.

After the closure of complainant's evidence, the accused persons were examined u/s 313 of Cr.P.C. The accused persons pleaded not guilty, but has not adduced any defence witness.

POINTS FOR CONSIDERATION

Having heard both the sides and after perusal of the materials on record, it appears that the following points are to be determined in this case:-

1. Has the complainant been able to prove the case beyond reasonable doubt ?
2. Are the accused person liable to be convicted or not ?

DECISION WITH REASONS

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.

Both sets of counsels prayed for just adjudication of the case considering the evidence on record.

On careful study of the record it is evident to me that the complainant who has been examined as PW1 has stated that he has filed this case against accused Aparna Pal and Tulshi Pal and the alleged incident took place on 20.10.2021 at about 9 am when the accused equipped with katari, spade and planted trees with the plot of land with intention to dispossess the complainant and they were badly assaulted by accused during protest. The brothers of complainant were also assaulted. There is a civil case is pending in respect of the alleged land where the dispute arose. The accused persons tortured the wife of complainant and the matter was informed to the concerned PS with no result. At the time of cross examination, the said witness did not state the actual date of filing of this case. Though the complainant has mentioned some of the victims name in his complaint but did not adduce him as evidence apart from his wife and also did not adduce any independent witness before this court though he claimed that he shared good relationship with some co-villagers. During cross examination, the said witness further admitted that there was a counter case also pending against them and the dispute arose due to property matter. Further, during cross examination, the said witness has stated on dock that he may consider to adduce his son as evidence later.

However, at the time of evidence, the said victim did not produce any medical document of treatment or injury report or anything else supporting his contention against the accused. Further, another witness

namely Chandana Pal has appeared as PW-2 who is the wife of PW-1 and the said witness has narrated the same incident in toto just like PW-1. The said witness further admitted that there is a civil dispute is pending with the accused before filing of this case and the accused was also filed a case against Basanta Pal. The said witness was also unsure whether her son may be deposed before this court or not. However, the said witness did not adduce any independent witness before this court after claiming that she has good relationship with the neighbour beside his house. Further, she failed to state that the date and details of the alleged incident and also did not state before whom the victim got treatment. During cross examination of the said witness, he admitted that there is pending a civil dispute between the both parties. Further he stated that the total area of the pond which is mentioned in complaint. Thus from till now, it is hereby found that the complainant did not fulfill the requirement of filing case U/s 156(3) Cr.Pc upon which Ld ACJM should have ordered for further investigation and treat the matter as an FIR. The defacto complainant himself admitted the fact that he did not inform the matter to the SDPO, Uluberia or SP Rural Howrah after being aggrieved from the concerned Shyampur PS. Further from the perusal of evidence on record, the complainant cited the fact that there is a civil dispute pending between the both parties relating to the property and the disputed property. Though the complainant did not provide any material proof or evidence regarding the description or details of the property. Further perusing the materials on record, material evidence and reading the complaint, this court did not find that the complainant has mentioned in his complaint regarding his loss. From the perusal of the complaint, this court did not

find, the complainant has ever mentioned that the accused persons came to the spot and tried to plant a trees and damage valuable articles of their house. Rather, the complainant did not produce any documentary evidences relating to the aforesaid allegation against the accused.

In a criminal case where a case initiated with the presumption that ***“innocent until proven guilty”*** , there utmost care needs to be followed. In such procedure the main right is in favour of an accused is the right of cross examination. The main purpose or aim of cross examination is to bring the truth and when this opportunity because of complainant not available to the defence, the evidentiary value of such evidence before charge has no evidentiary value at all. From the discussion of evidence on record, it is thus prima facie appeared that there is a civil dispute case is pending between the two sides since a long time in respect of the property belonged.

In witness list there are four specific names with the option of so many others. Evidently, the complainant succeeded to bring only two witnesses from the list. It is the cardinal principle of law that one has to prove its own case on his own leg. Now, after going through the evidences word by word it can be safely hold that neither the complainant nor his witnesses succeeded to say the exact fact regarding the ownership of the disputed land which certainly weakens the case of complainant. Admittedly it came out that basically the dispute was because of property related matter and the same is long pending one. Complainant and his witnesses claimed to have warm relation with the listed witnesses but in spite of such failure to bring them up to the Court certainly creates doubt to truthfulness of the

alleged incident as no where and never it is claimed by the complainant that the witnesses have been obstructed by some other way and the disputed property belonged to him and the accused has illegally occupied upon the said land. In a criminal case it is the obligation of the complainant to prove its case beyond the reasonable doubt. It is the task of the supporting witnesses to corroborate the testimony of complainant. Here in this case the testimony of the complainant itself not up to the mark at all. In fact, he himself failed to present his case through evidence as it is texted in his complaint. On the other hand, both the witnesses admittedly are near relative of the complainant. So, they can be termed as interested witnesses as admittedly the dispute is long pending one and property related and either side are the either parties in respect of the stated property. So, obviously interest is there. Evidently in this case there is not a single independent witness. Thus, it can be safely hold the complainant himself has not supported his own case and naturally or better to say incidentally both the witnesses failed to corroborate the case of complainant.

After perusing the evidence on record as placed by the complainant, this court has no hesitation to hold that the complainant has failed to bring on record any credible ocular and documentary evidence which proves that the accused persons had committed the offence as alleged. Accordingly, both the points for consideration are thus answered in the negative.

In the end this court has no hesitation to hold that the complainant has failed to prove its case beyond reasonable doubt against the accused persons as such they merit acquittal.

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Hence it is ,

ORDERED

That the accused persons namely A-1 to A-2 are found not guilty of committing offences punishable u/s 323/34 of I.P.C are hereby acquitted u/s 255(1) Cr.P.C. they are released from their respective bail bonds and set free. Sureties be discharged accordingly.

Alamat, if any, to be disposed of as per provision of law.

The Judgment is pronounced in open court on this 1st day of July, 2026.

D/C by me

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

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J.M.1st Court, Uluberia, Howrah

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Order dated : 01.07.2026

Today is fixed for argument and judgment.

All the accused files hazira.

Complainant is present.

The accused file 313 on behalf of all accused.

Let the 313 be kept with record. The accused are examined U/s 313 of Crpc they deny to adduce any evidence on their behalf.

Heard argument at 2.00 pm and judgment passed on 5.00 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-2 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 9 pages are kept with the record.

As per judgment it is

ORDERED

That the accused persons namely A-1 to A-2 are found not guilty of committing offences punishable u/s 323/34 of I.P.C are hereby acquitted u/s 255(1) Cr.P.C. they are released from their respective bail bonds and set free. Sureties be discharged accordingly.

Alamat, if any, to be disposed of as per provision of law.

The accused persons A-1 to A-2 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. C Case no 319 of 2021 is disposed of.

Judgment is pronounced in open court on this 1st day of July, 2026 at 5.00 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

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