

IN THE COURT OF JUDICIAL MAGISTRATE, FIRST CLASS, 2 nd COURT, RANAGHAT, NADIA PRESENT : SHAKIB AKHTAR JO Code- WB01522 [GR Case No. 1291/2024] [Reg. 350-26] T.R. No. 347/2026 (Arising out of Dhantala P.S. Case No. 242 dated 01.04.2024) <u>Under Sections 447/323/354/506/34 of the Indian Penal Code</u> <u>Date of Judgment-01-08-2026</u>	
Complainant	STATE OF WEST BENGAL
REPRESENTED BY	Ld. APP Mr. Chandrasekhar Chowdhury
ACCUSED	1. Sajal Biswas (A1) 2. Sanjib Biswas (A2) 3. Bina Biswas (A3)
REPRESENTED BY	Ld. Advocate.

Date of Offence	31.03.2024
Date of FIR	01.04.2024
Date of Chargesheet	07.04.2024
Date of Framing of Charges	08.06.2026
Date of commencement of evidence	08.06.2026
Date on which judgment is reserved	01.08.2026
Date of the Judgment	01.08.2026
Date of the Sentencing Order, if any	NA

FORM B

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 to A3	1.Sajal Biswas (A1) 2.Sanjib Biswas (A2) 3.Bina Biswas (A3)	01.04.24	01.04.2024	<u>447/323/354</u> <u>/506/34 IPC</u>	Acquitted	N/A	N/A
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FORM C LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW.1.	Suparna Biswas	De facto complainant
PW.2.	Uttam Biswas	Witness

Fact of the Case-

This instant case has been registered on the basis of the complaint lodged by Suparna Biswas, W/O-Uttam Biswas of Hossainpur under PS-Dhantala, Dist. Nadia before Dhantala PS. On the basis of the said written complaint Dhantala P.S. Case No.242 dated 01.04.2024 under Sections 447/323/354/506/34 of the Indian Penal Code was started. After proper investigation, police submitted charge Sheet no.236 dated 07.04.2024 against the accused persons namely, Sajal Biswas, Sanjib Biswas and Bina Biswas under Sections 447/323/354/506/34 of the Indian Penal Code.

The Prosecution case in brief is that on 31.03.2024 at around 7:30 hours the aforementioned accused persons, over the issue of previous grudge of land matter, outraged female modesty of the complainant and on protest by her husband, they assaulted him by fist and blows and also threatened them. Due to such assault, they received injury and treated at Aranghata Rural Hospital and on the basis of these incidents, the prosecution case was started.

This case was transferred to this Court for trial Charge under Sections 447/323/354/506/34 of the Indian Penal Code was framed against the accused persons and the substance of accusation was read over to the accused persons to which they pleaded not guilty and claimed to be tried. Prosecution produces 02 witnesses in support of its case.

The accused persons were examined U/Sec 313 of Cr.P.C and they did not adduce any defense witness. Now it is the time to enter into the evidence on record.

Documentary Evidence

Sl No.	Particulars of documents	Date of admission	Marked as
1	Signature of the defacto complainant, PW-1 namely Suparna Biswas, W/O-Uttam Biswas upon the written complaint dated 01.04.2024.	08.06.2026	Exhibit – P1

Oral evidence:

P.W. 1: P.W.1 is Suparna Biswas i.e the defacto complainant of this case. During her examination in chief she stated that the alleged incident took place on 31.03.2024 at her house in evening at about 7:00/7:30 p.m. due to some family dispute in which she received a minor injury.

During her cross-examination she specifically stated that the dispute between them and the accused persons has now amicably resolved and has got no further allegation against the accused persons and has got no objection if the accused persons are acquitted from this case.

P.W. 2: P.W.2 is Uttam Biswas, i.e the witness of this case. During his examination in chief he stated that his wife filed this case against Uttam Biswas, Unnayan Biswas and Suparna Biswas before Dhantala PS. He further stated that the alleged incident took place on 31.03.2024 at his house in the evening at about 7:30 p.m. due to some family dispute in which he received a minor injury after fallen down on the ground.

During cross-examination he specifically stated that the dispute between them and the accused persons has now amicably resolved and he has no further allegation against the accused persons and has got no objection if the accused persons are acquitted from this case.

POINTS OF DETERMINATION

1. Whether prosecution has been able to prove their case beyond reasonable doubt by producing cogent evidence?
2. Whether the accused persons are liable to be convicted or not?

DECISION WITH REASON

Both the points of determination are taken up together for the sake of convenience.

After scrutinizing the material on record it appears to this Court that prosecution has failed to prove the accusations against the accused persons. Prosecution has examined only 02 witnesses. After perusal of the deposition of the witnesses it appears to this Court that there is no sufficient ground to prove the allegation against the accused persons. There is no material of incriminating nature on record to ascertain the guilt of the accused persons beyond reasonable doubt. After perusal the deposition of PW1 and PW2 it appears to this Court that there is no sufficient ground to prove the allegation against the accused persons.

After perusal of the deposition of the witnesses i.e. PW1 and PW2 it appears to this Court that they were unable to state any details of the alleged incident or any particulars of incident, happened with them. Moreover, as per the contents of the FIR the defacto complainant and his husband were assaulted by the accused persons. However, this Court finds not a single piece of proof in support of claim of any grievous hurt as alleged therein. Thus, the prosecution has not been able to fix liability upon the accused persons beyond reasonable doubt. Moreover, facts of offence as stated in the FIR appears to be of vague nature which cannot in any way be held as infliction of assault in absence of any allegation of specific nature or tentative time or period during which a person is treated as such.

Thus there appears to be gross discrepancy between the allegations levelled in the FIR and the oral testimonies of all the witnesses. Thus, there is nothing on record to prove even the contents of the complaint petition. Besides, mere allegation of physical assault without any insight into the details of the same is not adequate to hold the accused persons liable of the offence alleged against them.

Thus there is no sufficient ground to prove the allegation against the accused persons. The prosecution has failed to produce any further cogent and trustworthy witness who may have even proved any criminality.

In the instant case, upon analysis of the materials on record taking into consideration the factum of absence of any substantial evidence corroborating the case for the prosecution, it appears that, there is no probability of the case ending in conviction.

In the case of **Satish Mehra vs. Delhi Administration & Anrs , 1996(9) SCC 766**, the **Hon'ble Supreme Court** held that “ *in case where there is no prospect of the case ending in conviction, the valuable time of the court should not be wasted for holding a trial for the purpose of formally completing the procedure to pronounce the conclusion on the future date*” .

In this case, both the de facto complainant and the witness (husband of the de facto complainant) had themselves admitted during cross-examination that the dispute between them and the accused persons has now been amicably resolved so they do not have any allegation against the accused persons at present. In the case of **Ram Lal vs. State of J&K (1999(2) SCC 213)**, the **Hon'ble Supreme Court** had observed that “*when an offence is declared non-compoundable by law, it cannot be compounded even with the permission of the Court. However, the Court may take the compromise into account while delivering judgment. In this case, the parties are relatives of one another and they have amicably resolved their dispute.*”

PW1 and PW2, i.e. the defacto complainant and the witness respectively stated that they have received a minor injury. In this context of grossly erroneous testimony adduced by one of the most significant witnesses for the prosecution, the observation by the Hon'ble Supreme Court in the case of **State of Rajasthan v. Smt. Kalki and Another; (1981) 2 SCC 752**, needs to be mentioned, wherein it was observed that “*in the deposition of witnesses there are always normal discrepancies due to normal errors of observation, loss of memory, mental disposition of the witnesses and the like. Unless, therefore, the discrepancies are —material discrepancies so as to create a reasonable doubt about the credibility of the witnesses, the Court will not discard the evidence of the witnesses*”.

In this instant case the prosecution has examined 02 witnesses, i.e. the defacto complainant and another witness i.e. the husband of the de facto complainant of this case and no independent witness had been examined by the prosecution in this case. In this context the observation made in the case of **Harijana Thirupala And Ors. v. Public Prosecutor, High Court of A.P., Hyderabad**, is pertinent to be mentioned. It was held that “*the trial court took a right view that non-examination of independent witnesses seriously impaired credibility of the prosecution case*”. In this instant case the relative of the defacto complainant had also failed to corroborate her evidence adduced at the time of recording of statement.

The witnesses did not utter a single word about the incident that whether the accused persons had caused hurt to the defacto complainant and nor had criminally intimidate them by any means and whether they had outraged the female modesty of the defacto complainant, wherefrom it appears that prosecution has failed to establish that the accused persons had committed any offence either u/s.447 IPC or Section 323 IPC or section 354 IPC or Section 506 IPC. After perusal of the written complaint it appears before the Court that the defacto complainant has failed to state such incident wherefrom it can be presumed that the accused persons had ever tried to outrage the modesty of the defacto complainant in any means.

Thus in view of the above discussion, there is no sufficient ground to prove the allegations against the accused persons as no evidence could be brought before this Court by the Prosecution regarding the alleged incident. The ingredients of the offence punishable under section 447/323/354/506/34 of I.P.C is not established by any credible evidence. In such circumstances, this court has no other way but to hold the accused

persons innocent and accordingly acquit the accused persons from the accusation of this case.

Hence, it is,

ORDERED

that the accused persons namely Sajal Biswas, Sanjib Biswas and Bina Biswas are found not guilty of the offence punishable under Sections 447/323/354/506/34 of the Indian Penal Code and they are hereby acquitted from the instant case u/s 248 (1) of Cr. P.C.

The bail bond of the above mentioned accused persons shall remain in force for a period of 06 (six) months from the date of this Judgment as per the provision of section 437A of Cr.P.C.

The record shows that nothing was seized in this case.

Victim has a right to prefer an appeal against this judgment under section 372 CrPC, if necessary they may avail free legal aid from the appropriate legal services authority to institute and prosecute such appeal.

In compliance to the solemn order dated 29.3.22 passed by the Hon'ble Division Bench in CRA 266 of 2020 with CRA 01 of 2020 (Sabitri Bhunya Vs The State of West Bengal and others).

Let a copy of this judgment be sent to District Magistrate, Nadia and SDLSA, Ranaghat, Nadia for due intimation to the victim as defined under section 2 (wa) of the Code of Criminal Procedure.

The case is disposed of on contest.

Note in Trial Register as well as in Case Information System.

Dictated & Corrected by me.

Sd/-

(Shakib Akhtar)

Judicial Magistrate 2nd Court,
Ranaghat, Nadia

Sd/-

(Shakib Akhtar)

Judicial Magistrate 2nd Court,
Ranaghat, Nadia
JO Code- WB01522