

S.C. No. 79 of 2023



Form A

IN THE COURT OF ADDITIONAL DISTRICT AND SESSIONS JUDGE, FAST TRACK 2ND COURT, BANGAON, NORTH 24 PARGANAS	
Present :- Sri Mrityunjay Karmakar (WB00917) Additional District & Sessions Judge, Fast Track 2 nd Court, Bangaon, North 24 Parganas.	
[Date of the Judgement] 10/06/2026	
[Case No. Gopalnagar P.S Case No. 377 dated 09.08.2016] Details of FIR/Crime and Police Station U/s. 399/402 of IPC Sessions Case No. 79 of 2023 CNR-WBNP0600-0589-2023 G.R. No. 2527 of 2016	
Complainant	STATE OF WEST BENGAL
REPRESENTED BY	P.P-in-charge– Sri Bikash Ch. Mondal
ACCUSED	1.Jhantu Biswas (A1) late S/o Ananta Biswas of Bhandar Khola Uttarpara Near Chinli, P.S. Gopalnagar, District-North 24 Parganas and 2. Hasibul Mondal (A2) s/o Khalil Mondal r/o vill: Chinili PS: Gopalnagar Dist: north 24 Parghanas
REPRESENTED BY	Mr. Sujal Sarkar

Form B

Date of Offence	09-08-2016
Date of FIR	09-08-2016
Date of Charge sheet	26-09-2017

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Date of Framing of Charges	08-12-2023 and 09/06/2026
Date of commencement of Evidence	27-03-2024
Date on which Judgment is reserved	Nil
Date of the Judgment	10/06/2026
Date of Sentencing Order, if any	Nil

Accused details:

Rank of the Accused	Name of the Accused	Date of arrest	Date of R/B	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during Trial for purpose of Section 428, Cr.P.C
A1	1. Jhantu Biswas	10-08-2016	21-08-2016	399/402 of IPC	Acquitted	N/A	N/A
A2	Hasibul Mondal	10/08/2016	21-08-2016	399/402 of IPC	Acquitted	N/A	N/A

Form C

LIST OF PROSECUTION / DEFENCE/ COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE
PW 1	Inspector Sujit Bhattacharjee	Defacto complainant
PW 2	Constable 135 Rabindranath Mondal	Formal witness
PW 3	Hafijul Biswas	Formal witness
PW 4	Anirban Dey	Formal witness

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B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
DW	Nil	Nil

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
CW 1	Nil	Nil

LIST OF PROSECUTION / DEFENCE/ COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1.	Exhibit-P1/PW1	Seizure list
2.	Exhibit-P2/PW1	Written complaint.
3.	Exhibit-P-2/1/PW1	Signature of the complainant
4.	Exhibit- P-1/2	Signature on the seizure list
5.	Exhibit-P-3 (Collectively)	Sketch map of P.O
6.	Exhibit – 3/1 (Collectively)	Signature of the P.W.4 on sketch map

B. Defence:

Sr. No.	Exhibit Number	Description
1	Nil	Nil

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
1	Nil	Nil

D. Material Objects:

Sr. No.	Material Object No.	Description
1	NIL	NIL

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J U D G E M E N T

1. The instant case has been arisen on the basis of written complaint filed on 09-08-2016 and it was a suo-moto complaint lodged by S.I Sujit Bhattacharjee of Gopalnagar Police Station. District – North 24 Parganas, with allegation that three accused persons along with 4 / 5 others miscreants on 09-08-2016 at about 22:15 hours while he was doing his anti-crime patrolling duty vide Gopalnagar P.S. GDE no. 468 dated 09-08-2016 received a telephonic secret information that 7/8 miscreants assembled at Barrackpore more beside Bongaon -Chakdaha road near Barrackpore More Sishu Sikkha Kendra with deadly weapon like iron rod, iron bhojali, one knife, one sabol and one hammer and was making preparation to commit dacoity in nearby area. He informed the matter to his superiors and thereafter he along with force left to work out the source information. At about 22:25 hours they reached the spot and found 7/8 miscreants were assembled there and whispering among themselves and after getting scent of police those miscreants tried to flee away from the spot and after hot chase they managed to apprehend three (3) of them and they disclosed their identity. He searched those apprehended persons in presence of local witnesses and recovered one iron rod length 25 inches from right hand of Hasibul Mondal and one iron made Bhojli from right chest of Hasibul Mondal and one knife length approx. 10 inches from back side of Bakibilla Mondal and one medium size hammer from right side of Jhantu Biswas. Hence this case.

2. On the basis of said written complaint, Gopalnagar P.S. Case No. 377/16 dated 09-08-2016, U/s. 399/402 of I.P.C was started against the above noted accused persons and on completion of investigation charge sheet No.490/17 dated 26-09-2017 U/s. 399/402 I.P.C was submitted against the above stated accused persons. On 13.12.2022 received N.E.R against two accused namely Bakibilla Mondal and Hasibul Mondal hence case against them was filed for their presence.

3. After completion of all formalities, Ld. ACJM, Bongaon committed the case record to the Court of Ld. Additional Sessions Judge, 1st Court, Bongaon, North 24 Parganas and it was registered as Sessions Case No. 79 of 2023. Ld. Additional Sessions Judge, 1st Court, Bongaon, North 24 Parganas transferred the case record to this court for disposal on 13.03.2023 and this court received the case

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record on the selfsame date.

4. On receipt of the record and after appearance of the accused persons facing trial in this case, on 08-12-2023 the charge was framed against accused person namely Jhantu Biswas under Section 399/402 of the Indian Penal Code. The contents of the charge were read over and explained to the accused person to which he pleaded not guilty by saying 'Ami nirdos' and claimed to be tried.

5. In order to bring home the guilt of the accused person, the prosecution examined only four witnesses out of ten witnesses and exhibited some documents as per list of the exhibited documents.

6. Now let us scrutinize the evidence of the prosecution witnesses.

7. PW-1, Inspector Sujit Bhattacharge has deposed that on 09-08-2016 he was posted at Gopalnagar P.S. On that date he conducted raid near Sishu Sikha Niketan Barrackpore More beside the Chakdah Bongaon Road. On that day he himself with constable namely Taposh Nath, Constable namely Rabindra Nath Mondal were with him. On that day at about 22:15 hrs, he received an information from his sources and then he made GDE No. 468 dated 09-08-2016 and took permission of his superior and thereafter he along with two constables started from the P.S. at about 22:15 hours and reached the spot at about 22:25 hrs. They approached local people Samir Sarkar and Hafijul Biswas to accompany them for conducting the raid. They saw few people and on seeing them, they fled away from the spot but they apprehended three (3) of the accused persons from the spot. On search they recovered 25inch iron rod from the right hand of accused Hasibul. One Bhojali was recovered from the right-side waist of Hasibul. One 10-inch knife was recovered from the back waist side possession of accused Baki Birla. One hammer was recovered from the right hand of accused Jhantu Biswas. On search the spot they recovered one three fit 'sabol'. They prepared a seizure list on the spot. Independent witnesses were also signed the seizure list.

8. In cross examination he has stated that the distance of Chinili to Barakpore is about 7-8 km. In the S/L there is no specific information as which articles were recovered from the possession of which accused of this case. Father's name and address is not given bellow the signature of the independent witness of this case. Date of signing is not mention bellow the signature of witness Samiran and Hafijul. There is no date or time mentioned bellow the signature of

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the accused in the S/L. The PO is beside the state high way. In the state highway usually, there may be street light in the congested area or market. So many vehicle and persons ply day and night on the said state high way. The petition of complaint doesn't reflect where it was typed or it was not written that it was typed by me. I.O. subsequently didn't re seized the seized item from him. Seized weapons were not produced in court. He deposed that he can't say the father's name of the accused Jhantu Biswas. Father's name of the accused Hasibul is Aminul. There may be other Jhantu Biswas but he doesn't not know them. They have not done their body search by any independent persons of the locality before searching the accused. The people of the area of the PO usually visit Bongaon SD Hospital for treatment. He has not disclosed the name of his sources to anybody or to I.O of this case.

9. PW-1 deposed that nothing was recovered from the possession of any of the accused on the given dates and time as he deposed in chief or no body accompanied him to the PO for raid or no witness accompanied them to the PO. PW-1 deposed that it is not a fact that he has not made any seizure list on the spot and accused or any of the witnesses didn't sign the S/L. PW-1 further deposed that it is not a fact that he is deposing falsely in this case. PW-1 deposed further that it is not a fact that no such incident occurred on that date and time near Sishu Sikha Niketan Barakpore more.

10. P.W-2 Constable 135 Rabindranath Mondal (Previously C/1689) son of Sri Ashwani Mondal deposed that he had come to court after receiving summons of the court. On 09/08/20216 he was posted at Gopalnagar PS as Constable. On that date at about 10.15 hrs he had been for raid to Barakpore more. There he found that in the dark few persons were discussing about any matter and they encircled then from four corner. Thereafter they caught three of them and other fled away from the spot. The raiding team was leading by SI Sujit Bhattacharjee, PW-2 Himself, Cons. Tapash Nath. There they searched the body of the accused Hasibul, Baki Birla and another person was Jhantu Biswas and found iron rod, sharp knife one hammer were recovered from the possession of the accused persons. Sujit Babu seized the articles and he prepared the seizure list and he signed the same. Thereafter they brought the accused and seized materials to the Gopalnagar PS. He identified the said seizure list

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prepared by him and his signature therein. Witness identified his signature therein marked as Exbt. P-1/2. PW-2 identified two accused persons who are present in court during deposition.

11. In cross examination he has stated that he was posted at Gopalnagar PS. He was posted at Gopalnagar for two terms. He was in Gopalnagar PS from the year 2013 to November 2016. He had to go for duty with his superior officer so many times. He could not remember the dates of other cases where he went for raid. His superior officer conducted the search. Seizure list was also prepared by his superior officer. He just signed the seizure list.

12. P.W.-3 Hafijul Biswas (Civil volunteer) he has deposed that he had come to court after receiving summons of the court. On 09/08/2016 he himself and his two friends were coming to their home by chinili to Dighari road and he saw that police caught two/three persons. Police asked from the accused and police recovered hammer etc. He could not remember about the incident since it was taken place long years ago. The name of his friend was Samir Sarkar. Later said that himself and his one friend were returning home. Police seized the hammer and Sabol and he signed the same. That was his signature in the seizure list and the signature of the witness on the seizure list is marked as Exbt. P1/2. He has failed to identify the accused in court.

13. In cross examination he has stated that bellow his signature there was no mention of date, time. His father's name and address was not mentioned bellow his signature. Seized articles were not produced before the court at the time of. He is Civic volunteer at Gopalnagar. He could not remember where he was on duty on that date. Chinili to Dighari road is long. He could not remember the exact place of seizure of the accused. Chinili is about 5 km distance from Gopalnagar PS. Barakpur More is 2 km from Eastern side from Gopalnagar PS. The distance of Chinili to Barakpur more is about 7 km. He deposed that it is true that he has signed as per the instruction of the Police of Gopalnagar PS. Previously he has not deposed about this case before anywhere. He could not remember the contents of the seizure list.

14. P.W.-4, Anirban Dey has deposed that he had come to court after receiving summons of the court. On 09/08/2016, he was posted at Gopalnagar as PSI. He has resigned from the service of police. On

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that date he was entrusted with this case for investigation. During his investigation first he went to the P.O. and recorded the statement of the available witnesses on record u.s 161 of Cr.P.C. and prepared sketch map of the PO and index of the PO. Thereafter he has resigned from service. He has also arrested Bahadur Singh and Abdul Salam Mondal from Talikhola on 16/08/2016 at 19.35 hrs. Thereafter forwarded the accused to the court. He has not submitted the charge sheet in this case. He identified the said sketch map of the PO and index prepared and signed by him and the said sketch Map of the P.O is marked as Exbt. P-3 Collectively) and signature of the PW4 on it marked as Exbt. P-4/1. (collectively). He could not identify the arrested accused in court.

15. In the Cross-examination PW-4 has stated that he was in police service for about one and half years to two years. Now he is self-employed and already resigned from the service. The distance of Gopalnagar PS to Talikhola is about 2-3 years may be. He is not sure. Talikhola is populated area and it was in between Bongaon to Chakdah high road. So many vehicles *runs* through the said road day and night. He has not recorded the statement of any person of Talikhole area.

16. PW-4 further deposed during cross examination that FIR was started on 09/08/2016. Time of occurrence is on 22.35 hrs. on 09/08/2016. Sujit Bhattacharjee lodged the FIR. He received the case dairy for investigation on 09/08/2016 at about 23.35 hrs. He has started his investigation from the said time. He has recorded the statement of the witness Con. 1685 Taposh Nath of Gopalnagar PS on 09/08/2016. Time of recording was not mentioned. He has prepared the sketch map of the P.O. on 10/08/2016 at about 01.00 am in the night. He has handed over the CD to the OC of the PS. He has investigated the case up to 30/09/2016.

17. He denied that he has not investigated the case properly and he has not visited the PO and prepared the sketch map of the PO sitting at the PS. He denied that he has deposed falsely in this case. He denied that he has conducted the entire investigation sitting at the PS.

18. It is relevant to mention that after closing evidence of the prosecution it comes to the notice of the court that formal charge

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against the accused Hasibul Mondal was not framed by the court since case against him was filed by the court and he was later on arrested and brought to the case record. So, vide order dated 09/06/2026 charge U/s 399/402 of UPC was framed by the court and thereafter said charge was read over and explained to the accused by the court to which said accused Hasibul pleaded not guilty and said Ami nirdoshi and claimed trial. Since the evidence was already recorded by the court, ld. Advocate appearing for the said accused filed an application stating that accused doesn't want to recall the witnesses for cross examination and accused is relying upon the testimony of the already recorded deposition and the cross examination of all the witnesses.

19. After closing of the prosecution evidence this court examined the accused persons under Section 313, Cr.P.C. and it appears from the trends of cross examination of the prosecution witnesses, is that of innocence and denial of the prosecution case. The accused persons further pleaded 'not guilty' while they were examined u/s. 313, Cr.P.C and declined to adduce any defence witness in support of his innocence.

20. I have heard argument at length advanced by the Ld. PP in-charge and the Ld. Advocate of the accused persons and perused the materials on record and exhibited documents.

21. Learned public prosecutor in his argument enlightened this Court about the facts and circumstances of the prosecution case in details. He has also taken this court through all the evidence on record. He candidly submitted that though PW1/the complainant specifically stated in the written complaint that they have arrested the accused from the spot with deadly weapons and weapons recovered from the possession of the accused persons. Allegation has been proved.

22. On the contrary learned defence counsel argued that there is no evidence to prove the charge brought against the accused persons. The accused persons are innocent and has been falsely implicated in this case. There is no *iota* of evidence against the accused persons. The prosecution has completely failed to prove its case. Under the facts and circumstances of this case, it is a fit case where the accused persons should be acquitted as per provision of

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law.

Point for Decision

23. Whether the prosecution has been able to prove the case against the accused persons U/s 399/402 of IPC as alleged or not.

Decision with reasons

24. Now, this court has to see how far the prosecution has been able to prove its case against the accused persons. The charge of this case was framed against the accused persons punishable under Section U/s.399/402 of Indian Penal Code. The prosecution has to prove beyond all reasonable doubt that accused persons committed the offence of preparation to commit dacoity.

25. In the case in hand the prosecution adduces only four witnesses who is the complainant and other are the civic volunteer. P.W. 1, P.W. 2, P.W-3 and P.W.4 have stated nothing substantial against the accused persons in this case. It is reflected the deposition of P.W. 1 that he has recovered the deadly weapon like sabal, hammer, iron rod from the possession of the accused on 09.08.2016 at about 22.35 hours near Sishu Shikha Nikatan Barrackpore More but no such seized articles are produced in court by the prosecution during trial for identification by the witnesses. The witnesses being police personnel did not went through their personal body search by any independent witness of the locality before searching the accused. It is also reflected from the deposition of P.W. 2 that he just signed the seizure list as per the instruction of the complainant and confirmed that iron rod, hammer and knife is available in open market. P.W. 3 failed to identify the accused before the court but only identified his signature in the seizure list marked Exhibit P-1/2. The said seized materials were also not shown to this witness by the prosecution during evidence. He failed to remember the contents of the seizure list before the court although the prosecution claimed that he was in the raiding team. P.W. 4 the investigating officer who also arrested few accused persons of this case failed to identify the accused in court. He admitted that so many vehicle run to the said road adjacent to the P.O yet he failed to record the statement of any nearby people of the place of occurrence. So, from the deposition of all the witnesses it is now clear that the essential ingredients for the alleged offence have not been proved. There is no independent eye witness of the

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seizure. In spite of population the I.O failed to cite any local people as witness of this case. Seized materials not produced in court. In my considered view that the prosecution has totally failed to prove the charge made against the accused persons and they are liable to be acquitted of this case as per provision of law.

Hence, it is,

ORDERED

26. That the accused person, namely, **1. Jhantu Biswas and 2. Hasibul Mondal** are found not guilty for commission of the offence punishable u/s. **399/402 of Indian Penal Code**. He is acquitted of this case as per provision of Section 235(1) of the Code of Criminal Procedure.

27. He is discharged from his bail bond and set at liberty at once. The alamat of this case, if any, be destroyed on expiry of statutory period of appeal.

28. Let a copy of this judgment be at once transmitted to the District Magistrate, North 24 Parganas.

29. In compliance with the direction of the Hon'ble Court passed in connection with CRA 266 of 2020 with CRAN 01 of 2020, let another copy of this judgment be transmitted to the Ld. Secretary, DLSA, North 24 Parganas for information and communication to the de facto complainant of her right to prefer an appeal under Section 372 of Cr.P.C. and if necessary, to avail free legal assistance through the Legal Services Authorities to prefer and prosecute such appeal.

Dictated & corrected by me,

ADJ, FTC-2, Bangaon
North 24-Parganas.

Additional District & Sessions Judge,
Fast Track 2nd Court,
Bongaon, North 24-Parganas.

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Order No. 22

Date: 23/06/2026

Case record is put-up by BC-I today and he reported this court that in the judgment dated 10/06/2026 the name of one of the accused namely **Hasibul Mondal** is mistakenly not written in the ordering part of the judgment in page 11 which need to be corrected. Accordingly, I have perused the case record and the judgment and it appears that the name of both the accused persons has been mentioned in the first page of the judgment but due to typical mistake name of one of the accused **Hasibul Mondal** has not been written in the order part of the said judgment dated 10/06/2026. It is purely a typical mistake and has no connection with the merit of the case and therefore the said mistake in typing needs to be corrected. So, section 152 of the Cr.P.C is invoked for the interest of justice and let the name of the said accused **Hasibul Mondal** be written in the ordering part of the judgment as well as in the order sheet dated 10/06/2026. BC-1 to do the needful. Office to upload the corrected judgment in CIS.

D/C by me

Sd/-

ADJ, FTC-2, Bongaon
North 24-Parganas.

sd/-

Additional District & Sessions Judge,
Fast Track 2nd Court,
Bongaon, North 24-Parganas.
JO Code:(WB00917)