

Form A

District : Malda	
<u>IN THE COURT OF THE JUDGE, SPECIAL COURT, CHANCHAL, MALDA.</u>	
Present : Shri Joy Sankar Roy (WB00858) Judge, Special Court, Chanchal, Malda.	
[Date of the Judgment : The 8 th day of April, 2026]	
<u>S.T. No. 06(07)/2023</u> Sessions Case No. 76 of 2023	
(Arising out of Pukhuria P.S. Case No. 46/2022 dated 18-02-2022 was registered under Section 448/323/376/511/34 of IPC)	
(Details of FIR /Crime and Police Station)	
Complainant	STATE OF WEST BENGAL
REPRESENTED BY	NAME OF THE ADVOCATE- Mr. Chinmoy Mishra
ACCUSED	A1. NAME WITH ALL PARTICULARS: Ansur Ali @ Md. Anisur Rahaman, S/o- Late Idrish Ali, aged 55 years, Muslim, resident of Rajapur, PS Pukhuria, District Malda. A2. NAME WITH ALL PARTICULARS: Mobarak Ali, S/o- Ansur Ali @ Md. Anisur Rahaman, aged 21 years, Muslim, resident of Rajapur, PS Pukhuria, District Malda. A3. NAME WITH ALL PARTICULARS: Aleja Bibi, w/o- Ansur Ali @ Md. Anisur Rahaman, aged 51 years, Muslim, resident of Rajapur, PS Pukhuria, District Malda.
REPRESENTED BY	NAME OF THE ADVOCATES- Bangshi Badan Das

Form B

Date of Offence	21-01-2022
Date of FIR	18-02-2022
Date of Charge-sheet	30-05-2022
Date of Framing of Charges	12-07-2023
Date of commencement of Evidence	21-08-2025
Date on which Judgment is reserved	11-03-2026
Date of the Judgment	08-04-2026
Date of the Sentencing Order, if any	Not Applicable

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, Cr.P.C.
A1	Ansur Ali @ Md. Anisur Rahaman	Surrendered on 08.03.2022	08.03.2022	448/376/511 /323/34 of IPC	Acquitted	N.A.	NIL
A2	Mobarak Ali	Surrendered on 08.03.2022	08.03.2022	448/376/511 /323/34 of IPC	Acquitted	N.A.	NIL
A3	Aleja Bibi	Surrendered on 08.03.2022	08.03.2022	448/376/511 /323/34 of IPC	Acquitted	N.A.	NIL

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	XXXXXX	Complainant
PW 2	XXXXXX	Husband of the complainant
PW 3	Firoj Ali	Independent Witness
PW 4	Aklema Bibi	Independent Witness
PW 5	Samirul Islam @ Samiul Hoque	Independent Witness

B. Defence witnesses, if any: Not Examined

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW 1	NIL	NIL
DW 2	NIL	NIL

C. Court witnesses, if any: Not Examined

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW 1	NIL	NIL
CW 2	NIL	NIL

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	X	Written Complaint
2	Exhibit- P-1	The statement u/s 164 Cr.P.C.

B. Defence : NIL

Sr. No.	Exhibit Number	Description
1	Exhibit-	NIL
2	Exhibit-	NIL

C. Court Exhibits : NIL

Sr. No.	Exhibit Number	Description
1	Exhibit-	NIL
2	Exhibit-	NIL

D. Material objects: NIL

Sr. No.	Material Object Number	Description
1	MO 1	NIL
2	MO 2	NIL

J U D G M E N T

1) **The Charge:**

All the accused stand charged for wrongfully entering into the house of the complainant while she was alone in her house with the intention to commit crime, and causing hurt to the complainant thereby committing the offences punishable under Sections 448/323/34 of the IPC and A1 stands charged for attempting to commit rape upon the complainant thereby committing the offences punishable under Sections

376/511 of the IPC.

2) **The First Information Report:**

This case had its genesis in the complaint lodged by the complainant before Learned ACJM, Chanchal, who directed to treat the same as an F.I.R. and to cause investigation. On the basis of the said written complaint Pukhuria P.S. Case No. 46/2022 dated 18.02.2022 was registered under Sections 448/323/376/511/34 of IPC.

3) **The facts of the case:**

There was a dispute between the family members of the complainant and the accused regarding landed property. As the husband of the complainant was residing in another state for his job, the complainant used to reside at her home alone. Taking the advantage, on 21.01.2022 at about 10:00 p.m. A1 entered into the house of the complainant and outraged her modesty by disrobing her and also by touching her body parts. A1 even attempted to commit rape upon her. The complainant raised alarm. The nearby people rushed to the place of occurrence. The other accused also came there and abused the complainant with filthy languages. They even assaulted the complainant with fist and blows, kicks and also by sticks. The complainant was treated medically. She reported the matter to police, who took no steps. So, she lodged a petition of complainant under Section 156(3) Cr.P.C. before the Ld. ACJM, Chanchal.

4) **The Investigation:**

i) Soon after the case was registered, SI Subrata Kumar Basak, the Investigating Officer of Pukhuria PS took up its investigation.

ii) During investigation he visited the place of occurrence, prepared its rough sketch map with index, examined several witnesses and recorded their statements u/s 161 Cr.P.C. He sent the victim girl for her medical examination and recording her statement judicially and collected the report.

5) **The Charge-sheet:**

Upon completion of investigation, the charge-sheet against the accused was submitted for committing the offences punishable under Sections 448/323/376/511 IPC.

6) **Framing of Charge:**

Upon consideration of the record of the case and the documents submitted therewith and after hearing the submission of the accused and the prosecution in this behalf this court presumed that the accused have committed the offence which is exclusively triable by this court, framed in writing a charge against all the accused under Sections 448/323/34 of IPC and under Section 376/511 IPC against A1. The charges were read over and explained to the accused and the accused are asked whether they guilty of the offences charged or claimed to be tried. The accused pleaded not guilty and claimed to be tried.

7) **The Trial:**

i) In order to prove the charge against the accused, prosecution has examined only 5 witnesses. Documents were marked as Exhibits X and P-1.

ii) The defence side chose not to adduce any defence witness on their behalf. They remained content with cross-examination of the prosecution witnesses and denial thereof.

8) **Examination of the accused:**

As mandated under Section 313 of the Cr.P.C., the accused were given due opportunity to personally explain the circumstances appearing against them in evidence. All the incriminating facts, circumstances and evidence were put to them as appeared in the testimonies of prosecution witnesses and the corresponding documents. Thereafter, they were called on for their defence. However, no oral or documentary evidence was produced by them in defence.

9) **Defence Case:**

Defence plea as it appears from the trend of cross-examination of prosecution witnesses and examination of the accused under Section 313 of the Cr.P.C. is one of complete innocence of the accused. According to the accused, they have been falsely implicated in this case.

10) **POINTS FOR DETERMINATION**

The following points for determination arise in this case :-

i) *Whether all the accused in furtherance of common intention wrongfully entered*

into the house of the complainant while she was alone in her house with the intention to commit crime and causing hurt to the complainant, thereby committed the offence punishable under Sections 448/323/34 IPC;

- ii) *Whether accused A1 attempted to commit rape on the complainant, thereby committed the offence punishable under Sections 376/511 IPC*
- iii) *Whether the prosecution is able to prove the charges against the accused beyond reasonable doubt.*

11) **DECISION WITH REASONS:**

All the points, taken up for consideration and determination seem to be related with each other and they are taken up collectively for discussion and adjudication for the sake of brevity of the judgment and to refrain from repetition.

12) **ARGUMENT:**

- i. Learned Public Prosecutor in charge argued that the accused not only wrongfully entered into the house of the complainant while she was alone in her house with the intention to commit crime but also attempted to commit rape upon her by putting off her wearing apparel and caused hurt to the complainant. The statement of the complainant was recorded by the Ld. Magistrate. He submitted that prosecution has been able to prove the case against the accused beyond reasonable shadow of doubt and prayed for conviction of the accused.
- ii. Learned advocate for the accused vehemently argued that the prosecution is under duty bound obligation to prove each and every ingredient of the offences of which the accused are charged with; mere allegation is not suffice to prove the contention. He contended that the prosecution has miserably failed to prove any of the charges splashed against the accused and they deserve acquittal under the canopy of benefit of doubt.

13) It is cardinal rule of criminal jurisprudence that the accused always has a presumption of innocence in their favour and the prosecution must prove the ingredients of the offences with which the accused are charged beyond reasonable

doubt. Now, let us scrutinize the evidence adduced by the prosecution during the trial in its entirety to find out as to whether the accused have committed the alleged offences beyond reasonable doubt or not.

14) **PROSECUTION EVIDENCE:**

- i. PW-1, the complainant deposed that she lodged a complaint with the Chanchal Court. She identified the accused on dock. She could not remember when, where and what incident took place. The written complaint was prepared by some other person and she put her LTI. She was never interrogated by police. She could not recollect whether she was taken to hospital. She could not recollect whether she had given statement before the Magistrate or not. However, her statement recorded under Section 164 Cr.P.C. by the Ld. Magistrate was marked as Exhibi-1.
- ii. PW-2 deposed that his wife filed the case. But he only heard of the case. He could not remember when, where and what incident took place.
- iii. PW-3, PW-4 and PW-5, the independent witnesses know nothing about this case. They were never interrogated by police.

15) **Appreciation of Evidence:**

- i. In this case, neither the complainant nor her husband could remember in their evidence when, where and what incident took place. The independent witnesses also know nothing regarding the case.
- ii. The written complaint was prepared by some other person. The written complaint itself has not been marked as an Exhibit. Needless to say that the complainant herself has not corroborated her written complaint in her evidence before this court.
- iii. Although, the complainant in her previous statement recorded by the Ld. Magistrate under Section 164 Cr.P.C. narrated that the accused assaulted her and also tore her wearing apparels, but in her evidence before this court, she has not corroborated the same. In such predicament, no reliance can be placed on such previous statement of the complainant recorded under Section 164

Cr.P.C.

- iv. Practically, there is no cogent and corroborative evidence that the accused entered into the house of the complainant, caused hurt to her or A1 attempted to commit rape upon the complainant.

Conclusion:

16) On the basis of the discussion made above, I am of the view that the prosecution has utterly failed in proving the charges against the accused beyond reasonable doubt.

17) The points undertaken for consideration are replied accordingly.

18) Hence, it is

ORDERED

that the accused namely, (A1) Ansur Ali @ Md. Anisur Rahaman, (A2) Mobarak Ali and (A3) Aleja Bibi are all found not guilty of the charges punishable under Sections 448/323/34 IPC and (A1) Ansur Ali @ Md. Anisur Rahaman, is found not guilty of the charge punishable under Section 376/511 IPC. They are hereby acquitted from this case under Section 235(1) of the Code of Criminal Procedure.

Accused are permitted to remain on same bail bond till expiry of six months from the date of this order as provided under Section 437A of the Code of Criminal Procedure.

The seized alamats, if any, be disposed of in accordance with law after the period of appeal is over.

Regarding acquittal of accused, the victim has a right to prefer an appeal under proviso to Section 372 of the Code of Criminal Procedure and, if necessary, she may avail free legal aid.

Copy of judgment be forwarded to the Sub-Divisional Legal Services Authority at Chanchal and the District Magistrate, Malda.

Dictated & Corrected by me

*Sd/-
(Joy Sankar Roy)
Additional Sessions Judge
Chanchal, Malda.*

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(Joy Sankar Roy)
Additional Sessions Judge,
Chanchal, Malda.*