

Form No. (M)34

FORM A

DISTRICT: NORTH 24 PARGANAS

IN THE FIRST COURT OF THE JUDICIAL MAGISTRATE AT BARRACKPORE



Present: Sri Rahul Bhattacharjee
Judicial Magistrate 1st Court
Barrackpore, North 24 Pgs.
JO Code: WB01436

GR CASE NO. – 11638/2021

CNR NO. – WBNP150037562021

DETAILS OF OFFENCE / CRIME & PS

Arising out of Khardaha PS case no. 148/2021
dated 07.03.2021 u/s 341/323/427/506/34 IPC

DATE OF JUDGMENT

Friday, June 05, 2026

COMPLAINANT State of West Bengal

REPRESENTED BY Reshmi Aich, Ld. Asst. Public Prosecutor

NAME(S) OF

ACCUSED Raju Paswan & 2 Ors.

REPRESENTED BY Manas Ranjan Samadder, Ld. Advocate

Form No. (M)35

FORM B

CASE HISTORY

Date of OFFENCE/ CRIME07.03.2021

Date of filing FIR07.03.2021

Date of filing CHARGESHEET30.09.2021

Date of FRAMING CHARGE11.09.2023

Date of commencement of EVIDENCE09.02.2026

Date on which Judgment is RESERVED-

Date of JUDGMENT05.06.2026

Date of SENTENCE-

Plea

DETAILS OF ACCUSED

Rank of Accused	Name of Accused	Date of Arrest /Surrender	Date of Release on Bail	Offences Charged With	Whether Convicted or Acquitted	Sentence Imposed	Period of Detention Undergone During Trial (For The Purpose Of S. 428 Crpc)
1	Raju Paswan	07.03.2021	07.03.2021	341/323/427/	Acquitted	-	X
2	Bishnu Paswan	07.03.2021	07.03.2021	506/34	Acquitted	-	X
3	Sanjib Mallick	07.03.2021	07.03.2021	IPC	Acquitted	-	X

Form No. (M)36

FORM C

LIST OF PROSECUTION / DEFENSE / COURT WITNESSES

A. PROSECUTION WITNESSES

Rank of witness	Name of the witness	Nature of evidence (eye witness / police / expert / medical / panch witness / other)
1	Sona Dolui	CSW1 / defacto complainant / purported victim
2	Debabrata Mahapatra	CSW4 / police witness
3	Pranab Debnath	CSW2 / police witness
4	Amarnath Biswas	CSW3 / police witness
5	Amit Kumar Naskar	CSW5 / police witness
6	Sankar Mukherjee	CSW6 / police witness

B. DEFENSE WITNESSES

Rank of witness	Name of the witness	Nature of evidence (eye witness / police / expert / medical / panch witness / other)
X		

C. COURT WITNESSES

Rank of witness	Name of the witness	Nature of evidence (eye witness / police / expert / medical / panch witness / other)
X		

LIST OF PROSECUTION / DEFENSE / COURT EXHIBITS / MATERIAL OBJECTS

A. PROSECUTION EXHIBITS

Serial no.	Exhibit number	Description
1	P1/PW1	Signature on Written Complaint
2	P2/PW3	Signature of PW3 on the Seizure List dated 07.03.2021
3	P3/PW4	Signature of PW4 on the Seizure List dated 07.03.2021
4	P4/PW5	Formal FIR dated 07.03.2021
5	P4/1/PW5	Endorsement on Written Complaint dated 07.03.2021
6	P5/PW6	Signature of PW6 on the Seizure List dated 07.03.2021

B. DEFENSE EXHIBITS

Serial no.	Exhibit number	Description
X		

C. COURT EXHIBITS

Serial no.	Exhibit number	Description
X		

D. MATERIAL OBJECTS

Serial no.	Material object number	Description
1	1	Bamboo Pole
2	2	Bamboo Pole
3	3	Iron Rod

1. FACTS OF THE CASE IN BRIEF:

1.1 This is a case under section 341/323/506/34 of Indian Penal Code, 1860.

1.2 The fact of the prosecution case is that the de-facto complainant namely Sona Dolui of Khariop, Amta filed a written complaint before the Khardaha Police Station alleging inter-alia that on 07.03.2021 at about 00:45 hrs. was moving from Belgharia to Shyamnagar, and while on B.T. Road near Swadeshi More, one auto obstructed the vehicle. Four persons came out of the vehicle armed with lathi and rod and attacked him and asked him for money. When he refused, the accused assaulted him and broke the windshield of his van and took away some money from him forcibly. He escaped with his vehicle to the nearest police van of Khardaha Police Station where he told his incident. The police van chased the accused and nabbed the accused. The accused gave out their names as Raju Paswan, Bishnu Paswan, Sanjib Mallick and Goutam Singh. Goutam Singh was wearing army uniform and gave out his identity as army personnel. Naturally Sona Dolui prayed for investigation. Based on the aforesaid complaint police started Khardaha Police Station Case No. 148/2021 dated 07.03.2021.

1.3 After investigation police submitted charge sheet under section 341/323/427/506/34 of Indian Penal Code, 1860 and accordingly cognizance was taken against the three accused namely Raju Paswan, Bishnu Paswan and Sanjib Mallick. Thereafter, the case was transferred to this Court for disposal.

1.4 Substance of accusation were read over and explained on 11.09.2023 under section 341/323/427/506/34 of the Indian Penal Code, 1860 against the three accused namely Raju Paswan, Bishnu Paswan and Sanjib Mallick to which the accused pleaded not guilty by saying '*ami nirdosh*' in bangla.

1.5 Accordingly, the trial commenced.

2. EVIDENCE:

2.1 The purported victim CSW1, took the dock as PW1. He could not recollect the date of incident but mentioned that it took place 4-5 years ago around midnight. He identified Raju Paswan and Bishnu Paswan by face, not by name. He could not recollect the contents of his complaint and could not state who wrote it. He identified only his signature therefrom. He mentioned that he was proceeding with his milk van towards Authpur and accused accosted him and pilled his shirt and broke the glass of his vehicle. He complained to the next police outpost. Police apprehended three of the accused and he had identified them. The incident took place between Belgharia and Sodepur. He was alone in the

vehicle bearing no. WB133465 which was a delight milk van. In his cross examination, he stated that there were no public who witnessed the incident. He was stating these facts for the first time before the Court.

2.2 The next person to depose in this case was one Debabrata Mahapatra. He stated that on 07.03.2021 he was deployed on B.T. Road on patrolling duty when one person came towards their vehicle in his vehicle bearing no. WB133465. Witness could not recollect what vehicle it was. The person who came, complained that near Swadeshi more, four persons came out of an auto rickshaw and assaulted him with fists and blows and shattered the looking glass by a rod that they were armed with. Accordingly, they proceeded to the spot. The four accused escaped on seeing them. After a brief chase, they were apprehended and arrested. Witness was unable to recognize them.

2.3 The next person to depose in this case was one Pranab Debnath. He stated that on 07.03.2021 while on Patrolling Duty at B.T. Road, one Sona Dolui, a driver of a milk van, came and stopped in front of their car at 00:45 hrs. and informed that at Swadeshi More, 3-4 persons have assaulted him and broke his windshield. He also informed that they had come by an auto rickshaw. They immediately rushed to Swadeshi More and apprehended the autorickshaw identified by the driver and nabbed the three accused after a brief chase. The accused so nabbed were Sanjay, Raju and another. They were brought to the Police Station. Driver lodged formal complaint. At the Police Station, then Sankar Mukherjee interrogated the driver and then afterwards, they again proceeded to the location with Sankar Mukherjee and seized the auto rickshaw and two bamboo sticks and one iron rod (which he identified). He could not recognize the accused. In his cross examination, he stated that such bamboo sticks and iron rod are found almost anywhere on the road or at any construction site. Witness also admitted that between initial nabbing of the suspects and bringing them over to the Police Station and till going back to the Place of Occurrence after lodging of the formal complaint and seizing the two bamboo and one iron rod from the auto rickshaw, the autorickshaw was left unattended.

2.4 The next person to depose in this case was Amarnath Biswas, another police witness. He made similar statement with the previous witness. He mentioned the names of suspects as Sanjib Mallick, Raju Paswan, Bishnu Paswan and another. He could not remember the R/C number of the autorickshaw. He failed to recognize the accused person. His cross examination was on similar lines as that of the previous witness.

2.5 The next person to depose was the recording officer, Amit Kumar Naskar. He stated that one Sona Dolui came to the Police Station and

filed a complaint on the basis of which and as per instruction of O/C Khardaha Police Station, he drew up formal FIR against four accused namely Raju Paswan, Kinnu Paswan, Sanjib Mallick and Goutam Singha u/s 341/323/427/384/34 IPC. In his cross examination, he stated that the complaint revolved around a dispute between the accused and the complainant Sona Dolui in which the windshield of the glass of Sona Dolui was broken. He asserted that the complaint was filed naming the accused. He submitted that if a written complaint is filed against named accused, it can be understood that the Complainant knew the accused, atleast by name. He said that it would take someone five minutes to reach the Police Station from Swadeshi More, on a vehicle in the expected traffic at that dead hour of the night. Then witness stated the alleged incident took place at 00:45 hrs. and he received the complaint at 02:35 hrs. as per his endorsement. Then he mentioned that the seizure took place between 01:35 hrs. – 01:55 hrs. Then he mentioned that the arrests took place between 01:55 hrs., 01:50 hrs. and 01:45 hrs. respectively. Witness also mentioned that he did not know whether the witnesses before him mentioned in Court that the seizures took place after they went to the Place of Occurrence a second time after appointment of I.O. Sankar Mukherjee. Witness admitted that the time mentioned in the documents and the course of events mentioned by the police contradict each other.

2.6 The last person to be examined in this case was Sankar Mukherjee, another police witness and the Investigating Officer. He said, that he took up investigation of Khardaha Police Station Case No. 148/2021. He mentioned that the incident took place at 00:45 hrs. Then he mentioned that the arrests took place between 01:55 hrs., 01:50 hrs. and 01:45 hrs. Then he mentioned that the seizure took place between 01:35 hrs. – 01:55 hrs. Witness admitted that prior to their arrest, the accused were already in the custody of the police. Witness admitted that while the suspects were taken to the Police Station, the autorickshaw was left unattended; and further stated that, if any item is left unattended, it can be tampered with. Witness admitted that the bamboo like the one seized as well as the iron rod can be found almost anywhere on the roadside or at any local construction site. Witness also admitted that the course of the incidents and the time mentioned by the police contradict each other.

2.7 Considering the above evidence, and the fact that all chargesheet witnesses have been examined, the prosecution prayed for closure of evidence.

2.8 The Court was pleased to close the prosecution evidence on the prayer of the Ld. Asst. Public Prosecutor appearing for the State of West

Bengal. Accordingly, the record was taken up for examination of the accused under section 313 of the Code of Criminal Procedure, 1973.

2.9 The three accused namely Raju Paswan, Bishnu Paswan and Sanjib Mallick were examined under section 313 of the Code of Criminal Procedure, 1973. The accused claimed the prosecution case as false and fabricated and declined to provide any evidence on the part of the defense and accordingly, the argument was heard for both sides.

2.10 Thereafter, the case was taken up for passing judgment.

3. POINTS FOR CONSIDERATION:

3.1. Whether accused has/ve committed any offence u/s 341/323/427/506/34 IPC?

3.2. Whether the accused is/are liable to be convicted or acquitted?

4. DECISION WITH REASONS:

4.1. On cursory perusal of the relevant materials on record, it is seen that this case proceeds against the three accused namely Raju Paswan, Bishnu Paswan and Sanjib Mallick on the accusation of having committed offences punishable under section 341/323/427/506/34 of the Indian Penal Code, 1860.

4.2. Prosecution examined six witnesses in this case. Barring the first witness, the other witnesses are police witnesses and there is no independent witness of the alleged acts of assault or vandalization of the alleged vehicle. As per the summary i.e. gist of evidence of the prosecution witnesses, the four accused came in an autorickshaw and accosted the milk van driven by Sona Dolui near Swadeshi More at 00:45 hrs. and assaulted the driver Sona Dolui and broke his vehicle's windshield. He escaped from their clutches and came on his vehicle to the nearest patrolling vehicle and told the entire incident and then police went to the spot and apprehended the suspects (three? or four? remains a question!) and brought them over to the Police Station. There, the formal complaint came to be lodged and then, I.O. was appointed and with the I.O. having interrogated the complainant, proceeded to the place of occurrence again and seized the auto and two bamboo sticks and one iron rod. However, in this course of events as mentioned by the police, lies the contradiction!

4.3. First, despite being on B.T. Road and the alleged incident taking place at 00:45 hrs. a road, which though, ordinarily deserted in that dead hour of the night, would always find the odd passerby. Yet no one saw the alleged incident. Without drawing conclusive opinion on the

unavailability of witnesses at that stage, with the shops and establishments lined around the area it is almost impossible that police could not gather a single CCTV footage, even from local ATMs, that could have had captured the movement of vehicles on the said stretch of the road at the relevant hour, even if the same is from a little distance from the place of occurrence; as it could have given a good amount of information and the before and/or after imagery of the impugned vehicles involved, being an auto rickshaw and a milk van, to know what had actually taken place, in real time, and the persons actually involved in the incident. It would also have shown the arrival of the police, atleast two times, once for nabbing the accused after a brief chase (sic) and another time, when the formal arrests and seizures took place.

- 4.4. Second, the complainant reached out to the police and the police purportedly arrived at the spot and nabbed the accused. Question here is, when? The complainant, in his evidence, states the time as midnight. According to his complaint, the incident occurred allegedly at 00:45 hrs. PW3 and PW4 says, the driver-complainant came and met them at 00:45 hrs. meaning thereby, the incident happened atleast, few minutes earlier. Accordingly, there is a discrepancy regarding when the incident actually took place.
- 4.5. Third, police nabbed the accused after a brief chase and brought them over to the police station. Although statement of PW2 shows that they found four persons in the said autorickshaw, who escaped on seeing the police, none of the witnesses recollected the registration number of the said autorickshaw. All four persons, as per statement of PW2 were brought to the Police Station. The story of 'four accused' (sic) found support in the evidence of the recording officer PW5. However, his colleague witnesses PW3, PW4 and PW6 contradicted him and stuck to 'three accused' in their evidence in Court. Now, as per statement of PW5, it would take merely five minutes from the place of occurrence to reach the Police Station, yet, the complaint was filed and accepted at 02:35 hrs. as per endorsement of the recording officer. As per statement of PW3, PW4 and PW6 – the investigating officer Sankar Mukherjee, after he was appointed, interrogated the complainant and then brought the suspects back to the place of occurrence, and then seized the autorickshaw, the two bamboo poles and the iron rod. However, the time of seizure of the above-mentioned items and arrest of the three accused, bearing the signature of the investigating officer, are, astonishingly between 01:35 – 01:55 hrs. and thus, admittedly prior to his appointment as the investigating officer.

- 4.6. Fourth, in spite of all arrests and seizures, the evidence is entirely circumstantial. No seizure of pieces of allegedly broken windshield of the affected vehicle which must have been strewn on the road, were made or sent for forensic comparison with the residual portion of the broken windshield on the milk van to ascertain that the same was indeed broken at the place of occurrence. Accordingly, the arraignment of offence punishable u/s 427 of the Indian Penal Code, 1860 is not established. No medical report of the purported victim Sona Dolui showing any injury sustained by him was ever collected during investigation or marked in evidence. Without any corroborating witnesses of the alleged assault on the purported victim Sona Dolui, the arraignment of offence punishable u/s 323 of the Indian Penal Code, 1860 is not established.
- 4.7. Fifth, there is no fingerprint or DNA analysis of the body of the offending weapons for finding any sweat or imprint of the accused so as to prove that the accused ever used the same for any offending purpose. The seized items accordingly cannot be connected to the accused either, let alone being used in breaking the windshield. In such circumstances, the suggestion of the Ld. Advocate of the accused that the alleged bamboo and iron rod are openly available at any roadside construction site gains undeniable relevance.
- 4.8. Sixth, one accused Goutam @ Sudhangshu Singh was not charge sheeted in this case, however, he was named by the said Sona Dolui at the time of writing the complaint and identified as one of the alleged perpetrators. It also mentioned in the complaint that this fourth accused purportedly mentioned being in the Army and wearing service uniform. Admittedly, there were no witnesses. Defacto complainant certainly did not know the offending suspects from before, but it appears that he filed a named complaint. Thus, it is only natural that the police, defacto complainant and the four suspects met at a common point, prior to filing of the written complaint, wherefrom the names of the four suspects became known to the complainant. However, police, for reasons best known to them (which has not been disclosed in the chargesheet) chose neither to arrest the fourth person i.e., Goutam @ Sudhansu Singh or name him in the chargesheet. There is no mention as to whether he was army personnel at all, or was on duty, or was on leave, or whether his base was informed about his involvement in the alleged offence or whether prosecution permission was sought, or whether the same, if sought, was refused. All of the police witnesses conveniently forgot during evidence that this fourth person existed at the place of occurrence. It is the complainant's case that there were no other witnesses other than himself, of the alleged incident of restraint,

assault, vandalizing, threatening and extortion bid on himself and his vehicle. Then, on what basis, police found materials to drop section u/s 384 IPC in this case on one hand, and found materials to file chargesheet against three accused named above, and on the basis of the exact same set of evidence, did not find any materials to chargesheet the fourth accused, on the other hand, is not clear. This, again becomes a grave lacuna in the prosecution story.

4.9. Eighth, it is admitted by the I.O. that the suspects were already in the custody of the police before their formal arrest. In such circumstances, their faces and names were expectedly seen by all the police personnel involved. Being the only witnesses on the basis of whose testimony the record went up for trial, the witnesses made a huge climbdown as none of them could recognize the said three accused when asked on dock – another big faultline.

4.10. Ninth, out of the same seizure list, though the two bamboo and one iron rod were brought before the Court, the prosecution, having returned the autorickshaw to its owner, did not cause the autorickshaw to be brought to the Court for being identified as the vehicle purportedly used in the alleged offence, as a seized article. The autorickshaw was at the central / focal point of the prosecution allegations, since, without the autorickshaw being seized and identified, the arrival of the accused or later, the purported identification of the autorickshaw by the complainant-victim Sana Dolui or consequent upon which, the seizure of the auto rickshaw, and apprehension of the accused, all would come under question. Having omitted the said crucial part, the same therefore becomes a vital missing link in the prosecution case.

4.11. Tenth and finally, though the suspects were apprehended from the alleged autorickshaw, the police did not seize the autorickshaw immediately. As per statements of the several prosecution witnesses, they took the accused to the Police Station leaving the autorickshaw unattended. The autorickshaw could have been given in *zimma* to any person / shop / establishment which remains open all night, e.g. a nearby petrol pump, for safekeeping or seized right away and brought over to the Police Station immediately. The investigating officer admitted that anything unattended can be tampered with. Suspects / Accused were in police custody all along. Complainant's allegations were already known to the police. There is admission that the bamboo poles and iron rod are effortlessly available at any random roadside construction site. The police brought the suspects to the place of occurrence later and formally arrested them, palpably, to establish their proximity to the place of occurrence. Anything could have happened in

the meantime to the said autorickshaw – several possibilities are therefore opened up. Even if there were no public witnessing the incident at the place of occurrence (as mentioned by the complainant) who could be called in as witnesses, with a little effort, such persons would have been available, in or around the police station or any fuel station and several other places even at the dead hour of the night, should police have desired. No efforts appear to have been made by the police to take along any independent public witnesses while going back to the place of occurrence later in the night, when the seizures and formal arrests were purportedly made. Accordingly, the seizure of the iron rod and the two bamboo poles from the unattended autorickshaw, without any forensic corroboration of having been used in the alleged offence or any independent public witness testifying the fact of their seizure or the place of their seizure, does not establish their connection to the alleged offence or to the accused.

4.12. In view of the discussion above, the chain of events of the prosecution story could not be well connected. There are umpteen faults in the case so framed by the police and the faultlines are wide open. With the seizure being disproved, the arrests coming under question, the lack of credible ocular testimony, the non-identification of the accused by the witnesses, the prosecution case seemed to be a spirited effort at the time of investigation, brought to a screeching halt when subjected to trial. Not one scrap of the above evidence achieves its role of connecting the accused with the offence even partially. The arraignment of the other offences punishable u/s. 341/506/34 of the Indian Penal Code, 1860 is also not established. Seeking to convict the accused on the basis of such shredded evidence seemingly pieced together in a lost cause, would be gross miscarriage and rank travesty in the name of justice.

4.13. In view of the above discussion, it transpires that the prosecution has failed in its duty to bring before the Court even one scrap of credible evidence which can connect the accused with the offence alleged and the date, time and place of occurrence. The evidence on record seems to negate the prosecution story into a baseless allegation which failed to see the light of the day when subjected to trial. The gamut of documents that make up the prosecution case accordingly turns into papers containing unfounded and unsubstantiated allegations.

4.14. It needs to be told at this juncture that the criminal jurisprudence in our country holds an accused innocent until proven guilty and also necessitates that the prosecution proves its allegations by actionable evidence beyond all reasonable doubt. The evidence on record has fallen grossly short of discharging the said burden. Unsubstantiated

allegations would naturally fail in front of the constitutional right of the accused to be presumed innocent until proven guilty. The glaring inconsistencies between the evidence and the prosecution story results in failure of the prosecution case.

4.15. It also needs to be stated here that it is not only the victim who demands justice; prolonged incarceration on unfounded and unsubstantiated charges often leaves an accused as a victim of the system of dispensation of justice. In such circumstances, the call of justice would cry equally for the victim as well as the accused and in case the allegations of commission of offence fails to be proved despite sufficient opportunity, require the accused to be set free.

4.16. In view of the above discussion, the prosecution having miserably failed to prove the commission of the alleged offence by the accused, this Court holds the accused “NOT GUILTY” of the above offence(s) which paves the path for acquittal of the accused.

Hence, it is

O R D E R E D

that, the three accused namely Raju Paswan, Bishnu Paswan and Sanjib Mallick is/are **acquitted** from all offences in GR Case being no. 11638/2021 under Section 255(1) of the Code of Criminal Procedure, 1973 this day.

The victim/complainant be educated of the right to prefer an appeal against this order of acquittal and further, of the entitlement to free legal aid for the same. A copy of this order be urgently and invariably sent to (1) the District Magistrate, North 24 Parganas and (2) the Secretary, District Legal Services Authority, North 24 Parganas for information and necessary action.

Bail Bond(s) is/are discharged. Surety/ies (if any) is/are released.

Note in the relevant register(s).

Typed and Checked by me.

Rahul Bhattacharjee, WBJS
Judicial Magistrate 1st Court
Barrackpore, North 24 Pgs.
JO Code: WB01436
05.06.2026

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