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FORM A

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE, FAST TRACK COURT, 1ST AT  
MALDA**

Present: SRI NIRNAYA TAMANG (WB01096)  
Additional District Judge, Fast Track Court, 1<sup>st</sup> Court, At Malda



**Sessions Case No. 152 of 2022**  
**Sessions Trial No 14(08)/2022**  
**CIS Registration No. 152 of 2022**

**CNR No. WBML01-003847-2022**

(Habibpur P.S. Case No. 29/21 dated 26.01.2021 under Sections 186/353/379/411 of I.P.C R/W section 14 (A)(b)/ 14 (C) of F. Act corresponding to GR Case no 427/2021)

**Date of Delivery of Judgment: Tuesday, the 26<sup>th</sup> Day of August, 2025**

Complainant	State of West Bengal
REPRESENTED BY	Ld. PP In Charge, Golam Gous Khan
ACCUSED	1. Ripan Mandal S/o Niranjan Mandal
REPRESENTED BY	Ld Adv Swarup Halder

**FORM B**

Date of Offence	26.01.2021
Date of FIR	26.01.2021
Date of Charge sheet	12.03.2021
Date of Framing of Charges/Plea	24.08.2022
Date of commencement of Evidence	10.11.2022
Date on which Judgment is reserved	26.08.2025
Date of Judgment	26.08.2025
Date of the Sentencing Order, if any	-

**Accused Details:**

Rank of the accused	Name of Accused	Date of Arrest/ Surrender	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, Cr.P.C.

**Sessions Case No. 274 of 2024**  
**Sessions Trial No 10(07)/2025**  
**CNR No. WBML01-005680-2024**

1.	Ripan Mandal S/o Niranjan Mandal	02.08.22	03.08.22	under Section 14 (C) of F. Act	Acquitted	N.A.	N.A.
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**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>
PW1	Jayant Kumar Singh	Raiding party
PW2	Umesh Chand	Defacto complainant
PW3	T. Hussain Sherif	Raiding party
PW4	Kushal Roy	Raiding party
PW5	SI Kazidulal Masud	Investigating Officer

**B. Defence 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>

**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>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1.	Exhibit-1	Written complaint
2.	Exhibit-2	Signature of PW3 on the seizure list

**B. Defence:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1.		

**C. Court Exhibits:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1		

**D. Material Objects:**

<b>Sr. No.</b>	<b>Material Object Number</b>	<b>Description</b>
<i>1</i>		

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

1. The case stems from a written complaint of Inspector Umesh Chand to the effect that on 26.01.2021 at about 5.30 hours, the on duty BSF personnel noticed some suspicious movement of miscreants with cattle head near BP No 219/98-R and on being challenged the miscreants attacked upon the on duty BSF personnel and after hot chase, they managed to apprehend M A Masud along with Indian Currency of Rs 162/-, one mobile phone and one Bullock. On being asked he failed to produced any Passport/Visa for entering into Indian territory and any document regarding he cattle found from his possession. On further quary he stated that he obtained the cattle fraudulently and clandestinely and he also stated that he was sheltered and engaged for shuttering job at Bangalore since last 09 months by one Kartik Barui and Ripan Mandal of Gourpara, PS English Bazar, District- Malda and 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 section 14 (C) of Foreigners Act against the accused person in compliance with section 173 (5) of the CrPC.

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

4. The record was sent this Court for trial and disposal on 13.07.2022. This court received the record on 11.07.2022.

**THE CHARGE:**

5. Upon receipt of the case record, charge under sections 14 (C) of Foreigners Act was framed against accused person and that the contents of the charge was read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

5A. Let it herein be mentioned that the accused M.A. Masud had pleaded guilty on 24.08.2022 and that he was sentenced to Rigorous Imprisonment for three years along with fine.

6. In this case, five prosecution witnesses have been examined and as the Prosecution could not adduce any further evidence, the further evidence was closed.

**EXAMINATION U/S 313 CRPC.**

7. Thereafter the accused person was examined u/s 313 of Cr.P.C, 1973 and on being asked he declined to adduce any evidence in support of his defense.

**THE DEFENCE VERSION:**

8. False implication and innocence of the accused person 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 person is guilty of the charge punishable u/s 14 (C) of Foreigners Act ?
2. Whether the Prosecution proved the case against the accused person 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 person 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 visavis the evidence on record, it is imperative to see as to what the sections under which the accused persons have been charged lays down.*

*Ingredients of section 14 (C) of Foreigners Act reads as under:-*

*Section 14C of the [Foreigners Act, 1946](#), penalizes the abetment of offenses under Sections 14, 14A, or 14B of the Act. The essential ingredients are:*

- 1) an offense under the specified sections of the Act must have been committed,*
- 2) the accused must have abetted that offense, and*
- 3) the abettedact must have been committed in consequence of the abetment.*

**ANALYSIS OF THE EVIDENCE ON RECORD**

12. PW-1 : Jayant Kumar Singh deposed that on 26.1.2021 at around 5.30 a.m. 5/6 persons were trying to cross the Indo-Bangladesh Border from the side of India. Thereafter the personells namely, SI – Kushal Roy and Head Constable – Ajit Kumar threw one grenade towards those persons and one M. A. Masud was apprehended and the rest fled away. He further deposed that M.A Masud was apprehended with one cattle, one mobile and Rs.162/- of Indian currency. He further deposed that Kushal Roy and Ajit Kumar called the Company Commander namely Umesh Chand who came to the spot and interrogated the said M. A. Masud and on interrogation, the said M. A. Masud admitted that he was a citizen of Bangladesh. That the said M.A Masu could not produce any valid document to show that he legally entered into the territory of India. He further deposed that on further interrogation, the said M. A. Masud stated that he entered into the Indian territory 9 months back and was in Bengaluru and on the alleged date at the alleged time, he was trying to cross over the Indo-Bangladesh Border to return to Bangladesh. The Company Commander Umesh Chand wrote the FIR and handed it over to men along with the accused person. He thereafter brought the accused to Habibpur PS and handed him over to the PS and lodged the FIR. He also deposed that the seized mobile and the cash amounting to Rs.162/- were also handed over to the PS.

13. PW2 Umesh Chand deposed that on 26.01.2021 at around 5.30 am one Bangladeshi citizen was going towards the Indo-Bangladesh Border from the side of India near Harinathpur BOP under Itaghati Post and he was accompanied by 5/6 persons who somehow managed to escape.. He further stated that the said Bangladeshi was apprehended with some cattle and on interrogation he disclosed his name as MA Masud who entered into Indian territory in the month of September of the year 2020 through Bunpur Border with the aid and assistance of one Kartick Mandal and one Ripan Mandal. He further stated that on 22.01.2021 M A Masud came to the house of Ripan Mandal situated within the jurisdiction of Kaliachak PS. He identified the written complaint being marked as Ext 1.

14. During cross-examination, he inter-alia deposed that he did not state in the FIR that on 22.01.2021, the accused M.A Masud came to the house of Ripan Mondal.

15. PW-3 : T. Hussain Sherif deposed that on 26.1.2021 at around 5.30 a.m. their personnel apprehended one M. A. Masud near the Indo-Bangladesh Border and their Company Commander instructed him to hand M.A Masud over to Habibpur PS. He also identified his signature on the re-seizure list being marked as Exbt.2).

16. P.W 4 Kushal Roy deposed on 26.01.2021, he was posted as SI of BSF at Harinathpur BOP under Habibpur P.S. On that day, they had seized one cow and had arrested one accused Masud of Bangladesh who was trying to smuggle the cattle towards Bangladesh. He further deposed that they had thereafter handed over the seized cattle to Gowshala and accused to Habibpur P.S.

17. PW5 SI Kazidulal Masud deposed that on 11.02.2021 he was posted at Habibpur PS. He knows the handwriting of Sk Rahetaje Noor Nabi. He identified endorsement of Sk Rahetaje Noor Nabi over written complaint being marked as Ext 1/1. He also identified the formal FIR filled up by Sk Rahetaje Noor Nabi being marked as Ext 3. He identified seizure list of Sk Rahetaje Noor Nabi dated 26.01.2021 being marked as Ext 2 and rough sketch map with index of Sk Rahetaje Noor Nabi being marked as Ext 4 and 4/1. He further stated that after consultation with his superiors he submitted charge sheet against the accused persons.

18. After hearing the Ld. PP in Charge and the Ld. Defence Counsel, the following transpires.

19. There is nothing before the Court to connect the accused persons with the alleged offence apart from the statement of the I/O and PW 1.

Moreover, PW 1 had deposed during cross-examination that he did not state in the FIR that on 22.01.2021, the accused M.A Masud came to the house of Ripan Mondal.

20. The best persons to connect the accused persons with the alleged offence would have been the Bangladeshi accused. The I/O ought to have prayed for recording of the statement of the said accused u/s 164 CrPC which in a sense would have helped this Court to connect the accused with the allegations that they had harbored Bangladeshi.

21. P.W 3 and PW 4 also did not depose anything regarding the culpability of the present accused Ripan in so far harbouring of MA Masud is concerned.

22. It is also pertinent to note herein that the Prosecution could not bring the first I.O IC Sk Rahetaje Noor Nabi before the Court. Apart from the statement recorded u/s 161 CrPC, the Prosecution has not been able to bring forth any clinching evidence to show that accused Ripan had played a pivotal role in sheltering the accused MA Masud and also helped him enter India illegally.

23. It is to be mentioned herein that PW 1 despite being a member of the raiding party could not depose any incriminating material against the accused persons. Even PW 2 expressed his inability to identify the accused persons. The I/O also did not clearly specify as to from whom he gathered the information that the present accused persons had harbored the Bangladeshi accused persons.

22. 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 person and hence the accused person must be entitled to get benefit of doubt.

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

Hence, it is

**ORDERED**

that the accused person namely Ripan Mandal S/o Niranjan Mandal is found Not Guilty of offences under section 14 (C) of Foreigners Act and is hereby acquitted under section 235 (1) Cr.P.C and set at liberty at once.

The accused person as well as his surety are hereby discharged from his 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<sup>st</sup> Court, Malda**

**ASJ. FTC 1<sup>st</sup> Court, Malda**