

GR CASE NO: 675 of 2016 (C.I.S Regn. No: GR Case- 675/2016)

C.N.R No: **WBND13-003042-2016**

JO CODE: WB01126

1



FORM No. (M) 34

Form A

**IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE,
RANAGHAT, NADIA.**

**Present: Shri Soumyajit Bhattacharjee (W.B.J.S),
A.C.J.M, Ranaghat, Nadia.**

J.O CODE:- WB01126

[Date of the Judgment: 20th Day of March, 2026 (Friday)]

**Case No. G.R Case No. 675 of 2016
T.R No. 164 of 2018**

(C.I.S Regn. No: G.R Case No: 675 of 2016)

(C.N.R NO:WBND13-003042-2016)

**(Details of FIR/Crime and Police Station: Dhantala P.S Case no. 110/2016,
Dt. 15-04-2016 U/Sec 448/341/323/325/354B/427/379/506/34 of the Indian
Penal Code here-in-after referred to as "I.P.C".)**

COMPLAINANT	STATE OF WEST BENGAL
REPRESENTED BY	Sri. Pradip Pramanik, Ld. A.P.P
ACCUSED	<ol style="list-style-type: none"><u>Samaresh Ghosh (A1)</u>, S/O Late Durgapada Ghosh, of Vill:- Uttar Aranghata, Khoshalpur, P.S- Dhantala, District:- Nadia.<u>Suman Ghosh (A2)</u>, S/O Samaresh Ghosh, of Vill:- Do-.<u>Rahul Ghosh (A3)</u>, S/O Bikash Ghosh, of Vill:- Do-.<u>Bapi Ghosh (A4)</u>, S/O Ranjit Ghosh, of Vill:- Do-.

GR CASE NO: 675 of 2016 (C.I.S Regn. No: GR Case- 675/2016)

C.N.R No: **WBND13-003042-2016**

JO CODE: WB01126

2

	<p>5. <u>Indrajit Ghosh (A5)</u>, S/O Late Kalipada Ghosh, of Vill:- Do-.</p> <p>6. <u>Deba Ghosh (A6)</u>, S/O Late Durgapada Ghosh, of Vill:- Do-.</p>
REPRESENTED BY	Mr. P. Ghosh, Ld. Defence Counsel.

FORM No. (M) 35

Form B

Date of Offence	16-03-2016
Date of FIR	15-04-2016
Date of Chargesheet	30-06-2016
Date of framing of Charges	23-08-2018
Date of Commencement of Evidence	26th August, 2019
Date on which Judgment is reserved	DOES NOT ARISE
Date of the Judgment	20th day of March, 2026.
Date of the Sentencing Order, if any	DOES NOT ARISE.

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.	<i>Samaresh Ghosh</i>	Not arrested ; since surrendered before this Court.	06-06-2016; released on regular bail from this Court in compliance of	448/341/325/354B/427/506/34 of the I.P.C.	Acquitted	N.A	NIL

GR CASE NO: 675 of 2016 (C.I.S Regn. No: GR Case- 675/2016)

C.N.R No: **WBND13-003042-2016**

JO CODE: WB01126

3

			Cr. Misc. Case No. 980 of 2016 u/s-438 of Cr.P.C.				
A2.	<i>Suman Ghosh</i>	- Do-	- Do-	- Do-	- Do-	- Do-	- Do-
A3.	<i>Rahul Ghosh</i>	- Do-	- Do-	- Do-	- Do-	- Do-	- Do-
A4.	<i>Bapi Ghosh</i>	- Do-	- Do-	- Do-	- Do-	- Do-	- Do-
A5.	<i>Indrajit Ghosh</i>	- Do-	- Do-	- Do-	- Do-	- Do-	- Do-
A6.	<i>Deba Ghosh</i>	- Do-	- Do-	- Do-	- Do-	- Do-	- Do-

FORM No. (M) 36

Form C

LISTS OF PROSECUTION/ DEFENCE/ COURT WITNESSES

A. Prosecution

Rank	Name	Nature of Evidence (Eye-witness, police witness, expert witness, medical witness, panch witness, other witness)
P.W 1	Lakshmi Ghosh	Defacto-complainant
P.W 2	Sribash Ghosh	Witness.
P.W 3	Gour Ghosh	Victim
P.W 4	S.I Apurba Chakraborty	Investigating Officer.
P.W 5	Dr. Sudipta Chakraborty	Attending Medical Officer.

GR CASE NO: 675 of 2016 (C.I.S Regn. No: GR Case- 675/2016)

C.N.R No: **WBND13-003042-2016**

JO CODE: WB01126

4

B. Defence Witnesses:- No witness in support of defence has been produced.

Rank	Name	Nature of Evidence (Eye-witness, police witness, expert witness, medical witness, panch witness, other witness)
D.W 1	N/A	-
D.W 2	N/A	-
D.W 3	N/A	-

C. Court Witnesses:- No Court witness has been summoned.

Rank	Name	Nature of Evidence (Eye-witness, police witness, expert witness, medical witness, panch witness, other witness)
C.W 1	N/A	-
C.W 2	N/A	-
C.W 3	N/A	-

LIST OF PROSECUTION/ DEFENCE /COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit No.	Description
1.	Exhibit 1/P.W 1.	Court Complaint
2.	Exhibit 1/1/P.W 1	Signature of the complainant on the court complaint.
3.	Exhibit 1/2/ P.W 1	Signature of the complainant on the court complaint.
4.	Exhibit 3/ P.W4	Formal FIR
5.	Exhibit 3/1/P.W 4	Signature of the Recording Officer on the formal

GR CASE NO: 675 of 2016 (C.I.S Regn. No: GR Case- 675/2016)

C.N.R No: **WBND13-003042-2016**

JO CODE: WB01126

5

		FIR.
6.	Exhibit 3/2/P.W4	Endorsement of S.I Kuntal Mondal.
7.	Exhibit 4/ P.W4	Rough Sketch Map
8.	Exhibit 4/1/P.W4	Index.
9.	Exhibit 5/P.W 5	Injury Report.

B. Defence:- No defence document has been marked as Exhibit.

Sr. No.	Exhibit No.	Description
1.	N/A	-
2.	N/A	-

C. Court Exhibits:- No document has been marked as Exhibit by Court.

Sr. No.	Exhibit No.	Description
1.	N/A	-
2.	N/A	-

D. Material Object:- No material object has been produced as evidence.

Sr. No.	Exhibit No.	Description
1.	N/A	-
2.	N/A	-

J U D G M E N T

1. It is not out of place to mention here that the golden thread in adversarial form of the criminal justice system is the latin maxim “**item quilbet presumitur innocens nisi probetur nocens**”, that is the presumption of innocence of the accused which

GR CASE NO: 675 of 2016 (C.I.S Regn. No: GR Case- 675/2016)

C.N.R No: WBND13-003042-2016

JO CODE: WB01126

6

implies--that every person is presumed to be innocent unless proven guilty. This idea was first popularized and the phrase, “innocent unless proven guilty”, was coined by English Barrister, Sir William Garrow. In the criminal trial, the degree of proof is stricter than what is required in a civil proceedings. In a criminal trial however intriguing may be facts and circumstances of the case, the charges made against the accused must be proved beyond all reasonable doubts and the requirement of proof cannot lie in the realm of surmise and conjectures. Although the Court’s conscience must be satisfied that the accused is not held guilty when there are reasonable doubts about the complicity of the accused in respect of the offences alleged, it should be borne in mind that there is no absolute standard of proof in a criminal trial and the question whether the charges made against the accused have been proved beyond the shadow of all reasonable doubts must depend upon the facts and circumstances of the case and the quality of the evidences adduced in the case and the materials place on record.

Prosecution case in laconic:-

2. Facts as canvassed and projected by the prosecution in epitome are that on 20-04-2014 one Court complaint was lodged by one Laxmi Ghosh W/O Gour Ghosh of Uttar Aranghata, Koshalpur, Dhantala, Nadia against the above-named accused persons to the effect that on 16-03-2016 at about 16.00 hours when the husband of the complainant was proceeding towards cultivated land, the above-named accused persons wrongfully restrained and assaulted him with lathi iron rod. Knowing this, the complainant and her son went to the spot to rescue her husband and his father. But, the accused persons outraged the modesty and also assaulted her and damaged their tractor and threatened with dire consequences.

GR CASE NO: 675 of 2016 (C.I.S Regn. No: GR Case- 675/2016)

C.N.R No: **WBND13-003042-2016**

JO CODE: WB01126

7

The F.I.R:-

3. On the basis of such Court complaint which was subsequently treated as FIR, Dhantala P.S case no. 110/2016, U/Sec 448/341/323/325/354B/427/506/34 of the I.P.C was initiated on 15-04-2016 against the aforesaid accused persons.

Investigation by Police:-

4. A.S.I, Apurba Chakraborty of Dhantala P.S was entrusted to carry out the investigation of the alleged incident. The said investigating Officer (here-in-after referred to as "I.O") of this case started the investigation and after completion of the same, the said I.O submitted the Charge-sheet being No: 160/2016 U/Sec 448/341/323/325/354B/427/506/34 of I.P.C against the aforesaid accused on 30-06-2016 and the instant case record was kept under the personal file of this Court for trial and disposal.

Framing of Charge:-

5. Accordingly, the charge was framed on 23-08-2018 against the above-named accused u/s-448/341/325/354B/427/506/34 of the I.P.C. During framing of charge, the accused persons pleaded not guilty and claimed to be tried when the contents of the charge was read over and explained to them. The case thus entered into trial.

Evidences adduced from the prosecution side:-

6. During the course of trial, the prosecution had adduced the complainant (Laxmi Ghosh) as P.W 1, one witness (Sribash Ghosh) as P.W 2, the victim (Gour Ghosh) as P.W 3, the investigating Officer (S.I, Apurba Chakraborty) as P.W 4 and the attending medical officer (Dr. Sudipta Sarkar) as P.W 5 respectively. In addition to the above oral testimonies, the court complaint, the formal FIR, the endorsement and the receiving note on the FIR, the rough sketch map and the index of the P.O and the

injury report were produced as documentary evidences and marked as Exhibits from the prosecution side, as mentioned earlier in details.

Examination of the accused persons u/s- 313 of Cr.P.C:-

7. In a criminal trial, the purpose of examining the accused u/s- 313 of Cr.P.C is to meet the requirement of the principle of natural justice i.e. “audi alteram partem”. In other words, it provides an opportunity to an accused to state before the Court as to what is truth and what is his defence, in accordance with law. This is the particular stage of criminal trial, where for the very first time the accused gets an opportunity to have a face-to-face and direct conversation with the Court. While observing with this statutory mandate, by examining the accused persons u/s-313 of the Cr.P.C, it appears before the Court that there is no specific defence case of the accused persons and they had pleaded their innocence and refuse to adduce any evidence from their part.

Defence Case:-

8. The defence case as it appears from the trend of cross-examination of the witnesses and examination of accused u/s- 313 of Cr.P.C is of absolute denial of allegation and plea of innocence.

Argument made by the Ld. Prosecution:-

9. During the course of argument, Ld. A.P.P argued that the complainant (P.W 1) and the victim (P.W 3) have been able to substantiate and corroborate the prosecution case brought against the accused and the ingredients of the alleged offence have also been proved. Lastly, the Ld. A.P.P submits that this is a fit case for conviction, since the charge against the accused persons has been proved beyond all reasonable doubts and rests the case upon the wisdom and the sense of judgment of this Court.

Argument made by the Ld. Defence Counsel:-

10. On the contrary, Ld. Defence Counsel during his argument highlighted that there are several latches in the prosecution cases for which the guilt of the accused persons cannot be proved beyond all reasonable doubt and also added that the prosecution has utterly failed to prove its case for non-producing any convincing evidence against the accused persons and as such they deserve acquittal from this case.

11. Points for consideration:-

(a) Whether the prosecution has been able to prove its case against the above-named accused persons i.e “A1 to A6” under Section- 448/341/325/354B/427/506/34 of I.P.C, beyond the shadow of all reasonable doubts ?

(b) If the accused persons are held guilty, then what would be the quantum of punishment in this case?

DECISION WITH REASONS

12. Since, both the points are so intricately interwoven with each other that to discuss each of them separately will entail repetition of similar facts and evidence, hence both the points are taken up together for the sake of brevity and convenience of discussion after juxtaposing them both in law and in fact so as to unravel them and also for delineation and analysis for coming to a reasonable culmination.

Lex loci & burden of proof:-

13. According to Section 101 of Indian Evidence Act,1872, the general burden of proof is always upon the shoulder of the prosecution. **The Hon’ble High Court of Delhi in Sunil Kr. Sharma – Vs- State (CBI) 139 (2007) DLT 407, 1 (2007) BMC 654**, was pleased to observe that there are three well settled cardinal principles of

GR CASE NO: 675 of 2016 (C.I.S Regn. No: GR Case- 675/2016)

C.N.R No: **WBND13-003042-2016**

JO CODE: WB01126

10

criminal jurisprudence and they are as follows:-

- (i) That the onus lies affirmatively on the prosecution from the beginning to the end to prove its case beyond reasonable shadow of doubt and it cannot derive benefit from weakness of the defence version while proving its own case.
- (ii) That in criminal trial the accused must be presumed to be innocent unless his guilt is proved.
- (iii) That the onus of the prosecution to prove its own case never shifts upon the shoulder of the accused persons. In an encapsulated manner, it can be said that the duty is always upon the prosecution to bring home the charges comprehensively, failing which the accused gets acquittal.

In several landmarks cases, it has been observed by the Hon'ble Supreme Court that, "If upon the evidence adduced in the case whether by the prosecution or by the accused, a reasonable doubt is created in the mind of the Court as regards one or more of the ingredients of the offence including mens-rea of the accused, he would be entitled to be acquitted." In a nutshell it can be said that unless the guilt is proved, the accused has the presumption of innocence in his favour as the prosecution has to establish the allegation and prove the guilt by corroborating the same with the help of supporting oral and other evidences.

Findings of this Court after evidence scanning:-

14. The prosecution evidence must overcome the presumption of innocence of the accused. The concept of "innocent unless proven guilty", depends on a famous latin maxim, "Ei incumbit, probatio qui dicit, non qui negat.", means, "the burden of proof is on he who asserts, not on he who denies". Pertinent to mention here that "Presumption of innocence" serves to emphasize that the prosecution has the

GR CASE NO: 675 of 2016 (C.I.S Regn. No: GR Case- 675/2016)

C.N.R No: WBND13-003042-2016

JO CODE: WB01126

11

obligation to prove each element of the offence beyond all reasonable doubts and that the accused bears no burden of proof. Now, time has come to categorically examine the evidence-on-record in order to visualise how far the prosecution has been able to overcome the presumption of innocence theory in favour of the accused persons and as to how well the prosecution has been able to discharge its bounden duty of bringing home the guilt of the accused persons in this case. Having a vigilant and cautious scrutiny of the evidences as available on record, the following vital loopholes of the prosecution case have been observed by this Court, which are highlighted here-in-below in details:-

I. From the deposition of the P.W 1 (complainant), it would transpire that, “When I (P.W 1) reached the place of occurrence I did not find my sons and husband. I did not witness the alleged incident of assault.” “On reaching the P.O, I found that my husband was taken to Sabdalpur Hospital by my sons.” If that be so, then it is quite obvious that neither the complainant (P.W1) had witnessed the alleged incident of assault upon her husband and son, nor her husband and son had witnessed the alleged incident of outraging the modesty upon the complainant occurred later on when her husband and son went to Hospital. But, quite surprisingly, the evidence of victim P.W 3 (Gour Ghosh) who is the husband of the complainant, depicts to the effect that after hearing his alarm his wife i.e., the complainant had gone to the P.O and thereafter, the accused persons pushed and pulled her when she went to rescue her sons and also pulled the wearing apparels of his wife to remove her from that place. If, as per the version of the complainant, when she appeared at the P.O she did not see her husband and son since they were taken to Hospital earlier, then howcome the husband of the complainant had the knowledge of pushing and pulling the complainant by the accused at the time of rescuing her son, who had already left the place earlier. Furthermore, if as per the deposition of the P.W 1, when the P.W1 went to the P.O and did not see her husband then how could her husband witnessed the alleged incident of outraging the modesty of his wife and on what basis he had deposed to that effect, is quite confusing and contradictory to the prosecution case.

GR CASE NO: 675 of 2016 (C.I.S Regn. No: GR Case- 675/2016)

C.N.R No: WBND13-003042-2016

JO CODE: WB01126

12

II. It is pertinent here to mention that from the cross-examination of the victim (P.W3) it could be perceived that P.W2 (Sribash Ghosh) had come to the P.O at the time of the incident and witnessed the alleged incident. Moreso, P.W 2 was also mentioned as the witness in the court complaint which implies that both the complainant and the victim have a faith and trust upon P.W2 regarding the alleged incident. Quite astonishingly, P.W 2 while deposition, testified that he had no knowledge about the alleged incident. Needless to opine that the vital independent witness who was relied by the complainant as well as the victim, had miserably failed to support the prosecution case.

III. As per the version of the P.W1, when she reached the P.O, she found that her husband was taken to Sabdalpur Hospital by her sons. But the Injury report which has been marked as Exhibit 5, reveals that the patient “Gour Ghosh” who is the husband of the defacto-complainant was brought by “Self”. Thus, the injury report and the oral testimony of the complainant differs from each other.

IV. The Court complaint reveals that the alleged incident took place when the husband of the complainant was driving tractor while going towards his cultivated land, which means that the P.O was not the cultivated land rather some other place having a distance from the said land. But, the deposition of her husband reveals that at the time of alleged incident the husband of the complainant was preparing the land for cultivating merigold, which implies that the alleged incident took place at the cultivated land of the husband of the complainant. It is not out of place to mention here that from two different versions of the two vital prosecution witnesses, the P.O had been shifted, which is quite fatal for a prosecution case.

V. The evidence of P.W3 highlights that he was admitted at Hospital and so there was delay in lodging complaint. In this regard, no such medical documents showing the treatment of the P.W 3 at Hospital, have been produced as evidence in this case by the prosecution.

VI. During the course of evidence scanning, the following loopholes have been observed by this Court regarding the process of investigation. **Firstly**, No offending weapon had been recovered or seized by the I.O in this case and **secondly**, no wearing apparels of the victim were seized by the I.O.

GR CASE NO: 675 of 2016 (C.I.S Regn. No: GR Case- 675/2016)

C.N.R No: **WBND13-003042-2016**

JO CODE: **WB01126**

13

VII. No such facts have been established from the prosecution evidences which becomes consistent only with the guilt and inconsistent with innocence of the accused.

15. Indian Penal Code is a Penal Statute which is required to be strictly interpreted for criminal adjudication in adversarial system. But, in view of the above discussion and findings and in the teeth of the above analysis of law, it has not detained this Court for too long to arrive at a definite conclusion that the prosecution has utterly failed to establish its case against the accused by any concrete piece of convincing evidences and thus, on a careful conspectus of the legal spectrum, juxtaposed with the observations on the facts expressed here-in-before, this Court, after applying its judicial mind, has no hesitation to hold that due to lack of cogent piece of evidence and in absence of the basic ingredients in order to constitute the alleged offences under charge, the guilt of the accused has not been proved beyond all reasonable doubts and as such, the above-named accused deserves acquittal from this case and hereby acquitted accordingly.

16. Ergo, it is

ORDERED

that the accused persons namely **1. Samaresh Ghosh (A1), 2. Suman Ghosh (A2), 3. Rahul Ghosh (A3), 4. Bapi Ghosh (A4), 5. Indrajit Ghosh (A5) & 6. Deba Ghosh (A6) are found “not guilty”** of the offences punishable under section–448/341/325/354B/427/506/34 of the I.P.C and accordingly, the above-named accused persons are hereby **acquitted** under section 248 (1) of Cr.P.C from this case.

17. In view of Section 437-A of Cr.P.C, the accused having presented a petition to permit him to remain on the terms and conditions of the previous bail bonds, the prayer is allowed. He is permitted to remain on self same bond for the next six

GR CASE NO: 675 of 2016 (C.I.S Regn. No: GR Case- 675/2016)

C.N.R No: WBND13-003042-2016

JO CODE: WB01126

14

months with direction upon him to appear before the Appellate Court as and when any appeal is filed against this judgment within such period.

18. Seized articles, if any, be disposed off, as per law after the appeal period is over.

19. In compliance with the direction of the Hon'ble High Court in Sabitri Bhunya— Vs--The State of West Bengal and Others in CRA 266 of 2020 (decision on 29-03-2022), it is hereby endorsed by this Court that the victim has the right to prefer an appeal under proviso to Section 372 of Cr.P.C and if necessary, to avail free legal assistance through the legal services authorities concerned to prefer and prosecute such appeal.

20. Let a copy of this judgment of acquittal be forwarded to the District Magistrate, Nadia and District Legal Services Authority, Nadia for due intimation to the victim, in compliance with the aforesaid direction of the Hon'ble High Court.

21. The Judgment is pronounced and delivered in the Open Court on this 20th day of March, 2026.

22. D/A is directed to upload the softcopy of this judgment in "C.I.S" at once, so as to enable the parties and the Ld. Counsels to access the same from the official website of e-Courts project and necessary noting be made in the relevant register accordingly.

Typed, printed & corrected by me,
Sd/- Soumyajit Bhattacharjee

A.C.J.M,
Ranaghat, Nadia.
JO CODE:WB01126

Sd/- Soumyajit Bhattacharjee

Additional Chief Judicial Magistrate,
Ranaghat, Nadia.
JO CODE:WB01126

