

G.R. CASE NO. 2776 of 2019
State of West Bengal Vs Sirajul Sk @ Saju and four others
Under sections 448/323/354/34 of the Indian Penal Code, 1860.

FORM A

IN THE COURT OF THE LD. ADDL. CHIEF JUDICIAL MAGISTRATE, BERHAMPORE, DISTRICT: MURSHIDABAD	
Present: Smt. Sukti Sarker, ACJM, Berhampore, Murshidabad [JO Code WB 01237]	
<u>GR Case No. 2776 of 2019</u> <u>T.R. No. 1917/2021</u> <u>CNR no. WBMD04-007243-2019</u>	
(Ref: Hariharpara PS Case No. 319/2019 dated 11.07.2019)	
Complainant	STATE OF WEST BENGAL
Represented by	Sri Abid Hasan, Ld. APP
Accused Persons	1. Sirajul Sk @ Saju
	2. Amecha Bibi
	3. Najibur Sk
	4. Nutu Sk
	5. Sarifa Bibi
Ld. Defence Counsel	Md. Abdul Azim

FORM B

Date of Offence	12.05.2019
Date of FIR	11.07.2019
Date of Charge sheet	30.10.2019
Date of Framing Charge	23.06.2026
Date of Commencement of Evidence	23.06.2026
Date on which Judgment is reserved	-
Date of Judgment	30.06.2026
Date of the sentencing order, if any	NA

Accused Details

Rank and name of the Accused person	Date of arrest	Date of release on bail	Offence charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during Trial for purpose of section 468 BNSS
1. Sirajul Sk @ Saju	Surrendered	06.08.2019	U/S 448/323/354/34 of IPC	Acquitted	NA	NA

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2. Amecha Bibi	Surrendered	06.08.2019	U/S 448/323/354/34 of IPC	Acquitted	NA	NA
3. Najibur Sk	Surrendered	06.08.2019	U/S 448/323/354/34 of IPC	Acquitted	NA	NA
4. Nutu Sk	Surrendered	21.01.2020	U/S 448/323/354/34 of IPC	Acquitted	NA	NA
5. Sarifa Bibi	05.12.2019	05.12.2019	U/S 448/323/354/34 of IPC	Acquitted	NA	NA

Form C

A. Prosecution

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESSES)
PW1	Tanjila Bibi	De-facto Complainant
PW2	Mal Janechha Bibi	Injured.

B. Defence witnesses, if any: Nil

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITES

A. Prosecution

Serial Number	Exhibit Number	Description
1	P1	Written complaint along with signature

B. Defence: Nil

C. Court Exhibits: Nil

D. Material Objects: Nil

: Judgement :

Case of the prosecution came into trial under section 448/323/354/34 of The Indian Penal Code, 1860.

The prosecution case in brief is that on 12.05.2019 at about 05:00hrs the accused persons forcefully entered into the house of de-facto complainant and abusing her mother and also started to assault her while snatching the key of the iron chest. When mother of de-facto complainant tried to take the said key from the accused, the accused assaulted her with iron rod on his right hand, as a result she received fracture injury. The accused also

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took away the gold ornaments along with cash from the possession of her mother. When she raised shout and local people came to the spot, the accused ran away. Hence, the case.

After completion of investigation police submitted charge sheet against the accused persons under sections- 448/323/354/34 of IPC and charge was framed u/s 448/323/354/34 of IPC after perusal of the materials in CD and CR.

At the trial the State examined prosecution witnesses already mentioned above.

The accused persons were examined u/s 313 of Cr. PC. and they pleaded their innocence.

POINTS FOR DETERMINATION

- 1) Are the accused persons found guilty for the offences punishable u/s – 448/323/354/34 of IPC ?
- 2) Has the prosecution been able to prove the case against the accused persons beyond reasonable doubts?

DECISION WITH REASONS

In this case de facto complainant deposed as PW1 and one Mal Janechha Bibi also deposed as PW2. They were subjected to cross examine and discharged.

During examination of PW1 and PW2, in the same tune stated that the incident had taken place about 7 years ago at their house in the morning over the issue of previous grudge. They further deposed that PW1 received injury in her hand and PW2 also sustained injury and both were treated at hospital. During their cross examination, the both stated that the complaint had been filed out of misunderstanding. They also admitted that they received injury by falling down. They also deposed that they have no allegation against the accused.

Upon scrutiny of the evidence of PW1 and PW2, it is found that though at the very initiation of the case the de-facto complainant had raised allegations of assault and outrage of modesty, but neither the victim/de-facto complainant or injured could describe in details the alleged incident nor could specify how and by which means they assaulted. No cogent evidence has come before this Court wherefrom it could be substantiated that accused outraged modesty of the victim. In this background it is very clear that the prosecution has failed to prove that allegations brought by it against the accused persons.

The obvious result of all these glaring discrepancies and pitfalls must also be obvious. The prosecution case must be declared to have failed. The charges brought against the accused persons could not be substantiated.

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This is a case where an order of acquittal would follow because of the doctrine relating to proof beyond reasonable doubt and because there has been absolute lack of credible evidence in support of the framed charges as well as because there are too many questions left unanswered by the State.

To conclude, the prosecution has miserably failed to prove its case against the accused persons. This failure entitles the accused to an order of acquittal.

Hence, it is

O R D E R E D

The accused persons being 1. Sirajul SK @ Saju, 2. Amecha Bibi, 3. Najibur Sk, 4. Nutu Sk and 5. Sarifa Bibi are not found guilty in the instant case U/s. 448/323/354/34 of IPC and they are acquitted under Section 248(1) of Cr.PC.

Set them at liberty at once.

They are also released from their respective bail bonds and the sureties stands discharged.

Dictated and corrected by me.

(Sukti Sarker)
JO-WB01237
Addl Chief Judicial Magistrate
Berhampore, Murshidabad

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Order dated- 30.06.2026

Today is fixed for examination of accused under section 313 of the Code of Criminal Procedure, 1973.

All the accused persons, namely, **1. Sirajul SK @ Saju, 2. Amecha Bibi, 3. Najibur Sk, 4. Nutu Sk and 5. Sarifa Bibi** on Court bail are present by filing hazira. The Ld. APP as well as the Ld. Defence Lawyer are also present.

Now the record is taken up for examination of the accused persons u/s 313 of Cr.P.C.

Accused persons are examination u/s 313 Cr.P.C and they pleaded their innocence throughout. They declined to give any DW.

Heard both sides.

Judgment will be delivered at 3.00 pm.

Dictated and corrected by me.

(Sukti Sarker)
JO-WB01237

**Addl Chief Judicial Magistrate
Berhampore, Murshidabad**

(Sukti Sarker)
JO-WB01237

**Addl Chief Judicial Magistrate
Berhampore, Murshidabad**

Later at 3.00 pm.

Hence, it is

ORDERED

The accused persons being 1. Sirajul SK @ Saju, 2. Amecha Bibi, 3. Najibur Sk, 4. Nutu Sk and 5. Sarifa Bibi are not found guilty in the instant case U/s. 448/323/354/34 of IPC and they are acquitted under Section 248(1) of Cr.PC.

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(Sukti Sarker)
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**Addl Chief Judicial Magistrate
Berhampore, Murshidabad**

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