

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. 639 of 2022
CNR No. WBND06 000646 2021
Case under Section 448/323/506/34 of Indian Penal Code.
Delivery date of Judgment: 16 th 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. 511 of 2020 dated 25.12.2020.

COMPLAINANT	---	STATE OF WEST BENGAL
REPRESENTED BY	---	Sri Nabendu Mondal, Ld. A.P.P
Name of accused persons	---	1) Nargis Bibi 2) Otuba Bewa
Represented by	---	Ld. Advocate for the accused persons, namely, Sankar Deb

FORM --- B

Date of Offence	---	27.10.2020
Date of FIR	---	25.12.2020
Date of Charge-Sheet	---	13.07.2021
Date of Framing of Charge/ Plea	---	19.01.2023
Date of commencement of evidence	---	21.02.2023
Date on which judgment is reserved	---	Not Applicable
Date of the judgment	---	16.07.2026
Date of the sentencing order, if any	---	Not Applicable

--- ACCUSED DETAILS ---

Rank of the accused	Name of Accused	Date of Arrest	Date of release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during Trial for purpose of Section 428 CrPC.
01.	Nargis Bibi	Voluntarily surrendered	20.06.2022	Section 448/323/506/34 of IPC.	Acquitted	Not applicable	Not applicable
02.	Otuba Bewa	Voluntarily surrendered	20.06.2022	Section 448/323/506/34 of IPC.	Acquitted	Not applicable	Not applicable

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

Rank	Name	Nature of evidence
PW-1	Lalu Mondal	De-Facto Complainant
PW-2	Rinku Bibi	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 27.10.2020 at about 11:00 a.m., the accused persons, in furtherance of their common intention, allegedly criminally trespassed into the house of the de facto complainant, abused him and his family members in filthy language, assaulted the complainant, pressed his neck, criminally intimidated him and allegedly took away cash amounting to Rs.1,200/- from his pocket. On the basis of the written complaint, Nabadwip P.S. Case No. 511 of 2020 was registered and, upon completion of investigation,

charge-sheet was submitted against both the accused persons under Sections 448/323/506/34 IPC.

Plea:-

2. The case record was subsequently transferred to this Court after cognizance of the alleged offences had been taken. Thereafter, on 19.01.2023, the particulars of the offences punishable under Sections 448/323/506/34 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. In order to prove its case, the prosecution examined two witnesses.

PW1, the de facto complainant, deposed that the incident had taken place about five to six years ago due to a family dispute. He identified the accused persons but categorically stated that the dispute had been mutually settled. During cross-examination, he further stated that accused Nargis Bibi is his daughter-in-law residing in the same house and that he has no allegation against the accused persons.

PW2 also deposed that the dispute arose out of a family matter and has since been mutually settled. She further stated that she has no subsisting grievance against the accused persons.

No other witness was examined.

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 448/323/506/34 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 APP argued that the prosecution has examined the available witnesses and that the evidence on record is sufficient to establish the charges against the accused persons beyond reasonable doubt. He, therefore, prayed for conviction of the accused persons under Sections 448/323/506/34 of the Indian Penal Code.

7. I have carefully considered the evidence adduced and the materials available on record. The entire prosecution case rests upon the testimony of PW1 and PW2. Both these witnesses have completely departed from the allegations made in the complaint. PW1, the de facto complainant himself, has categorically stated that the dispute was a family dispute, that it has been mutually settled and that he has no allegation against the accused persons. PW2 has also supported the factum of settlement and has not implicated the accused persons in the alleged occurrence.

8. Thus, the material witnesses have failed to support the prosecution case regarding the alleged offences. There is no other independent evidence on record connecting the accused persons with the commission of the alleged offences. In such circumstances, the prosecution has failed to establish the guilt of the accused persons beyond all reasonable doubt. Accordingly, both the accused persons are entitled to the benefit of doubt.

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 448/323/506/34 of the Indian Penal Code, 1860.**

Hence, it is,

ORDERED

10. that the accused persons namely Nargis Bibi and Otuwa Bewa, are found not guilty for the offence described u/s. 448/323/506/34 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**