

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. 266 of 2013
CNR No. WBND06 000579 2013
Case under Section 341/323/506 of Indian Penal Code.
Delivery date of Judgment: 2 nd day of June, 2026
-:- Details of the FIR/Crime and Police Station -:- The instant case has been initiated in connection with Nabadwip Police Station Case No. 264 of 2013 dated 14.05.2013.

COMPLAINANT	-:-	STATE OF WEST BENGAL
REPRESENTED BY	-:-	Sri Nabendu Mondal, Ld. A.P.P
Name of accused person	-:-	1) Brindaban Biswas
Represented by	-:-	Ld. Advocate for the accused person, namely, Rana Biswas

FORM -:- B

Date of Offence	-:-	13.05.2013
Date of FIR	-:-	14.05.2013
Date of Charge-Sheet	-:-	26.06.2013
Date of Framing of Charge	-:-	04.03.2015
Date of commencement of evidence	-:-	24.08.2015
Date on which judgment is reserved	-:-	Not Applicable
Date of the judgment	-:-	02.06.2026
Date of the sentencing order, if any	-:-	Not Applicable

-:- ACCUSED DETAILS -:-

Rank of the accused	Name of Accused	Date of Arrest	Date of release Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during Trial for purpose of Section 428 CrPC.
01.	Brindaban Biswas	18.05.2013	31.05.2013	Section 341/323/506 of IPC.	Acquitted	Not applicable	Not applicable

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

Rank	Name	Nature of evidence
PW-1	Nabakumar Biswas	Local witness
PW-2	Kenaram Biswas	Complainant
PW-3	Gopal Kundu	Local witness
PW-4	Krishna Chandra Biswas	Local witness
PW-5	Bimal Hore	Medical 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.	Ext. 1	Injury Report
	Ext. 1/1	Signature of PW 5 on the Injury Report

(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 is that on 31.05.2013 at about 2:00 p.m. in front of the house of the accused Brindaban Biswas at Prachin Mayapur under Nabadwip P.S., the accused assaulted the defacto complainant Kenaram Biswas. The prosecution alleges that a dispute had

arisen regarding a landed property which had been purchased by the father of the complainant from the father of the accused and subsequently recorded in the name of the complainant. On the date of occurrence, the accused allegedly questioned the complainant regarding such recording and thereafter assaulted him by fist and blows, causing injuries. The injured was treated at Nabadwip State General Hospital and thereafter lodged the present complaint.

On the basis of the said complaint, Nabadwip Police Station Case No. 264 of 2013 was registered. The matter was thereafter investigated by the concerned Investigating Officer and upon completion of investigation, Charge Sheet No. 404 of 2013 was submitted under Sections 341/323/506 of the Indian Penal Code, 1860 against the accused persons.

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 04.08.2015, the particulars of the offences punishable under Sections 323/341/506 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. PW-1 Nabakumar Biswas deposed that he knew both the defacto complainant and the accused person. He stated that the accused Brindaban Biswas was the elder brother of the defacto complainant. According to him, he could not say against whom the case had been filed or why the case had been instituted. He further stated that he only knew that there existed a dispute regarding landed property between the accused and the defacto complainant. Thus, while the witness established the relationship between the parties and the existence of a land dispute, he did not support the prosecution case regarding the alleged assault.

PW-2 Kenaram Biswas, the defacto complainant, deposed that the incident took place in the year 2013 at about 2:00 p.m. in front of the house of the accused at Prachin Mayapur. He stated that his father had purchased about sixteen sataks of land from the father of the accused and the land was subsequently recorded in his name. According to him, the accused questioned him regarding such recording and thereafter assaulted him by fist and blows. He further stated that he was admitted to Nabadwip State General Hospital for about four days and after being discharged lodged the present complaint before the police. In cross-examination, PW-2 admitted that the father of the accused was the cousin brother of his father. He further admitted that there was a dispute regarding agricultural land between the parties and that a civil case concerning such property was pending between them. He denied the suggestion that he had falsely implicated the accused.

PW-3 Gopal Kundu did not support the prosecution case. He stated that he did not know the defacto complainant, though he knew the accused person. He further stated that he did not

know anything about the incident. Thus, his evidence does not lend any support to the prosecution case.

PW-4 Krishna Charan Biswas also failed to support the prosecution case. He stated that he did not know the defacto complainant or the accused persons and had no knowledge whatsoever regarding the alleged incident. No material supporting the prosecution case could be elicited from him.

PW-5 Dr. Bimal Kumar, Medical Officer of Nabadwip State General Hospital, deposed that on 31.05.2013 he examined Kenaram Biswas in the Emergency Department. The patient gave a history of assault by Brinda Biswas. On examination he found a skin tear on the right side of the nose and subconjunctival haemorrhage in the right eye. He proved the injury report which was marked as Exhibit-1 and his signature and official seal thereon were marked as Exhibit-1/1. During cross-examination, PW-5 admitted that the only external injury found was the skin tear on the right side of the nose and further stated that such injury might be self-inflicted.

As regards documentary evidence, Exhibit-1 is the injury report of Kenaram Biswas prepared by PW-5. The document records the history of assault and notes the presence of a skin tear on the right side of the nose and subconjunctival haemorrhage in the right eye. The injuries were simple in nature and the patient was advised follow-up treatment.

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

4. The accused persons were 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 their behalf.

Points for consideration :-

1. Whether the prosecution has been able to establish the allegations against the accused persons beyond reasonable doubt?
2. Whether the accused person is liable to be convicted for the offences punishable under Sections 323/341/506 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. The Learned Assistant Public Prosecutor submitted that PW-2, being the injured witness, has clearly narrated the occurrence and specifically attributed the assault to the accused. It was argued that his evidence finds corroboration from the medical evidence of PW-5 and the injury report marked Exhibit-1. The prosecution therefore contended that the charge stands proved beyond reasonable doubt. The Learned Defence Counsel argued that the prosecution case is based solely upon the testimony of PW-2. It was submitted that PW-1 has not supported the allegation of assault and that PW-3 and PW-4 have completely disowned knowledge of the incident. The defence further contended that PW-2 admitted the existence of a longstanding land dispute and pending civil litigation between the parties, thereby providing motive for false implication. It was further argued that PW-5 admitted that the injury found on the person of the complainant might be self-inflicted. Accordingly, benefit of doubt was sought.

7. The evidence on record reveals that the prosecution case substantially rests upon the testimony of PW-2, the defacto complainant and injured witness. It is true that the testimony of an injured witness ordinarily commands greater evidentiary value. However, such evidence must nevertheless be scrutinised in light of the surrounding circumstances appearing from the record.

The evidence of PW-1 establishes that the accused and the defacto complainant are brothers and that there existed a dispute regarding landed property between them. PW-2 himself admitted during cross-examination that there was a pending civil dispute concerning

agricultural land. Thus, the existence of prior animosity and litigation between the parties stands firmly established from the evidence on record.

It is further noticed that no independent witness has supported the prosecution version. PW-3 and PW-4 have not spoken anything regarding the occurrence and professed complete ignorance about the incident. Consequently, there is no independent ocular corroboration of the allegation of assault.

8. The medical evidence of PW-5 and Exhibit-1 undoubtedly establish that PW-2 sustained simple injuries on the relevant date. The skin tear on the right side of the nose and subconjunctival haemorrhage of the right eye are consistent with physical trauma. However, the medical evidence merely proves the existence of injuries and does not by itself establish the identity of the assailant. Significantly, PW-5 admitted during cross-examination that the skin tear injury might be self-inflicted.

Therefore, the prosecution case ultimately depends upon whether the sole testimony of PW-2 inspires confidence sufficient to sustain conviction. While his evidence proves the existence of prior dispute and his allegation of assault, the absence of independent corroboration, the admitted civil dispute between the parties and the nature of the medical evidence are circumstances which require careful consideration while appreciating the prosecution case.

The Court must therefore examine whether the testimony of PW-2 alone is sufficient to establish the guilt of the accused beyond reasonable doubt notwithstanding the absence of corroboration from any independent witness.

9. Accordingly, this Court is of the considered view that the prosecution has failed to establish the charges against the accused persons beyond reasonable doubt. Both the points for determination are therefore answered **in the negative and against the prosecution**. Consequently, the accused persons cannot be held guilty of the offences punishable under **Sections 341/323/506 of the Indian Penal Code, 1860**.

Hence, it is,

ORDERED

10. that the accused person namely Bridaban Biswas, is found not guilty for the offense described u/s. 341/323/506 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 their 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**