

**FORM A**

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE, CHANCHAL, MALDA <b>Present: Smt. Pradipta Bhattacharya, Additional Chief Judicial Magistrate, Chanchal, Malda</b> Judicial Officer's Code : WB01286 The 7 <sup>th</sup> day of March, 2026 G.R Case No. 1307 of 2022 Trial No. 34 of 2024 CNR No. WBML080002302022 Chanchal P.S case No. 539 of 2022	
COMPLAINANT	State of West Bengal
REPRESENTED BY	Sri Pintu Ghosh
ACCUSED	1. Belal Ali (A1) 2. Afsana Bibi (A2)
REPRESENTED BY	

**FORM B**

Date of Offence	24.05.2022
Date of FIR	24.05.2022
Date of Charge sheet	28.06.2022
Date of Framing of Charges	25.04.2024
Date of commencement of Evidence	10.07.2024
Date on which Judgment is reserved	Not Applicable
Date of the Judgment	07.03.2026
Date of the Sentencing Order, if any	Not Applicable

**Accused details:**

Rank of the Accused	Name of the 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	Belal Ali	Not Applicable	31.05.2022	Section 448/323/34 IPC	Acquitted	Not Applicable	Not Applicable
A2	Afsana Bibi	Not Applicable	31.05.2022	Section 448/323/34 IPC	Acquitted	Not Applicable	Not Applicable

**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	Ashanur Khatun	Defacto complainant
PW 2	Alamgir Ali	Other witness

PW 3	Sohel Ali	Other witness
PW 4	Helal Ali	Other witness

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

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

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

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

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

**A. Prosecution:**

Sr. No.	Exhibit Number	Description
1.	Exhibit PW1/P-1	Signature in the written complaint

**B. Defence:**

Sr. No.	Exhibit Number	Description
1.	Exhibit	NIL

**C. Court Exhibits:**

Sr. No.	Exhibit Number	Description
1.	Exhibit	NIL

**D. Material Objects:**

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

**J U D G M E N T**

**PROSECUTION CASE**

This case arose out of a written complaint filed by one Ashanur Khatun to the effect that on 24.05.2022 at about 18:00 hours the accused persons started to abuse the complainant with filthy languages over the issue of family matter. On protest, all the above named accused persons assaulted the complainant with fists, blows, kick, lathi, broom. As a result of which the complainant received injury on her person and was treated at Malatipur Hospital. Hence, this case.

Treating such written complaint as an FIR, a Chanchal P.S. Case No. 539/2022, dated 24.05.2022 under Section 341/323/325/34 of the Indian Penal Code was started and after completion of investigation, the I.O. of this

case submitted charge sheet being No. 646/2022 dated 28.06.2022 under Section 448/323/34 of the Indian Penal Code against the accused persons. Thereafter the case was transferred to this Court for disposal. Charge was framed under Section 448/323/34 of IPC against those accused persons. The accused persons denied the charge and claimed to be tried.

The complainant, Ashanur Khatun, was examined as P.W.1, Alamgir Ali was examined as P.W.-2, Soheli Ali was examined as P.W.-3 and Helal Ali was examined as P.W.-4. No other witness is examined on behalf of the prosecution. Thereafter, the accused persons were examined under Section 313 of the Code of Criminal Procedure. The defense case as it appears from the trend of cross examination is the denial of the charge and plea of innocence.

**POINTS FOR CONSIDERATION**

1. whether the accused persons in furtherance of common intention trespassed into the house of the complainant and voluntarily caused hurt ?
2. Has the prosecution been able to prove its case beyond all reasonable doubts?

**DECISION WITH REASON**

As because both the above-mentioned points for determination are inter related with each other, for the sake of convenience and brevity both the points will be discussed jointly in this judgment. Ld lawyer for the accused persons during the course of argument submitted that the prosecution has miserably failed to prove the charges framed against the accused persons and for that reason the accused persons must be acquitted. He further submitted that the witnesses examined in this case have failed to say anything from which the charges made against the accused persons can be said to have been proved and hence the accused persons are liable to be acquitted. Ld A.P.P raised cavil against the prayer of the accused persons. In all his fairness he submitted that there are not sufficient materials from which it can be said that the case has been proved beyond reasonable doubt.

For the canons of criminal trial that has been formulated by catena of decisions of the Hon'ble Courts, there is no quandary over the legal proposition that the general burden of proof is always upon the prosecution; and if, on the basis of the evidence adduced by the prosecution or by the accused persons, there is a reasonable doubt whether the accused persons committed the offence or whether they are entitled to the benefit of doubt.

Thus, being guided by the above proposition of law; this Board must set out a voyage in the evidences available on record to see whether the prosecution has been able to prove the act/occurrences which constitute the

offences and whether it has managed to connect the accused persons with such offences. Therefore, it is now necessary to conduct a detailed probe into the evidences available on record.

As already pronounced in this judgment; the prosecution is vested with the indelible duty to prove beyond reasonable doubt that accused persons had committed the offence with the requisite mens rea; and the burden of proving that always rests on the prosecution from the beginning to the end of the trial. In this case it is evident that out of 07 witnesses named in the charge sheet 04 of them has been examined by the prosecution. None of the witnesses have supported the case of the prosecution. The prosecution story garners no support from the version of P.W-01 even who is the de-facto complainant and the alleged injured in this case. Other witnesses also although did not deny about the occurrence of the incident but deposed in the fashion that on that day over the issue of earlier land dispute some hot altercation took place in between the parties and out of that grudge the instant case was filed by the de-facto. During deposition she went even further and had stated that on that date, she neither got injured nor went to the doctor even. Prosecution did not declare any of them to be hostile. So, in absence of any witness and any incriminating materials benefit of doubt always remain in favour of the accused persons.

Therefore, upon appreciation of the entire evidence on record the involvement of the accused persons and commission of the offences charged with, is under serious doubt and therefore following the canons of criminal jurisprudence we must say that there are not sufficient and impeachable evidences on record to convict or even relate the accused persons to the incident alleged in the FIR. The maker of the FIR has refused to stand and support the contents of the FIR. The allegations made against the accused persons are far from being evinced in this case and upon appreciation of the evidences on record, we have no dichotomy to conclude that the prosecution has miserably failed to prove its case and the case of the prosecution is not at all proved beyond reasonable doubt rather it is dubious. So, in this case the accused persons are not liable to be punished since the charge against them has not been proved by the prosecution. Hence, this Board must acquit the accused persons.

Thus, in the absence of the basic ingredients in order to constitute an offense under Sections 448/323/34 of the Indian Penal Code, it can safely be said that prosecution has miserably failed to prove this case by placing cogent evidence and as a result of which I am inclined to acquit the accused persons.

Hence, it is

**ORDERED**

That the accused persons namely **1. Belal Ali (A1)** and **2. Afsana Bibi (A2)** are acquitted under Section 248(1) of the Code of Criminal Procedure in respect of offenses under Section 448/323/34 of the Indian Penal Code and are set at liberty.

Accused persons are released from his bail bond.

Surety is discharged from his liabilities.

The accused persons are on Court bail. Bail bonds shall remain in force for the next six months as per the mandate of Section 437A of the Code of Criminal Procedure.

The judgment is delivered in open Court.

Let the soft copy of the judgment be uploaded in the CIS within 48 hours from this day as per Rule 186 A of Cr.R.O. of the Hon'ble High Court, Calcutta.

Make necessary noting in the germane Register.

The victim has a right to prefer an appeal under the provision to Section 372 of the Code of Criminal Procedure and if necessary she is entitled to avail free legal assistance through Legal Services Authorities concerned to prefer & prosecute such appeal.

Let a copy of this judgment be forwarded to the District Magistrate, Malda & Secretary, DLSA, Malda for due intimation to the victim as defined under Section 2(wa) of the Code of Criminal Procedure.

B.C.- I and B.C.- II to comply.

Dictated & Corrected by me,  
**Sd/- Pradipta Bhattacharya**  
Addl. Chief Judicial Magistrate,  
Chanchal, Malda.

**Sd/- Pradipta Bhattacharya**  
Addl. Chief Judicial Magistrate,  
Chanchal, Malda