

Sessions Case No. 146 of 2024  
Sessions Trial No. 19(07)/2025  
CIS Registration No. 146 of 2024  
CNR No. WBML01-002803-2024

**FORM A**

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE,  
FAST TRACK, 1ST COURT, AT MALDA**  
*Present: Nirnaya Tamang*  
WB01096  
*Additional Sessions Judge, Fast Track, 1st Court, At Malda*

Sessions Case No. 146 of 2024  
Sessions Trial No. 19(07)/2025  
CIS Registration No. 146 of 2024  
**CNR No. WBML01-002803-2024**

*Gazole P.S. Case No. 94/2022 dated 01.02.2022 under Sections 341/324/325/308/34 of  
I.P.C. corresponding to GR Case no. 715/2022*

***Date of Delivery of Judgment : The 31<sup>st</sup> day of March, 2026.***



<i>Complainant</i>	<i>State of West Bengal</i>
<b>REPRESENTED BY</b>	<i>Ld. PP In Charge</i>
<b>ACCUSED</b>	<i>A1 Ratan Roy A2 Joydeb Sardar</i>
<b>REPRESENTED BY</b>	<i>Ld. Adv. Masidur Rahaman</i>

**FORM B**

<i>Date of Offence</i>	<i>01.02.2022</i>
<i>Date of FIR</i>	<i>01.02.2022</i>
<i>Date of charge sheet</i>	<i>19.02.2022</i>
<i>Date of Framing of Charges/Plea</i>	<i>30.07.2025</i>
<i>Date of commencement of evidence</i>	<i>06.08.2025</i>
<i>Date on which Judgment is reserved</i>	<i>30.03.2026</i>
<i>Date of Judgment</i>	<i>31.03.2026</i>
<i>Date of the Sentencing Order, if any</i>	<i>Nil</i>

**Accused Details:**

<i>Rank of the accused</i>	<i>Name of Accused</i>	<i>Date of Arrest/ Surrender</i>	<i>Date of release on Bail</i>	<i>Offences charged with</i>	<i>Whether acquitted or convicted</i>	<i>Sentence imposed</i>	<i>Period of Detention Undergone during Trial for purpose of Section 428, Cr.P.C.</i>
1.	<i>A1 Ratan Roy s/o Late Gobinda Roy</i>	<i>02.02.2022</i>	<i>14.02.2022</i>	<i>under Sections 341/325/308/34 of I.P.C.</i>	<i>ACQUITTED</i>	<i>N/A</i>	
2.	<i>A2 Joydeb Sardar s/o Sudhir Sardar</i>	<i>02.02.2022</i>	<i>14.02.2022</i>	<i>under Sections 341/325/308/34 of I.P.C.</i>	<i>ACQUITTED</i>	<i>N/A</i>	

**FORM C**

**LIST OF PROSECUTION / DEFENCE / COURT WITNESSES**

**A. Prosecution:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYEWITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
<i>PW1</i>	<i>Debu Soren</i>	<i>Independent witness</i>
<i>PW2</i>	<i>Dipen Mondal</i>	<i>Complainant</i>
<i>PW3</i>	<i>Gupin Hansda</i>	<i>Other witness</i>
<i>PW4</i>	<i>Amal Mondal</i>	<i>Younger brother of the complainant</i>
<i>PW5</i>	<i>Kamal Mondal</i>	<i>Brother of the complainant</i>
<i>PW6</i>	<i>Pran Gopal Jha</i>	<i>ASI of Police, IO of this case</i>

**B. Defence Witnesses, if any:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYEWITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS,</b>

**C. Court Witnesses, if any:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYEWITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>

**LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS**

**A. Prosecution:**

<b>Sl. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1.	Exhibit- P-1	Signature of PW2 on the written complaint.
2.	Exhibit- P1/1/PW6	Endorsement on the written complaint
3.	Exhibit-P2/PW6	Formal FIR
4.	Exhibit- P3/PW6	Rough sketch map
5.	Exhibit- P3/1/PW6	Index of rough sketch map

**B. Defence:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>

**C. Court Exhibits:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>

**D. Material Objects:**

<b>Sr. No.</b>	<b>Material Object Number</b>	<b>Description</b>

**JUDGMENT**

**FACTS IN A NUT SHELL, THE PROSECUTION'S CASE**

1. The case stems from a court complaint of Dipen Mondal to the effect that on 01.02.2022 at about 2 p.m while his brother Amal Mandal was going to the house of his father-in-law namely Anil Mondal and on the way in front of the house of the 'Morol' at Adibasi Para at Chandan Dighi the accused persons suddenly started assaulting his brother on his head with rod, sharp weapons causing bleeding injury. They also attempted to kill his brother.

*Thereafter, the local people took his brother to Hatimari Hospital for treatment but doctor there referred for better treatment. Hence, this case.*

**INVESTIGATION AND PREPARATION FOR TRIAL**

2. *The I/O of this case upon completion of the investigation submitted a charge sheet under Sections 341/324/325/308/34 of I.P.C. against the accused persons in compliance with section 173 (5) of the CrPC.*

3. *Accordingly cognizance of the alleged offences as against the accused persons was taken by Ld. CJM Malda on 01.02.2023 and after committal proceedings, the case record was received by the Ld. District and Sessions Judge , Malda on 06.05.2024.*

4. *The record was sent to this Court for trial and disposal on 16.05.2024. This Court received the case record on 17.05.2024.*

**THE CHARGE:**

5. *Upon receipt of the case record, charge under Sections 341/325/308/34 of I.P.C. was framed against accused persons and that the contents of the charge was read over and explained to the each of the accused to which they pleaded not guilty and claimed to be tried.*

6. *In this case, six prosecution witnesses were examined and thereafter, the further evidence was closed.*

**EXAMINATION U/S 313 CRPC.**

7. *Thereafter the accused persons were examined u/s 313 of Cr.P.C. 1973 and on being asked they declined to adduce any evidence in support of their defence.*

**THE DEFENCE VERSION:**

8. *False implication and innocence of the accused persons are the main defence taken as can be deciphered from the line of cross examination as well as from the statement made u/s 313 CrPC.*

**POINT FOR CONSIDERATION**

1. *Whether the accused persons are guilty of the charge punishable u/s 341/325/308/34 of I.P.C. ?*

2. *Whether the Prosecution proved the case against the accused persons beyond all reasonable doubt ?*

**DECISION WITH REASONS**

9. *In a criminal trial, the degree of proof is stricter than what is required in Civil Proceedings. In criminal proceeding, it is settled law that howsoever intriguing facts and circumstances of the case may be, the charge made against the accused persons must be proved beyond reasonable doubts and the requirement of proof cannot lie in the realm of surmises and conjectures.*

**ANALYSIS OF THE EVIDENCE**

10. *It is the duty of the Court to analyze, to sift and to assess the evidence on record with particular reference to its trustworthiness and truthfulness by a process of dispassionate Judicial scrutiny adopting an objective and reasonable appreciation of the same without being obsessed by an air of total suspicion of the prosecution case. Evaluation of evidence on record can be made on the basis of following points:*

11. *Prior to entering into the merits of the case vis-a-vis the evidence on record, it is imperative to see as to what the sections under which the accused persons have been charged lays down.*

**Section 325 in the Indian Penal Code, 1860**

**325. Punishment for voluntarily causing grievous hurt.—**

*Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.*

**Section 308 in The Indian Penal Code, 1860**

**Section 308 of IPC lays down as under-**

*Whoever does any act with such intention or knowledge and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.*

**Illustrations:**

*A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death, he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section.*

**ANALYSIS OF THE EVIDENCE ON RECORD**

11. *P.W. 1 Debu Soren deposed inter alia that the complainant Dipen Mandal is known to him as his co-villager so as Amal Mandal. He further deposed that prior to 2-4 years, he heard that there was some hot altercation between Ratan Roy and Joydeb Sarkar and Amal Mondal for which Amal Mondal had filed the instant case.*

13. *During cross-examination, he deposed inter alia that he was not present when the alleged incident took place and he did not witness the incident. He failed to state the name of the person from whom he heard the incident.*

14. *P.W. 2 Dipen Mandal, complainant of this case deposed inter alia that he filed this case against Ratan Roy and Joydeb Sarkar. He further deposed that the incident occurred prior to 2-3 years ago while his brother was going to a 'mela' and at that time there was only hot altercation with his brother and the accused persons but he failed to state the reason of the dispute. He further deposed that his brother treated in the hospital for his injury on his head. At his instance written complaint being marked as Exhibit-P-1.*

15. *During cross-examination he inter alia deposed that he could not say the contents of the written complaint or who prepared the same as he was not present at the time of incident. He further deposed that he only heard about the incident.*

16. *P.W3 Gupin Hansda deposed inter alia that prior to 2-4 years he heard that there was fighting between Amal Mandal, Ratan Roy and Joydeb Sarkar.*

17. *During cross-examination, he inter alia deposed that he did not witness the incident.*

18. *PW4 Amal Mondal , injured victim of this case deposed inter alia that the incident occurred in the year 2022 while he was returning from the parental house of his wife and that many people were there in intoxicated condition and when he went to confront them, there was hue and cry and that he was pushed in the meantime and that he fell down and sustained injuries on his head. He further deposed that he did not see who pushed him. He also deposed that he was unconscious and admitted at Hatimari Hospital for 2-3 days. He further deposed that police did not examine him in the hospital.*

19. *During cross-examination PW4 failed to state who had pushed him. He admitted that he had sustained injuries as he had fallen down.*

20. *PW5 Kamal Mondal deposed inter alia that complaint Dipen Mandal is his elder brother and he does not know against whom he filed the the case. He further deposed that prior to 2-4 years he heard that the accused persons assaulted his younger brother Amal Mondal who sustained injuries on his head and he was treated at Hatimara Rural Hospital as he had sustained injuries on his head.*

21. *During cross-examination he deposed inter alia that he was not present when the alleged incident took place. He further deposed that he did not witness the incident. He failed to say the name of the person from whom he heard the incident.*

22. *PW6, Pran Gopal Jha, ASI of Police being the I.O. of this case deposed inter alia that on 01.02.2022 he was posted as ASI of Police at Gazole P.S. and on that date one Dipen Mandal submitted a complaint being received by the I/C concerned and PW6 identified the endorsement of the I/C concerned being marked as Exhibit-P1/1/PW6. PW6 proved the formal FIR being marked as Exhibit-P2/PW6.*

*He further deposed that he was endorsed to investigate the case and during investigation he recorded the statement of the available witnesses u/s 161 Cr.P.C, visited the place of occurrence, prepared rough sketch map and index being marked as Exhibit-P-3/PW6 and P-3/1/PW6, respectively. He further deposed that he collected injury report of Amal Mondal and other medical documents and he also arrested accused Ratan Roy and Joydeb Sardar and forwarded them before the Court. He further deposed that after consultation with his superiors submitted charge sheet being no. 159/2022 dated 19.02.2022, u/s 341/324/325/308/34 IPC against the accused persons.*

*23. During cross-examination PW6 deposed that he did not seize blood stained clothes and also did not cite persons residing near the place of occurrence as witness in this case.*

*24. On hearing the Ld. PP in Charge and the Ld. Counsel for the accused, the following transpires.*

*25. Though PW5 Kamal Mondal being the brother of the complainant namely Dipen Mandal had deposed that prior to 2-4 years he heard that the accused persons assaulted his younger brother Amal Mondal who had sustained injuries on his head and was treated at Hatimara Rural Hospital as he had sustained injuries on his head, yet he had during his cross-examination deposed that he was not present when the alleged incident took place. He had further deposed that he did not witness the incident and that he cannot say the name of the person from whom he heard the incident which infuses some doubt regarding the veracity of his evidence.*

*26. it is also pertinent to note herein that his evidence is not corroborated by the main witness being the victim in this case as he had deposed that in the year 2022 while he was returning from the parental house of his wife and that many people were there in intoxicated condition and when he went to confront them, there was hue and cry and that he was pushed in the meantime and that he fell down and sustained injuries on his head.*

*Thus it is clear from the above that the factum of alleged assault does not find place in the evidence of PW 4 being the victim of this case.*

*27. Further, the complainant being examined as PW 2 had deposed that the incident occurred prior to 2-3 years ago while his brother was going to a 'mela' and at that time there was only hot altercation with his brother and the accused persons. Thus even his evidence does not find any factum of assault by the accused to PW 4.*

*28. Thus, it can be summarized that when the victim did not utter any single incriminating material, the other evidence being the evidence of the Investigating Officer and that of PW 5 loses its credence.*

*29. The Hon'ble Court in the case of **Swaran Singh Rattan Singh Vs. State of Punjab reported in AIR 1957 SC 637** had been pleased to observe that it is now well settled that what is necessary for proving the prosecution case is not the quantity but a quality of evidence. In the instant case the court cannot over look the changes and variation of the witness account to prove the charge of offence against the accused.*

*30. In **Mohim Mozumder Vs. the State (2007)2C CrLR(cal)** it was held that the golden rule in the criminal jurisprudence suggests that to hold the accused guilty of the offence, the prosecution must prove involvement of the accused to such an extent where no second opinion could be held meaning thereby the accused could only be implicated with an unimpeachable evidence as against him. Nothing short of such evidence could send him to gallows.*

*31. It is the cardinal principle of criminal jurisprudence that the Prosecution case has to be proved beyond reasonable doubts. The Hon'ble Apex Court in **Latesh V. State of Maharastra [Criminal Appeal No. 1301 of 2015, decided on January 30, 2018]** has been pleased to explain that the reasonable doubt in a lucid manner as a mean between excessive caution and excessive indifference to a doubt.*

*Moreover, it has been explained that reasonable doubt should be a practical one and not an illusory hypothesis.*

*32. As such it can be deciphered that the testimony available before this Court have failed to satisfy this Court by producing such unimpeachable evidence so as to warrant conviction of the accused persons and hence the accused must be entitled to get benefit of doubt*

*33. With such state of the evidence on record, this court declares that the prosecution has failed to prove the charge against the accused persons beyond reasonable doubts. Accordingly, both the points for determination are decided in negative against the prosecution.*

*Hence, it is*

**ORDERED**

*that the accused persons namely Ratan Roy and Joydeb Sardar are found Not Guilty of offences under Sections 341/325/308/34 of I.P.C. and are hereby acquitted under Section 235 (1) Cr.P.C and set at liberty at once.*

*The accused persons as well as their sureties are hereby discharged from the respective bail bond liabilities.*

*The articles on zimma, if any, to be permanent after statutory period is over.*

*The seized articles, if any, to be destroyed after the statutory period is over.*

*Copy of the Judgment be sent to the District Magistrate, Malda as well as Ld. Secretary, District Legal Service Authority, Malda 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, Malda.*

*Note in the TR and CIS.*

*Dictated, Corrected By Me.  
S/D N Tamang.*

*ASJ, FTC-1, Malda.*

***ASJ, FTC-1, Malda***