



<p>In the Court of Judicial Magistrate, 1st Court Raghunathpur, Purulia Present: BASHAR NAWAZ, [J.O Code: WB01449] [On this 09th day of March, 2026] [G.R. Case No. 897 of 2024] [CIS Registration No. 329 of 2025] CNR No.WBPU060005282025 (Arising out of Kashipur P.S. Case No. 117 of 2024 dated 25.12.2024 under section 329(1)/329(4)/115(2)/74/351(2)/3(5) of BNS)</p>	
Complainant	STATE OF WEST BENGAL THROUGH O/C Kashipur POLICE STATION
REPRESENTED BY	LD. APP
ACCUSED	1.Basudeb Das @ Charmakar 2.Santanu Das 3.Atanu Das
REPRESENTED BY	N.D.Modak

Form B

[directed by the Hon'ble Supreme Court in SUO MOTO WRIT (CRL) NO. (S) 1/2017; IN RE: TO ISSUE CERTAIN GUIDELINES REGARDING INADEQUACIES AND DEFICIENCIES IN CRIMINAL TRIALS V. THE STATE OF ANDHRA PRADESH & ORS.]

Date of Offence	25.12.2024
Date of FIR	25.12.2024
Date of Charge-sheet	31.01.2025
Charge	12.12.2025
Date of commencement of evidence	13.02.2026
Date on which judgment is reserved	09.03.2026
Date of the Judgment	09.03.2026
Date of the Sentencing Order, if any	ACCUSED PERSON HAS BEEN ACQUITTED

Accused details:

Sl.	Name of Accused	Date of Arrest	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention on Undergone during trial for purpose of Section 428 Cr.P.C.
1.	Basudeb Das @ Charmakar	06.01.2025 (surrendered)	06.01.2025	79/3(5/351(2) of BNS	Acquitted.	NA	NA
2.	Santanu Das	06.01.2025 (surrendered)	06.01.2025	79/3(5/351(2) of BNS	Acquitted.	NA	NA



3.	Atanu Das	06.01.2025 (surrendered)	06.01.2025	79/3(5/351(2) of BNS	Acquitted.	NA	NA
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Form C

List of Prosecution/ Defence/ Court Witnesses

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESSES)
PW1	Gita Das	Complainant / Injured witness
PW2	Sanjay Das	Local witness
PW3	Lila Das	Neighbour / Local witness

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESSES)
DW	NIL	NIL

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESSES)
CW	NIL	NIL

List of Prosecution/ Defence/ Court Exhibits

• **Prosecution:**

Sr. No.	Exhibit Number	Description	Date
NIL	NIL	NIL	NIL

• **Defence:**

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

• **Court Exhibits:**

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

• **Material Objects:**

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

J U D G M E N T

The prosecution case originated from a written complaint lodged by Gita Das before Kashipur Police Station on 25.12.2024. It was alleged that on the same day at about 07.00 A.M., the accused persons Basudeb Das @ Charmakar, Santanu Das and Atanu Das came to the house of the complainant and started abusing her and her family members in filthy language. When the complainant protested against such behaviour, the accused persons allegedly assaulted her.

It was further alleged that on hearing the hue and cry of the complainant,



her daughter-in-law Sarama Das came to rescue her, but the accused persons also assaulted her. During the course of the alleged incident, it was also alleged that accused Basudeb Das pulled the saree of Sarama Das and threw her on the ground. The accused persons also allegedly threatened the complainant and her family members.

On the basis of the said written complaint, Kashipur P.S. Case No. 117 of 2024 dated 25.12.2024 was registered under Sections 329(1)/329(4)/115(2)/74/351(2)/3(5) of the Bharatiya Nyaya Sanhita. The investigation of the case was taken up by ASI Satyendra Prasad Singh of Kashipur Police Station. During investigation, the Investigating Officer visited the place of occurrence, examined the available witnesses and collected relevant materials. After completion of investigation, the Investigating Officer submitted Charge Sheet No. 02/2025 dated 31.01.2025 against the accused persons Basudeb Das @ Charmakar, Santanu Das and Atanu Das under Sections 329(3)/329(4)/115(2)/74/351(2)/3(5) of the Bharatiya Nyaya Sanhita. The accused persons appeared before the Court and were released on bail on 06.01.2025. Thereafter the case proceeded to trial, and during trial the prosecution examined three witnesses in support of its case.

Evidence adduced

Three witnesses in this case have been examined and cross examined as PW01 and 03 No other witness has been examined on behalf of the prosecution. It is also axiomatic from the case record that even after taking gusto efforts appearance of all the witnesses could not be secured. It is worthwhile to mention here that this case is pending since the year 2024 and as per the mandate of Constitution speedy disposal is the fundamental right of the accused person. Moreover the case come under Track 03 as per the Case Flow Management Rules, High Court Rules 2006. Thus it is the indelible duty of this court to hoist the right of the accused person and to act in accordance with section 309 of the Criminal Procedure Code 1973 read with the Case Flow Management Rules, High Court Rules 2006 as well as the direction of the Hon'ble Supreme Court given in *Hussain and another versus Union of India, 2017[2] AICLR 362 (SC)*. Hence being pioneered by the decision of the Hon'ble Supreme Court the prosecution evidence was closed and the case was fixed for examination of the accused person under section 313 of the Code of Criminal Procedure, 1973. However In short the sum and substance of the defence is plea of innocence.

After exhausting the above procedures the case was posted for hearing of arguments. On completion of arguments as per requirement of Section 354 of the Cr.P.C it is the incumbent duty of this court formulate the points for determination and assign reasons for harbouring to any conclusion on those points. After considering every possible facet in this case and considering the materials available, the points for determination as formulated are arrayed as under:

Points for determination

- 1) Whether the charges framed against the accused person have been proved or not?
- 2) Whether the accused person is liable to be convicted under section 329(1)/329(4)/115(2)/74/351(2)/3(5) of BNS?

Decision with reason



Point number 01 and 02:

As both the above-mentioned points for determination are closely interrelated, they are taken up together for the sake of convenience and brevity and are being discussed jointly in this judgment. Learned counsel appearing for the accused, during the course of arguments, submitted that the prosecution has miserably failed to prove the charges framed against the accused and, therefore, the accused persons are entitled to acquittal. He further contended that none of the witnesses examined by the prosecution have been able to depose to any material facts from which the charges against the accused could be said to have been proved, and as such, the accused persons deserve to be acquitted. Learned A.P.P., however, opposed the said contention and raised serious objections to the prayer made on behalf of the accused. She submitted that there are sufficient materials on record from which the prosecution case can be said to have been proved beyond reasonable doubt.

In order to arrive at a proper and judicious adjudication, the foremost issue that requires consideration is upon whom the burden of proof lies and to what extent such burden is required to be discharged. It is a settled principle of criminal jurisprudence that the accused enjoys a presumption of innocence, and the well-established rule of evidence, having received consistent judicial sanction, is that the prosecution must prove the guilt of the accused by establishing all the essential ingredients of the offence alleged against him. The test for determining what constitutes proof of guilt in a criminal trial has been clearly enunciated by the Hon'ble Apex Court. While in civil cases a fact may be said to be proved by a mere preponderance of probabilities, in criminal cases the prosecution is required to prove the charge beyond reasonable doubt.

In AIR 1966 SC 01, the Hon'ble Supreme Court observed at page 3 as follows: "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 the mens rea of the accused, he would be entitled to be acquitted."

Thus, from the aforesaid discussion and the settled principles governing criminal trials as laid down in a catena of decisions of the Hon'ble Courts, there remains no ambiguity with regard to the legal proposition that the general burden of proof always rests upon the prosecution. If, upon appreciation of the evidence adduced by the prosecution or the defence, a reasonable doubt arises as to whether the accused committed the alleged offence, the accused is entitled to the benefit of such doubt and consequently to an acquittal.

Guided by the aforesaid principles of law, this Court is now required to meticulously scrutinize the evidence available on record in order to ascertain whether the prosecution has been able to prove the acts or occurrences constituting the alleged offences and whether it has successfully established a nexus between the accused persons and the commission of such offences. It therefore becomes necessary to undertake a detailed examination of the evidence on record.

PW1 Gita Das during her examination-in-chief stated that she had filed the case before Kashipur Police Station. The incident took place last year at about 7.00 A.M. inside her house. At that time the accused persons Atanu, Santanu and



Basudeb were abusing them in front of their house. When she raised objection, the accused persons started assaulting her. Hearing her hue and cry, her daughter-in-law Sarama Das came outside and tried to save her, but the accused persons also assaulted her. Thereafter they received treatment at Kashipur Hospital. She further stated that the accused persons present before the Court were the persons who committed the incident. She could not say the name of the scribe.

During her cross-examination she stated that around two thousand people live in the village. She could not say the topography of the place of occurrence. She denied the suggestion that no such incident took place. She denied the suggestion that the accused persons Atanu, Santanu and Basudeb did not abuse them in front of their house. She denied the suggestion that when she raised objection the accused persons did not assault her. She denied the suggestion that hearing her hue and cry her daughter-in-law Sarama Das did not come outside and try to save her. She denied the suggestion that the accused persons did not assault Sarama Das. She denied the suggestion that they did not receive treatment at Kashipur Hospital. She denied the suggestion that the accused persons were falsely implicated in this case. She further stated that the complaint was written at the police station. She admitted that they had cut a tree belonging to the accused persons and there was a conflict in that regard. She denied the suggestion that this case was filed falsely on that grudge.

PW2 Sanjay Das during his examination-in-chief stated that he knew Gita Das but he did not know anything about the case.

PW3 Lila Das during her examination-in-chief stated that she knew Gita Das. She saw that there was abuse between the accused persons and the complainant and there was a little fight between them.

During her cross-examination she stated that the house of the complainant was situated at a distance of about 20 feet. She could not say the names of any independent witnesses who saw the incident. She further stated that the police never examined her in this case. She denied the suggestion that no such incident took place on that day. She also denied the suggestion that she was deposing falsely in this case. She further stated that she did not know anything about any settlement regarding the incident.

In the present case the accused persons have been put on trial for the alleged offences under Sections 329(3)/329(4)/115(2)/74/351(2)/3(5) of the Bharatiya Nyaya Sanhita. It is a settled principle of criminal jurisprudence that the prosecution must establish the guilt of the accused persons beyond all reasonable doubt and the burden of proof always lies upon the prosecution. The presumption of innocence always operates in favour of the accused persons unless the prosecution succeeds in proving the charges by reliable, cogent and convincing evidence. Suspicion, however strong, cannot take the place of legal proof. The Hon'ble Supreme Court in the landmark judgment of *Sharad Birdhichand Sarda vs State of Maharashtra* (1984) 4 SCC 116 observed that when two views are possible on the evidence on record, one pointing to the guilt of the accused and the other to his innocence, the view favourable to the accused must necessarily be adopted.

In the present case the prosecution examined three witnesses in support of its case. PW1 Gita Das is the complainant of the case. She stated in her evidence



that the accused persons abused and assaulted her and also assaulted her daughter in law when she tried to rescue her. However, during cross examination PW1 admitted that there was a dispute between the parties regarding cutting of a tree belonging to the accused persons and that there had been a conflict between them in that regard. This admission clearly indicates that there existed previous animosity between the parties. It is a well settled principle that when the evidence of a witness is that of an interested or inimical witness, such evidence must be scrutinized with greater caution and must inspire confidence before it can be relied upon for conviction. In the present case the evidence of PW1 remains the solitary evidence supporting the prosecution case and the same is not supported by reliable independent evidence.

PW2 Sanjay Das did not support the prosecution case at all. During his examination in chief he clearly stated that although he knew the complainant, he did not know anything about the case. The cross examination of this witness was declined which means that the learned advocate for the accused did not put any question to the witness. Thus the testimony of PW2 does not advance the prosecution case in any manner and he fails to corroborate the version of the complainant.

PW3 Lila Das stated that she saw that there was abuse between the accused persons and the complainant and that there was a little fight between them. However, during cross examination she made a significant statement that the police never examined her during investigation. This statement seriously affects the credibility of this witness. If PW3 was a genuine eyewitness to the incident, it would be expected that the Investigating Officer would record her statement during investigation. Her admission that the police never examined her creates a serious doubt regarding her presence at the place of occurrence. Furthermore, she could not mention the names of any independent witnesses who allegedly saw the incident. Therefore the testimony of PW3 does not inspire confidence and cannot be safely relied upon for recording a conviction.

Another important aspect of the case is the complete absence of medical evidence. According to PW1, after the alleged assault she and her daughter in law received treatment at Kashipur Hospital. However, the prosecution has failed to produce any medical document or injury report to substantiate the allegation of assault. No doctor has been examined to prove the existence of any injury on the person of the complainant or her daughter in law. In a case where the allegation is that the victims were assaulted and sustained injuries, the absence of medical evidence creates a serious dent in the prosecution case.

It is also important to note that the Investigating Officer of the case has not been examined during trial. The Investigating Officer is a material witness who proves the manner in which the investigation was conducted, the place of occurrence, the examination of witnesses and other relevant circumstances. Non examination of the Investigating Officer deprives the defence of the opportunity to test the fairness and correctness of the investigation and such omission further weakens the prosecution case.

The Hon'ble Supreme Court in *Kali Ram vs State of Himachal Pradesh* (1973) 2 SCC 808 held that if two views are possible on the evidence on record, the one favourable to the accused should be adopted and the accused must be



given the benefit of doubt. The Apex Court further observed that it is better that several guilty persons escape than that one innocent person suffers. Similarly, in *Sujit Biswas vs State of Assam* (2013) 12 SCC 406 the Hon'ble Supreme Court reiterated that suspicion, however strong, cannot take the place of proof and the prosecution must prove its case beyond reasonable doubt by leading clear, cogent and reliable evidence.

In view of the above discussion, it appears that the prosecution case suffers from several serious deficiencies. The prosecution mainly relies upon the testimony of the complainant, while one witness has not supported the case and the other witness has given a doubtful version and admitted that the police never examined her during investigation. There is no medical evidence to prove the alleged assault and the Investigating Officer has also not been examined. The complainant herself admitted that there existed a previous dispute between the parties which provides a possible motive for false implication. These circumstances create serious doubt regarding the veracity of the prosecution case.

Thus, upon careful appreciation of the entire evidence on record, this Court is of the considered opinion that the prosecution has failed to establish the charges against the accused persons beyond reasonable doubt. The evidence led by the prosecution is not sufficient to safely record a conviction against the accused persons. Therefore the accused persons are entitled to the benefit of doubt and consequently deserve to be acquitted from the charges levelled against them.

Hence; it is

ORDERED

that the accused person, namely 1.Basudeb Das @ Charmakar 2.Santanu Das 3.Atanu Das are found to be not guilty of committing the offence under section 329(1)/329(4)/115(2)/74/351(2)/3(5) of BNS and they are hereby acquitted of the charges framed against them as per section 248 sub-section (1) of the Criminal Procedure Code 1973. He is also discharged from the liability of their respective bail-bond and set at liberty. The surety is also discharged. Let the seized documents pertaining to this case if already not returned, be returned from whom seized after the lapse of the period prescribed for appeal. Seized article if any; which is not claimed by the parties shall be destroyed after expiration of the period of appeal.

Be it also mentioned here that the victim of this case has a right to prefer an appeal against this order before a competent Court u/s 372 CrPC and can also seek legal assistance for such appeal from District Legal Services Authority.

Copy of this judgment of acquittal be forwarded to Secretary, DLSA, Purulia and District Magistrate, Purulia for necessary information.

Dated: 09.03.2026

Judicial Magistrate 1st Court
Raghunathpur, Purulia
WB01449

Typed and corrected by me;

Judicial Magistrate 1st Court
Raghunathpur, Purulia
WB01449