

FORM-A

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE, 2nd COURT, DINHATA, COOCH BEHAR PRESENT : NILANJANA BANERJEE WB01192 A.C.J.M., 2nd COURT, DINHATA, COOCH BEHAR DATE OF JUDGMENT:-24.06.2026 <u>GR (1) CASE NO. 220 of 2022</u> (Sahebganj P.S. Case No. 185 of 2022 dated 15.05.2022 under sections 448/427/323/325/354/34 of IPC.)	
COMPLAINANT	STATE OF WEST BENGAL
REPRESENTED BY	Ld. APP Mriganka Sengupta
ACCUSED	Tapan Roy, S/o-Gajen Roy of Dakshin Gaonchulka, P.S.-Sahebganj, Dist-Cooch Behar,
REPRESENTED BY	Ld. Defense Counsel Ratan Kr. Kanu

FORM-B

Date of offence	12.05.2022
Date of FIR	15.05.2022
Date of Charge-Sheet	31.05.2022
Date of Framing of Charges	18.06.2026
Date of commencement of Evidence	24.06.2026
Date on which Judgment is reserved	N/A
Date of Judgment	24.06.2026
Date of the Sentencing Order, if any	N/A

Accused details:

Rank of the accused	Name of 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 of Cr.P.C
1.	Tapan Roy	Surrendered on 21.05.2022	Released on bail on 21.05.2022	U/S 448/427/323/325/354 of IPC	Acquitted	NIL	N/A

FORM-C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Budo Barman	Defacto complainant.
PW-2	Rajen Barman	Husband of the defacto complainant.

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS:

A. Prosecution Exhibits:

Sl. No.	Exhibit Number	Description

B. Defence Exhibits:

Sl. No.	Exhibit Number	Description

C. Court Exhibits:

Sl. No.	Exhibit Number	Description

D. Material Objects:

Sl. No.	Exhibit Number	Description

J U D G E M E N T

This case has arisen on a FIR filed by one Budo Barman before the O/C, Sahebganj P.S. on 15.05.2022.

On basis of that FIR, O/C, Sahebganj P.S. filed Case No. 185 of 2022 dated 15.05.2022 under sections 448/427/323/325/354/34 of IPC against the accused persons namely Tapan Roy and Upen Barman.

After investigation police has submitted charge-sheet under Sections 448/427/323/325/354/34 of I.P.C against the accused persons namely Tapan Roy and Upen Barman.

On perusal of charge-sheet and other relevant documents, this Court has framed charge under Sections 448/427/323/325/354 of IPC against the accused person Tapan Roy who is facing trial.

The accused pleaded not guilty and claimed to be tried.

The case is filed forever against accused Upen Barman.

Prosecution case in brief is that:

The fact is that the accused persons were neighbours of the defacto complainant. On 12.05.2022 at about 9:00 A.M. the domestic cow of the accused entered the field of the defacto complainant and then the defacto complainant chased it away. Thereafter, all the accused persons on the same date at about 9:30 A.M. armed with daa, kural, baish, trespassed into the house of the defacto complainant when her husband was not present. They had damaged the fencing of the house and on protest the accused Upen Barman had beaten the defacto complainant with fists and blows on her eye for which she got black mark under the left eye and blood clotted there. They tried to strangle the defacto complainant. When her husband came to the house and tried to rescue her, the accused

persons had beaten him. Then the accused persons pulled the saree of the defacto complainant and tried to disrobe her and thus outraged her modesty. The local people rushed to the spot and rescued the defacto complainant and her husband. On 13.05.2022 the defacto complainant was admitted at Dinhata SD Hospital and on 14.05.2022 when she was discharged, she filed the present FIR.

Defence has not adduced any evidence but from the answers of the questions u/sec. 313 Cr.P.C and the cross-examinations, the defence case appears to be nothing but the denial of the prosecution allegations.

POINTS FOR DECISIONS.

1. Whether the accused person committed house trespass into the house of the defacto complainant or caused hurt upon the defacto complainant and her husband or damaged the fencing or outraged the modesty of the defacto complainant ?
2. Whether the prosecution has proved its case beyond all reasonable doubts?

DECISION WITH REASONS

Ld. A.P.P has submitted that the evidence is sufficient and the accused should be convicted.

On the other hand, learned advocate for the defence has argued that the accused person is falsely implicated in this case. The allegation of committing house trespass into the house of the defacto complainant or causing hurt upon the defacto complainant and her husband or damaging the fencing or outraging the modesty of the defacto complainant is totally false and fabricated one. Accused should be released from this case.

Considered the submissions of both sides.

Now, let me see, how far the prosecution has proved its case.

In this case on behalf of prosecution as many as two (02) witnesses have been examined and cross-examined and discharged.

P.W. 1, the defacto complainant and the PW-2/ husband of the defacto complainant in their evidence stated that PW-1 filed this case against the accused person. They could not remember the date and time of occurrence and the subject matter of the present case. There was a dispute between them and the accused persons on the date of incident, so PW-1 filed this case. Nothing else happened on the date of incident. Due to some misunderstanding PW-1 filed this case against the accused.

Charge in this case has been framed u/s 448/427/323/325/354 of IPC. Now, let me discuss the definition of the said offences.

Section 323 of IPC provides for punishment for voluntarily causing hurt. The definition of hurt as mentioned in the IPC is as “Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.”

Section 448 of IPC provides punishment for house trespass and section 442 of IPC defined house trespass as “Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit "house-trespass".

Explanation-The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.”

Section 427 of IPC defines “Mischief causing damage to the amount of fifty rupees. Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

To prove an offence u/s 427 of IPC the following elements must be proved that :

1. The accused intentionally or knowingly caused wrongful loss or damage by destroying, diminishing value/utility, or injuring property,
2. The value of damage should exceed Rs. 50/- and it must be proved by estimates, bills or expert reports.

Section 325 of IPC provides for punishment for voluntarily causing grievous hurt. Section 320, IPC says about the definition of grievous hurt as :-
“The following kinds of hurt only are designated as "grievous"

First. Emasculation.

Secondly- Permanent privation of the sight of either eye.

Thirdly-Permanent privation of the hearing of either ear.

Fourthly- Privation of any member or joint.

Fifthly-Destruction or permanent impairing of the powers of any member or joint.

Sixthly-Permanent disfiguration of the head or face.

Sevently-Fracture or dislocation of a bone or tooth.

Eightly - Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits”.

The key elements to prove an offence under section 354 of IPC are:-

1. The victim is a woman.
2. The accused used assault or criminal force against the woman.
3. The act was intentional or done with knowledge that it was likely to outrage her modesty.
4. The act was without the woman’s consent.
5. The conduct resulted in a violation of the woman’s dignity or modesty, which includes acts causing humiliation, mental distress or a sense of threat.

Both the defacto complainant and her husband/victims deposed in their evidence that due to some misunderstanding the case was filed and there was only a dispute between the parties on the date of the incident. The evidence of the defacto complainant and her husband did not corroborate the FIR. No medical document is filed to prove the treatment of the victims in hospital. There is no seizure list. There is nothing on record to show that the accused persons had damaged the fencing or any articles of the defacto complainant.

In the opinion of this Court the prosecution could not file any piece of evidence from which it can be established that the accused person has committed any kind of hurt upon the de facto complainant and her husband or damaged the fencing of the defacto complainant or committed any house trespass into the house of the defacto complainant or outraged the modesty of the defacto complainant.

On careful analysis of the evidences and materials on record and the discussion made in the foregoing paragraphs, I do not find any incriminating material against the accused person. Prosecution has miserably failed to prove any of the ingredients of the alleged offence against the accused.

In result, prosecution case fails.

Hence, it is,

ORDERED

that the accused person namely, Tapan Roy is found not guilty for commission of offence punishable under Sections 448/427/323/325/354 of IPC and he is acquitted from this case under the provision of Section 248(1) Cr.P.C. and set at liberty at once.

The accused person be released from his bail bond.

Copy of the Judgment be sent to the District Magistrate, Cooch Behar as well as Ld. Secretary, District Legal Service Authority, Cooch Behar so as to intimate the Victim/complainant about his/her right to appeal as well as to apprise his/her that he/she can seek legal assistance if he/she so desires through District Legal Service Authority, Cooch Behar.

Note in the Trial Register and CIS.

Typed & corrected by Me:

Addl. Chief Judicial Magistrate,
2nd Court, Dinhata,
Cooch Behar

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2nd Court, Dinhata,
Cooch Behar