

DISTRICT – HOOGHLY
IN THE COURT OF ADDITIONAL SESSIONS JUDGE,
FAST TRACK 1ST COURT, CHINSURAH, HOOGHLY

Present : Sri Pijush Kanti Roy,
 Additional Sessions Judge,
 Fast Track 1st Court,
 Chinsurah, Hooghly

S.C. No. 140 of 2024
 S.T. No.58(12) 2024
 G.R. No.2129/2023
 Polba P.S. case no.176/2023 dated 02.08.2023
 C.N.R. No. WBHG 01-0022312024

State

vs

1. Sk. Amir @ Amir Ali
2. Sk. Jahangir Alam
3. Sabina Begum @ Selima Begum
4. Tahmina @ Tahamina Begum

Offence U/s.323/354/307/379/34 I.P.C.

1. Mr. Sukanta Chowdhury Ld. P.P. in-charge
2. Mr. Ashok Sadhu Ld. Advocate for the accused persons

Date of Judgment : **The 21st day of July, 2026**

J U D G M E N T

The fact of the prosecution case, in brief, is that the complainant namely, Kohinoor Bibi w/o. Sk. Akhtar Ali of village Barol Prasadpur, P.S. Polba, Dist. Hooghly filed a written complaint before the Ld. CJM, Hooghly on 28.07.2023 u/s.156(3) Cr.P.C. which was treated a complaint and the same was sent to O.C. of Polba P.S.

On receipt of the complaint the O.C. of Polba P.S. registered and started Polba P.S. Case No.176 of 2023 dated 02.08.2023 u/s.147/148/323/325/354/379/307/34 IPC against all the FIR named accused persons. The fact of the said complaint in brief

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is that on 21.07.2023 at about 04:30-05:00 p.m. the complainant was spreading some ash, brick particles in front of her house wherein water and mud was staged due to rain. At that time over the issue of family dispute the accused persons were blaming her. Accused No.4 abused filthy language and she was instigating the accused No.1 to 3 for attacking upon the complainant. Then accused No.4 dragged the complainant after grabbing her hair and accused No.1 assaulted on her head and leg with a bamboo. When the complainant fell to the ground due to pain then accused No.2 grabbed her from her behind and tore her wearing apparel and outraged her modesty. The accused No.1 assaulted the complainant at random with bamboo in order to kill her and accused No.2 assaulted on her chest by brick and the complainant was severely injured and her breath was about to stop. When the complainant fell to the ground then accused No.1 strangled her throat and at that time the accused No.3 snatched away the gold necklace owing about one vori. Seeing the incident of assault the daughter in-law of the complainant rushed to the spot for her rescue and she sprinkled water on her face and mouth and the complainant regained her sense. At that time the witness and the husband of the complainant rushed to the spot and found that the complainant was lying on the ground in half dead condition. The complainant was shifted to Mogra BPHC wherein she was treated. The complainant lodged GDE at Polba P.S. vide GDE No.1033 dated 21.07.2023 and the concerned O.C. of that P.S. assured her that legal step will be taken against the accused persons. Thereafter on 24.07.2023 when the complainant went to Polba P.S. then she was told that the incident will be reported through register post.

On 18.08.2023 accused Sk. Amir @ Amir Ali was brought under arrest and he were forwarded before the Ld. CJM, Hooghly and his bail prayer was rejected. Subsequently he obtained bail on 25.08.2023 from the Ld. CJM, Hooghly. The rest accused persons namely Selima Begum, Tahamina Begum and Jahangir Alam obtained anticipatory bail u/s.438 Cr.P.C. on 13.10.2023 from the Ld. Sessions Judge, Hooghly and they are surrendered before this court on 14.10.2023 for regular bail.

After completion of investigation the I.O. of this case has submitted Charge Sheet on 03.10.2023 vide C.S No. 140/2023 dated 31.08.2023 u/s. 147/148/323/325/354/379/307/34 IPC. against the above named accused persons. Cognizance was taken by the Ld. C.J.M., Hooghly. After supply of police paper U/s. 207 of Cr.P.C the case record has been committed to the Ld. Sessions Judge, Hooghly on

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19.02.2024 as the offence is exclusively triable by the Court of Session. The Ld. Sessions Judge, Hooghly received the case record on 14.06.2024 and after taking cognizance he transferred the same to this court on 12.08.2024 for disposal. After receiving the case record charge against the above named accused persons were framed on 16.12.2024 and after hearing the contents of charge the accused persons pleaded not guilty to the charge and claimed to be tried.

Then to prove the prosecution case, the prosecution examined complainant Kohinoor Bibi, Sk. Akhtar Ali, Md. Kayesh, Md. Sahid, Nazrul Islam, Sk. Aminuddin, Jesmin Mondal, Dr. Suvam Tarapdar and SI Rohon Mallick are examined as P.W.1 to P.W.09 respectively and documents are marked as Exhibit-P1 and P7 as per list. On the other hand none is examined as D.W.

:: POINTS FOR CONSIDERATION ::

Whether the prosecution has been able to prove the charges label against the accused persons beyond the shadow of reasonable doubt or not ?

:: DECISION WITH REASONS ::

Ld. P.P. in Charge made his oral argument and the Ld. Advocate for the accused persons filed written argument.

Carefully perused the materials on case record.

In this case the prosecution examined total 9 number of witnesses. The complainant proved the written complaint which is marked as Exhibit-P1. In her complaint the complainant stated that on 21.07.2023 at about 04:30-05:00 pm. the complainant was spreading some ash, brick particles in front of her house wherein water and mud was staged due to rain. At that time over the issue of family dispute the accused persons were blaming her. Accused No.4 abused filthy language and she was instigating the accused No.1 to 3 for attacking upon the complainant. Then accused No.4 dragged the complainant after grabbing her hair and accused No.1 assaulted on her head and leg

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with a bamboo. When the complainant fell to the ground due to pain then accused No.2 grabbed her from her behind and tore her wearing apparel and outraged her modesty. The accused No.1 assaulted the complainant at random with bamboo in order to kill her and accused No.2 assaulted on her chest by brick and the complainant was severely injured and her breath was about to stop. When the complainant fell to the ground then accused No.1 strangled her throat and at that time the accused No.3 snatched away the gold necklace owing about 1 vori. Seeing the incident of assault the daughter in-law of the complainant rushed to the spot for her rescue and she sprinkled water on her face and mouth and the complainant regained her sense. At that time the witness and the husband of the complainant rushed to the spot and found that the complainant was lying on the ground in half dead condition. The complainant was shifted to Mogra BPHC wherein she was treated. The complainant lodged GDE at Polba P.S. by GDE No.1033 dated 21.07.2023 and the concerned O.C. of that P.S. assured her that legal step will be taken against the accused persons. Thereafter on 24.07.2023 when the complainant went to Polba P.S. then she was told that the incident will be reported through register post.

In her examination-in-chief the complainant stated that she made statement before the Ld. Judicial Magistrate which is marked as Exhibit-P4. In the said statement, the statement of the complainant has been noted down in concise form which corroborates the contents of the written complaint. She further stated in her examination-in-chief that the offending bamboo has been seized by the I.O. in connection with this case vide C/176/23 which is marked as Mat. Exhibit-MO1. The wearing apparel that is blouse and saree of the complainant are also marked as Mat. Exhibit-MO2 and MO3 respectively.

In her cross-examination the complainant admitted that there are cases in between them and the accused persons. She further stated that accused Amir Ali filed a M.P. Case being No.732/2023 dated 19.06.2023 u/s.144 Cr.P.C. against herself, Aktar Ali, Md. Kayes and Md. Sahid in relation to land dispute relating to passage between the house of the complainant and the house of the accused persons. It is evident from the evidence of the complainant that the accused persons filed M.P. Case before the filing of this case. The accused persons and the complainant are relatives to each other. Though the complainant stated the date, time and manner of incident but she failed to say the colour of her wearing apparel which she worn on the date of incident. She further stated

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in question No.4 that on the date of lodging diary in relation to the incident she handed over to the police her wearing apparel, brick and bamboo to the police and the police kept the same. But in question No.6 in her cross-examination the complainant stated that police after lodging of diary came to the house but not on the date of lodging diary. This kind of contradictory statement cannot be taken into consideration. She further stated in question No.2 in her cross-examination that on Mat. Exhibit-MO1 case No.88/2024 is written in red ink which has been struck out and over the said number 176/2023 is written in black marker. So it is clear the Mat. Exhibit-MO2 has been previously used in another cases. The Mat. Exhibit-MO2 has also not been taken into consideration. The complainant stated in her cross-examination in question no.4 that she informed the S.P. Hooghly Rural as regards refusal by local police to entertain her complaint by registered post but she failed to file the postal receipt in support of transmission of information to S.P., Hooghly Rural. This kind of statement made by the complainant is totally false. The complainant further stated in question No.5 that there is a garden in front of her house but she further stated in question no.7 that there is a road and farm in front of her house. This kind of statement are also contradicted with each other. Though the complainant stated in her written complaint that accused Selima Bibi snatched away her gold necklace but no such gold necklace has been seized by the I.O. during his investigation. She further stated that she was assaulted in between 04:30 pm. to 05:00 pm. but she reached at Mogra BPHC at 07:00 pm. There is no explanation in respect of two hours in between 05:00 pm. to 07:00 pm. where the complainant was. She further stated that she stated to doctor of Mogra BPHC that she was injured because of being hit on her chest by brick and bamboo but the attending doctor of Mogra BPHC i.e. P.W.8 stated in his cross-examination that no injury is caused by bamboo or brick bat is found on the person of the patient and the patient has not stated to him that she was assaulted by bamboo and brick bat on her head and chest. This kind of statement are also contradicted to each other as stated by the complainant and these statements are not taken into contradiction.

The testimony of the complainant cannot be taken into consideration as the same has no reliance.

P.W.2 (Sk. Aktar Ali) is the husband of the complainant who stated that incident took place on 21.07.2023 at about 05:00 pm. This P.W. candidly admitted in his examination-in-chief that at the time of incident he was in his shop. Though he narrated

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the fact and manner of incident but it is totally hearsay. The complainant has not stated in her evidence that he told the fact and manner of incident to her husband. Hearsay evidence cannot be taken into consideration unless and until it has been communicated in between two persons.

P.W.3 (Md. Kayesh) and P.W.4 (Md. Sahid) are the two sons of the complainant. Both of them candidly admitted in their examination-in-chief that at the time of incident they were not in their house and they were in their shop and they have not witnessed the incident. Both P.W.3 and P.W.4 are hearsay witness and their testimony cannot be taken into consideration as the complainant has not stated in her evidence that she told the fact and manner of incident to the P.W.3 and P.W.4.

P.W.5 (Nazrul Islam) stated in his examination-in-chief that incident took place on 21.07.2023 in between 05:00 pm. to 05:30 pm. while he was returning home from his shop and found that Kohinoor Bibi is lying on the ground on the house of her husband. He heard later from neighbours that Jahangir Ali, his wife and his two sons assaulted Kohinoor Bibi. In his cross-examination this witness stated that he did not witness the incident for which Kohinoor Bibi was lying on the road. This witness is also hearsay witness as he was not communicated the fact of incident by the complainant. The testimony of this witness also cannot be taken into consideration.

PW-6(Sk. Aminuddin) stated that incident took place on 21.07.2023 in between 04:30 pm and 05:00 p.m. in between the complainant and the accused persons. Hot altercation took place in between the complainant and the accused persons. Complainant was filling the holes by pieces of bricks and the accused persons assaulted her. The complainant lost her sense and she fell down on the ground. In his cross examination this PW stated that he did not witness the incident from the beginning. He further stated that Kohinoor Bibi lost her sense and she fell down to the ground. He left the place when water was poured on face by her daughter in law. This witness has not corroborated the prosecution case as he did not witness the incident from the beginning.

PW-7 (Jesmine Mondal) stated that incident took place on 21.07.2023 in between 04:30 pm and 05:00 p.m. She stated that foul water was staged in front of their house and her mother in law went to fill up the said holes by ash and bricks particles.

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The accused persons abused her mother in law and also assaulted her. She was at home and hearing hue and cry she rushed to the spot and she with others rescued her mother in law and shifted her to Mogra Hospital. In cross examination she stated that she did not witness the incident with her own eyes when it was occurring. She further stated the complainant has not gone to the PS i.e. on 21.07.2023. Though the complainant stated in her written complaint that on the date of incident she reported the matter to Polba P.S. on the same date of incident. It is another contradiction which cannot be taken in to consideration. The testimony of this witness cannot be taken into consideration and she has not corroborated the prosecution case.

PW-8(Dr. Suvam Tarafdar) stated in his examination in chief that on 21.07.2023 he medically the patient Kohinoor Bibi at about 08:00 p.m. who came to him with the history of physical assault accompanied by one Oli Bibi at about 08:05 p.m. The patient stated to him that she received pain on her left elbow and lip and throat. He found red mark on her throat. No other injury was found on the person of the patient. The injury is marked as Exbt.P5. The complainant stated in her cross examination the she went to Mogra Hospital at about 7:00 p.m. There is no parity of time of treatment as per statement of the complainant and the statement of PW-8. In his cross examination the PW-8 stated that the redness on the throat may be occurred due to infection. He further stated that it is not mentioned in the injury report who assaulted the patient. He further stated that the patient has not stated to him that she was assaulted by bamboo and brick bat on her head and chest. He further stated that if the patient is referred on the basis of a case or GDE then he generally note the case number and GDE number in the injury report. In this injury case number and GDE No. is not mentioned. So from testimony of PW-8 it is not clear whether the complainant was treated in connection this case. In the injury report colour, nature and age of injury are not mentioned. He further stated that emergency number is given to the patient, but in the injury report no emergency number is found. So from the oral testimony of PW-8 it can be said that the injury report itself is disputed and that cannot be taken into consideration.

PW-9 (Rohon Mallick) is the I.O. of this case. He held investigation and submitted charge sheet against the accused persons vide C.S. No. 140/2023 dated 02.08.2023 u/s- 147/148/ 323/325/354B/370/307/34 IPC. There is no anomaly in the investigation of the I.O. but huge numbers of contradiction in the evidence of the complainant and the contradictions in the testimony of the complainant and other prosecution witnesses.

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In view of the forgoing discussion and observation it can be said that the prosecution miserably failed to prove their case beyond the shadow of all reasonable doubt. So the accused persons should be acquitted.

The accused persons are examined u/s-313 Cr. P.C. and he stated the incident is false and he is innocent.

Accordingly the accused persons are found not guilty to the charge punishable u/s.323/354/307/379/34 I.P.C. and they should be acquitted.

Hence, it is,

O R D E R E D

that, the accused namely 1. Sk. Amir @ Amir Ali, 2. Sk. Jahangir Alam, 3. Sabina Begum @ Selima Begum and 4. Tahmina @ Tahamina Begum are acquitted U/S-235(1) of Cr.P.C. from the offences punishable U/s. 323/354/307/379/34 I.P.C. IPC.

They are discharged from their respective bail bonds and set at liberty.

The seized alamats, if any, will be destroyed after expiry of the period of appeal.

Dictated & Corrected
by me.

Addl. Sessions Judge
Fast Track 1st Court,
Chinsurah, Hooghly

Addl. Sessions Judge
Fast Track 1st Court,
Chinsurah, Hooghly
(WB 00647)