

FORM --- A

IN THE COURT OF JUDICIAL MAGISTRATE NABADWIP, NADIA
--- PRESENT --- Smt. Sneha Basu (JO Code No. WB-01437) Judicial Magistrate Nabadwip, Nadia
GR Case No. 154 of 2021
CNR No. WBND06 000057 2021
Case under Section 504/505(1)(a)/505(1)(b) of Indian Penal Code.
Delivery date of Judgment: 1 st day of July, 2026
--- Details of the FIR/Crime and Police Station --- The instant case has been initiated in connection with Nabadwip Police Station Case No. 407 of 2020 dated 12.10.2020.

COMPLAINANT	---	STATE OF WEST BENGAL
REPRESENTED BY	---	Sri Nabendu Mondal, Ld. A.P.P
Name of accused persons	---	1. Sourav Goswami
Represented by	---	Ld. Advocate for the accused person, namely, Rajkumar Das

FORM --- B

Date of Offence	---	12.10.2020
Date of FIR	---	12.10.2020
Date of Charge-Sheet	---	26.11.2020
Date of Framing of Charge/Plea	---	11.08.2022
Date of commencement of evidence	---	13.06.2023
Date on which judgment is reserved	---	Not Applicable
Date of the judgment	---	01.07.2026
Date of the sentencing order, if any	---	Not Applicable

--- ACCUSED DETAILS ---

Rank of the accused	Name of Accused	Date of Arrest	Date of release or Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during Trial for purpose of Section 428 CrPC.
01.	Sourav Goswami	Voluntarily surrendered	21.11.2020	Section 504/505(1)(a)/505(1)(b) of IPC.	Acquitted	Not applicable	Not applicable

FORM --- C**--- LIST OF PROSECUTION/DEFENCE/COURT WITNESSES---****A. PROSECUTION :-**

Rank	Name	Nature of evidence
PW-1	Bacchu Saha	Local Witness
PW-2	Tanmoy Kundu	Local witness

B. DEFENCE WITNESSES, IF ANY :-

Rank	Name	Nature of evidence
Nil	Nil	Nil

C. COURT WITNESSES, IF ANY :-

Rank	Name	Nature of evidence
Nil	Nil	Nil

--- LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS ---**(A). PROSECUTION :-**

Sl. No.	Exhibit Number	Description
01.	Nil	Nil

(B). DEFENCE :-

Sl. No.	Exhibit Number	Description
Nil	Nil	Nil

(C). COURT EXHIBITS :-

Sl. No.	Exhibit Number	Description
Nil	Nil	Nil

(D). MATERIAL OBJECTS :-

Sl. No.	Material Object Number	Description
Nil	Nil	Nil

Facts of the Case:-

1. The prosecution case, in brief, is that on 12.10.2020, during social media monitoring, the informant, a police officer, noticed certain Facebook posts allegedly uploaded by the accused which depicted communal violence and were accompanied by comments likely to provoke hatred against the police and create communal tension, thereby disturbing public peace. On the basis of the written complaint, Nabadwip P.S. Case No. 407 of 2020 dated 12.10.2020 was registered under Sections 504/505(1)(a)/505(1)(b) of the Indian Penal Code.

Upon completion of investigation, charge-sheet was submitted against the accused under the aforesaid sections.

In the meantime, the accused persons surrendered before this Court and were enlarged on bail, and they remained on bail throughout the period of trial.

Plea:-

2. The case record was subsequently transferred to this Court after cognizance of the alleged offences had been taken. Thereafter, on 11.08.2022, the particulars of the offences punishable under Sections 504/505(1)(a)/505(1)(b) of the Indian Penal Code, 1860 were stated to the accused, to which he pleaded not guilty and claimed to be tried.

Evidence on record:-

3. To substantiate its case, the prosecution examined two witnesses. PW1 Bachchu Saha identified the accused in Court but categorically deposed that he did not know anything about the case. During cross-examination, he stated that he did not know the de facto complainant and that he had never been interrogated by the Investigating Officer. PW2 Tanmoy Kundu also identified the accused in Court but deposed that he did not know anything about the case. In cross-examination, he stated that he did not know the de facto complainant and that he had never been examined by the Investigating Officer. The prosecution did not examine the de facto complainant, the Investigating Officer or any witness to prove the alleged Facebook post or its contents. No electronic evidence or certificate in support thereof was brought on record.

Examination u/s. 313 Code of Criminal Procedure, 1973:-

4. The accused person was examined u/s. 313 Code of Criminal Procedure, 1973 to which the accused person claimed to be not guilty and innocent and refused to adduce any evidence on his behalf.

Points for consideration :-

1. Whether the prosecution has been able to establish the allegations against the accused person beyond reasonable doubt?
2. Whether the accused person is liable to be convicted for the offences punishable under Sections 504/505(1)(a)/505(1)(b) of the Indian Penal Code, 1860?

Decision with reasons:-

5. It is a settled principle of criminal jurisprudence that the burden lies upon the prosecution to prove the case against the accused beyond all reasonable doubt. The accused is presumed to be innocent unless such presumption is displaced by cogent and reliable evidence adduced by the prosecution. This principle finds statutory recognition in Sections 101 and 102 of the Indian Evidence Act, 1872, which provide that the burden of proof lies upon the person who asserts a fact and upon the party who would fail if no evidence were adduced on either

side. The said principle has substantially been retained under the Bharatiya Sakshya Adhiniyam, 2023, particularly under Sections 104 and 105, which reiterate that the burden of proving the existence of a fact lies upon the person who asserts it.

In this regard, this Court places reliance upon the decision of the Hon'ble Supreme Court in *Sharad Birdhichand Sarda v. State of Maharashtra*, (1984) 4 SCC 116 : AIR 1984 SC 1622, wherein the Hon'ble Apex Court held that before the guilt of an accused can be said to be fully established, the circumstances from which the conclusion of guilt is to be drawn must be fully proved, the facts so established must be consistent only with the hypothesis of the guilt of the accused, the circumstances must be of a conclusive nature and tendency, they must exclude every possible hypothesis except that of the guilt of the accused, and there must be a complete chain of evidence leaving no reasonable ground for a conclusion consistent with the innocence of the accused. The Hon'ble Supreme Court has also reiterated this principle in *Kali Ram v. State of Himachal Pradesh*, (1973) 2 SCC 808 : AIR 1973 SC 2773, wherein it was held that if two views are reasonably possible on the evidence on record, the one favourable to the accused must be adopted. Similarly, in *V.D. Jhingan v. State of Uttar Pradesh*, AIR 1966 SC 1762, the Hon'ble Supreme Court held that it is the duty of the prosecution to prove the guilt of the accused beyond reasonable doubt and the accused is entitled to the benefit of every reasonable doubt. In order to convict the accused in the present case, the prosecution is required to prove all the essential ingredients of the offences under which the accused has been charged. Unless the prosecution succeeds in establishing the guilt of the accused beyond reasonable doubt through cogent and reliable evidence, no conviction can be sustained in the eye of law.

6. Learned Assistant Public Prosecutor submitted that the written complaint and the charge-sheet establish a prima facie case against the accused and prayed for his conviction. The defence contended that both prosecution witnesses failed to support the prosecution case and that no legally admissible evidence had been adduced to prove either the alleged Facebook post or the involvement of the accused. It was, therefore, prayed that the accused be acquitted.

7. The allegations against the accused relate to publication of objectionable material on social media. However, the prosecution has failed to adduce any substantive evidence to establish that the accused had published the alleged posts or that the contents thereof attracted the offences alleged. Both PW1 and PW2 have completely failed to support the prosecution case and have stated that they do not know anything about the incident. They have further stated that they were never interrogated by the Investigating Officer.

8. Significantly, the prosecution has not examined the informant, the Investigating Officer or any competent witness to prove the electronic evidence. The alleged Facebook post has also not been proved in accordance with law. Consequently, there is no legally admissible evidence connecting the accused with the offences alleged.

9. Accordingly, this Court is of the considered view that the prosecution has failed to establish the charges against the accused person beyond reasonable doubt. Both the points for determination are therefore answered **in the negative and against the prosecution.**

Consequently, the accused person cannot be held guilty of the offences punishable under **Sections 504/505(1)(a)/505(1)(b) of the Indian Penal Code, 1860.**

Hence, it is,

ORDERED

10. that the accused person namely, Sourav Goswami, is found not guilty for the offence described u/s. 504/505(1)(a)/505(1)(b) of the Indian Penal Code, 1860 and accordingly is acquitted u/s. 255(1) of the Code of Criminal Procedure, 1973.

The accused person shall remain in the same bonds and shall be released from his respective bail bonds after a period of six months in terms of Section 437A of the Code of Criminal Procedure. The sureties are discharged from their respective liabilities accordingly. Note in Relevant Registers and update CIS accordingly.

The victim has a right to prefer an appeal under the proviso to Section 372 of the Code of Criminal Procedure against this judgment and if required may seek free legal assistance from the appropriate Legal Services Authority for instituting such appeal.

Let a copy of this judgment be forwarded to the District Magistrate, Nadia and the Chairman, D.L.S.A., Nadia for due intimation to the victim.

Dictated & Corrected by me

Sd/-

**Judicial Magistrate,
Nabadwip, Nadia**

Sd/-

**Judicial Magistrate
Nabadwip, Nadia**