

WBPU060007512023



IN THE COURT OF JUDICIAL MAGISTRATE 2nd COURT, RAGHUNATHPUR, PURULIA Present: Smt. Sanjukta Bhattacharya (JO Code:WB-01346) [28-07-2026] GR Case No. 33/2023 (CIS No. 516/2023) CNR No.: WBPUO6000751-2023 TR No.: 94/2023 Presented on : 31-07-2023 Registered on : 31-07-2023 Decided on : 28-07-2026 Duration : 2 years, 11 months, 28 days <i>The allegation u/s-341/323/294/506/34 of Indian Penal Code, 1860 arising out of Santuri PS Case No. 03/2023 Dated 14-01-2023</i>	
Complainant	STATE OF WEST BENGAL Laxmipriya Mandal (De facto complainant)
REPRESENTED BY	<i>Learned Assistant Public Prosecutor Sri Lalit Majee</i>
ACCUSED , PARENTAGE AND PLACE OF RESIDENCE	Ramsatya Mandal s/o Late Kalipada Mandal, residing at village Manpur, Santuri PS, District- PuruliaA-1, Prasenjit Mandal s/o Late Dibakar Mandal, residing at village Manpur, Santuri PS, District- Purulia.....A-2. Kajal Mandal s/o Ramsatya Mandal ,residing at village Manpur, Santuri PS, District- Purulia.....A-3, Rupali Mandal w/o Late Dibakar Mandal @Prakash Mandal,,residing at village Manpur, Santuri PS, District- Purulia.....A-4,and Saraswati Mandal w/o Late Bhudeb Mandal @Prakash Mandal,residing at village Manpur, Santuri PS, District- Purulia.....A-5
REPRESENTED BY	<i>Ld. Advocate Sri Srimanta Kumar Chakraborty</i>

Date of Offence	<i>10-01-2023</i>
Date of FIR	<i>14-01-2023</i>
Date of Charge sheet	<i>22-02-2023</i>
Date of Plea Hearing	<i>16-09-2023</i>
Date of commencement of Evidence	<i>03-11-2023</i>
Date on which Judgement is reserved	<i>28-07-2026</i>
Date of the Judgement	<i>28-07-2026</i>

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Date of the Sentencing order, if any	Not Applicable
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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 of Cr.PC.
A-1	Ramsatya Mandal	Surrendered on 19-01-2023	19-01-2023	Sections 341,323, 294, 506 and 34 of Indian Penal Code	Acquitted	Nil	Not Applicable
A-2	Prasenjit Mandal	Surrendered on 19-01-2023	19-01-2023	Sections 341,323, 294, 506 and 34 of Indian Penal Code	Acquitted	Nil	Not Applicable
A-3	Kajal Mandal	Surrendered on 19-01-2023	19-01-2023	Sections 341,323, 294, 506 and 34 of Indian Penal Code	Acquitted	Nil	Not Applicable
A-4	Rupali Mandal	Surrendered on 17-02-2023	17-02-2023	Sections 341,323, 294, 506 and 34 of Indian Penal Code	Acquitted	Nil	Not Applicable
A-5	Saraswati Mandal	Surrendered on	19-01-2023	Sections 341,323, 294, 506 and 34 of Indian Penal	Acquitted	Nil	Not Applicable

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		19-01-2023		Code			
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LIST OF WITNESSES:

A. Prosecution witness, if any:

Rank	Name	NATURE OF EVIDENCE
PW-1	Laxmipriya Mandal	Victim lady/Defacto Complainant
PW-2	Rajib Mandal	Related witness/Chance witness
PW-3	Aditya Mandal	Husband of Victim lady
PW-4	Garabi Mandal	Victim lady/mother in law of defacto complainant
PW-5	Monoranjana Mandal	Other witness
PW-6	Dr. Abhishek Dutta	Medical witness

B. Defence witness, if any:

RANK	NAME	NATURE OF THE EVIDENCE
Not Applicable	Not Applicable	Not Applicable

C. Court witnesses, if any:

RANK	NAME	NATURE OF THE EVIDENCE
Not Applicable	Not Applicable	Not Applicable

LIST OF EXHIBITS

A. Prosecution:

Sr. No.	Exhibit No.	Description
1.	Exhibit P-1	Signature of PW-1 over FIR Complaint
2.	Exhibit P-2	Original Injury report of Laxmipriya Mandal
3.	Exhibit P-3	Original Injury report of Aditya Mandal

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B. Defence:

Sr. No.	Exhibit Number	Description
Not Applicable	Not Applicable	Not Applicable

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
Not Applicable	Not Applicable	Not Applicable

D. Material objects:

Sr. No.	Material object number	Description
Not Applicable	Not Applicable	Not Applicable

JUDGEMENT

1. PROSECUTION CASE:

1.1 The prosecution case in nutshell is that on 14-01-2023 at 16.05 hrs one FIR Complaint was received by Santuri PS filed by the Defacto Complainant (hereinafter DC only) lady Laxmipriya Mandal w/o Aditya Mandal of village-Manpur, PS- Santuri , District-Purulia to the effect that, on 10-01-2023 at about 15.00 hrs , her neighbour accused (A-1) along with other accused wrongfully restrained the D/C and her mother in law/ Garabi Mandal over the issue of a cow entering into the premises of accused . It is further alleged that, D/C lady as well her family members sustained injuries on their persons. Hence , this case.

1.2 Over the complaint one specific case being Santuri PS Case No.03/2023 dtd. 14-01-2023 u/s 341,323,294,506,34 of Indian Penal Code was registered against the accused.

2. INVESTIGATION AND FILING OF CHARGE-SHEET:

2.1. Perusal of the order sheets reveal that, the accused persons being (A-1 to A-3) and (A-5) respectively voluntarily surrendered before Court of Learned Additional Chief Judicial Magistrate, Raghunathpur on 19-01-2023 and obtained bail on the self same date. Further perusal of ordersheets reveal that , accused (A-4) voluntarily surrendered before Court of Learned Additional Chief Judicial

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Magistrate, Raghunathpur on 17-02-2023 and obtained bail on the self same date.

2.2 After proper investigation, Police submitted charge Sheet no. 10/2023 dated 22-02-2023 against the accused u/s- 341,323,294,506,34 of Indian Penal Code. The case was taken cognizance by Learned Chief Judicial Magistrate, and the record was transferred to this Court for disposal.

3. APPEARENCE AND EXAMINATION OF ACCUSED UNDER SECTION 251 OF CODE OF CRIMINAL PROCEDURE:

3.1. On perusal of the materials on record it appears that, after the case record been transferred to this Court, all the five accused persons respectively ,were examined under section-251 of Code of Criminal Procedure, vide order dated 16-09-2023 for commission of offence punishable under Sections- 341,323,294,506,34 of Penal Code.

4. COMMENCEMENT OF TRIAL AND EXAMINATION OF ACCUSED u/s-313 OF CRIMINAL PROCEDURE CODE:

4.1. After plea hearing, the trial commenced by taking evidence of altogether six prosecution witnesses. CSW-1/Laxmipriya Mandal, CSW-4/Rajib Mandal, CSW-2/Aditya Mandal , CSW-3/Garabi Mandal , CSW-5/ Manoranjan Mandal and CSW-8/Dr. Abhishek Dutta respectively are examined as PW-1 to PW-6 respectively and discharged.

Considering the fact , despite giving them several chances to investigating police officer / CSW-10/ASI Madhu Mangal Bauri he failed to turn up in this case and thereafter, on verbal submission of Learned Assistant Public Prosecutor, evidence on behalf of the State stands closed.

4.2 Thereafter, the statement of the accused u/s 281 of Criminal Procedure Code read with Section 313 of the said Code was recorded separately in which all the incriminating circumstances appearing in evidence were put to each of them. The accused persons controverted and denied the allegations levelled against all of them and stated that, they have been falsely implicated in the case. Accused further opted to not lead evidence in their defense, hence, Defense Witness stands closed.

5. ARGUMENT PRESENTED BY BOTH SIDES:

5.1. Argument By Prosecution:

Learned Assistant Public Prosecutor for the State has contended inter alia that, in this case , D/ C lady and her family members, had corroborated the prosecution case and admitted the injury.



Besides the said injury was supported by medical evidence, thereby submitting that prosecution has indeed established its own case where the present accused deserves to be convicted for the offences charged with.

5.2. Argument By Defense Side:

Per contra, Learned Defence Counsel has argued that, the point that the evidence of PW-3/Aditya Mandal being husband of D/C , who also comes up as one of the alleged victims , had heard the evidence of earlier witnesses and his oral evidence deposed on dock will be inadmissible as per law . Moreover, as per his contention , the evidence of private witnesses are inconsistent with each other and there lies strong discrepancy. Learned Defense Counsel brought the kind attention of Court to the evidence of CSW-4/Garabi Mondol to the point despite being portrayed as an alleged victim, she failed to utter a single word about the matter. Secondly, Learned Counsel submitted that, Place of Occurrence(Hereinafter referred to only as “PO”) remain unidentified throughout the trial. Fourthly, it is the defense plea that, this present case is a counterblast to the another pending GR Case filed by accused and this case resulting out of mere retaliation , stands devoid of any merit and substance. Therefore, as per his submission, the prosecution has miserably failed to prove its case beyond reasonable doubt against the accused, thereby praying for the acquittal of all the accused, from the charge of this case.

6. POINTS FOR DETERMINATION:

- 1) Whether the accused persons have committed offences u/s- 341,323,294,506,34 of Indian Penal Code?**
- 2) Whether the prosecution has proved the guilt of the accused persons beyond reasonable doubt?**

7. DECISION WITH REASONS:

7.1 *For sake of brevity and convenience, both the points are taken up together for discussion and before arriving at the same, it is first and foremost to meticulously consider the evidence on record. In this case, it is the sole responsibility of the prosecution to establish and prove the charge against the present accused persons in the form of direct evidence along with corroborating evidence in a continuous link, so that the Court may arrive at a just and proper conclusion in a case. Again, it goes without saying that, after only when the prosecution has been able to successfully establish its case, then only the burden shifts on the accused to explain its stance and present its defence.*



7.2 Coming first to the role of witnesses, it comes their role in a criminal justice system is of paramount importance. It is prudent to note in this regard, the great English philosopher, jurist, and social reformer Jeremy Bentham voiced his understandings and measured witnesses as the ‘eyes and ears of justice’. Most importantly, the voice of the witness has a catalytic force that can alter the progression of a trial. In order to prove the case, the prosecution first examined the mother of D/ C lady and he testified during trial that, she had filed this case before Santuri PS , and as per the version of witness, the incident took place on 10-01-2023 at 3 PM in front of her house. In her oral evidence , it came up dispute started on the relevant date as and when the domesticated cow of D/C trespassed into the property of accused. In her examination in chief , PW-1 adduced further that, as and when her mother in law/ Garabi Mondal came to bring the cow , accused first started to abuse her mother in law and thereafter hearing hue and cry, as and when she rushed to the spot , the accused abused her in filthy language. PW-1 further more stated that, as a result , verbal altercation took place and accused Ramsatya and Kajal Mandal respectively assaulted her and mother in law by fists and blows . The witness further stated that, she sustained bleeding injury in her left ear and went on to further to state that, all the accused assaulted her husband/Aditya Mondal armed with “lathi” conjointly. She named one Rajib Mondal came to rescue them. In her cross-examination, PW-1 acknowledged that, over self same cause of action, one counter case being No. 26/23 been filed before Ld JM 1st Court, Raghunathpur .

7.3 PW-2/Rajib Mondal comes across as the nephew in relation to D/C is his aunt and the incident took place on 10-01-2023 at 3 PM inside the “ sabji bari” of accused Ramsatya Mondal. Alike the earlier witness , he stated on dock that, their domesticated cow trespassed into the property of accused and then Garabi Mandal had gone to bring the cow. As per the version of PW-2 , Garabi Mondal relayed the matter to Aditya Mondal and D/C and then accused Ramsatya Mondal first assaulted D/C by means of “lathi” in her ear and she suffered serious bleeding injury in her ear . PW-2 further went on to state that, husband of D/C/Aditya Mondol suffered bleeding injury in his right hand and they were both treated at Muradih Hospital. In his cross examination, the witness admitted that, both D/C side and accused are known to him being co-villagers , The witness admitted further that, he was not a witness to the alleged occurrence right from the beginning and after the incident took place , he came to the spot. PW-2 acknowledged the fact in his oral evidence that, he was well aware of the fact accused had filed one prior case being GR 26/23 against D/C and her immediate family members.

7.4 Next comes the evidence of husband of D/C Aditya Mondal, who adduced in his evidence that, incident took place on 10-01-2023 at about 2.30 PM in the backside of their “khamar” house . PW-3 further stated that, on the relevant date , their domesticated cow trespassed inside the khamar house of



accused RamSatya Mondal, and as and when his mother / Garabi Mondal tried to bring the domesticated cow, in particular, the said accused Ram satya Mondal abused her in filthy language. In his at length examination in chief , the witness narrated that, upon hearing hue and cry, as and when his wife/ Laxmipriya Mondal rushed to the spot, jhamela took place followed by physical assault. In his oral testimony, the concerned witness narrated that, accused assaulted both him and his wife by means of lathi, due to which he sustained bleeding injury in right hand and his wife sustained bleeding ear injury and subsequently were both treated at Muradih Hospital. The witness admitted that, he had earlier his wife's evidence earlier. Alike the earlier prosecution witnesses , this witness concerned stated to police that, accused filed one counter case being GR Case No. 26 /2023 pending before Ld Judicial Magistrate , 1st Court, Raghunathpur, Purulia.

7.5 Thereafter , comes the evidence of mother in law in relation to D/C/ Garabi Mondal who adduced that, D/C is her daughter in law, but suprisingly instead of narrating the facts she had witnessed , in the course of trial, PW-4 failed to state any details about the matter. The last private witness examined in this case is PW-5/Monoranjan Mondol, who adduced that, he is unable to state of either D/C and accused and alike the earlier witness, failed to shed any light into the matter. The last prosecution witness examined in this case is PW-6/ Dr Abhishek Dutta, who adduced that, on 10-01-23 ,he examined two patients namely one Laxmipriya Mondal and Aditya Mondal respectively and prepared their injury reports after physical examination, which were admitted into documentary evidence. In his examination in chief , the concerned medical witness narrated that, he noted in the injury report of the victim lady/ D/C multiple abrasions over right leg and right hand , scalp swelling over right temporal region ;and in case of her husband/ Aditya Mondal , he found multiple abrasions over bilateral forearm and bilateral leg , scalp haematoma over right frontal region as well as cut injury over left hand . The medical witness was of the opinion both of the injuries were simple in nature. Upon being confronted with questions put forth in the cross-examination , the witness admitted that, he was introduced to both the patients on the same date itself and even admitted that, he did not mention the age / colour of the alleged injury. PW-6 even his cross -examination admitted that, neither in the two exhibited original injury reports, he mentioned history of assault, mode and manner of assault and names of alleged assailants. Herein , lies the crux of prosecution evidence.

7.6 The factual matrix of this case follows that, the cause of action had arisen on a single day incident at 3PM inside the residential premises of accused and the issue emerged owing to issue of cattle trespass and that leading to verbal altercation and consequential physical assault over the person of D/C lady and her husband .Now First and foremost, coming to the point of lodging of First Information



Report(hereinafter referred to as only “FIR”), it is apt to mention the FIR recorded sets the criminal law in motion and from the point of view of investigating authorities is to obtain information about the alleged criminal activity so as to be able to take suitable steps for tracing and bringing to book the guilty party. The object of insisting upon prompt lodging of the report to the police in respect of commission of an offence is to obtain early information regarding the circumstances in which the crime was committed. The delay in registering FIR can be of three types. First is delay caused by the informant in getting the FIR registered with the Police and secondly the delay on part of the police in getting the FIR registered and thirdly delay in dispatching the FIR to the Magistrate. It can be found , this case stemmed from a police Complaint filed before the Learned Court of the then Additional Chief Judicial Magistrate four days after the alleged incident , whereas the alleged cause of action on 10-04-2023. However , upon further perusal of the record , at the time of passing the judgment , I do find , no specific delay reason is cited and nothing more ; but how far the same ground passes the test of rationality and logic can be understood in appreciating the whole evidence , in the succeeding paragraphs of this judgment.

7.7 Embarking on the main limb of this discussion, it appears that, the present accused persons are charged under **sections 341,323, 294, 506 and 34 of Indian Penal Code**. Coming first to its academic significance first, it appears that, the term “hurt” has been defined under Section-319 of the Indian Penal Code as “Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.” In order for an offence to be classified as hurt, it is essential that there is an element of ‘bodily pain’. It can be understood as the direct result of an act causing bodily pain irrespective of the methods used. It is important to take note that, any kind of injury which causes a risk of life resulting in severe body pain making it unable for him/her to follow his/her ordinary pursuits temporarily cannot be regarded as a grievous hurt but falls under the ambit of hurt. Further, Indian Penal Code demarcates a separate offence for hurting voluntarily or intentionally. **Section-321 of the Code** states: “Whoever does any act to thereby cause hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said, “voluntarily to cause hurt.”

7.8 Coming to the other section against which accused are charged with, is **section 323 of Penal Code**. Now, before appreciating the evidence beforehand, it is the time to examine the provision of Section 323 of Penal Code which is the penal provision with “**voluntarily to cause hurt**”, and against which the accused persons are charged. This section reads as follows: “**Whoever, except in the case provided for by section-334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.**” Nothing resurfaces that, the investigating officer had seized the blood soaked clothes of the victim lady /PW-1 and



collected the sample of blood tainted earth for chemical examination. Even the materials on record is in complete silence whether D/C lady or her husband at any point of time, handed over the same to the investigating officer from their end. However, it was indeed the duty of the investigating officer, whom the prosecution failed to produce in this case, to conduct the investigation in a sacrosanct manner, and seize the relevant offending article/ "lathi " in this case for establishing the charge. Simultaneously, it cannot be overlooked that, as per settled law, there are plethora of judicial decisions to the point that, where there has been negligence on the part of the investigating agency or omissions, etc. which resulted in defective investigation, there is a legal obligation on the part of the court to examine the prosecution evidence de hors such lapses carefully to find out whether the said evidence is reliable or not and to what extent it is reliable and as to whether such lapses affected the objects of finding out the truth.

7.9 Proceeding further it appears that, although PW-1/D/C lady claimed herself being the first one to be attacked by the accused (A-1). She named accused (A-1) and accused (A-3) in particular as the assailants who assaulted her by fists and blows in her ear and she sustained severe bleeding injury in her left ear. On the other, the allegedly principal victim lady/ mother in law in relation to D/C who, if the prosecution story to be believed, was the first one to raise protest on the relevant date regarding the matter, was mum about the entire thing. Moreover, prosecution even failed to declare her hostile during the course of trial. It is pertinent to note that, although as per settled rule of law, oral evidence of the injured holds significance as it is reasonably expected that, the person who suffered ordeal, pain and suffering would not shy away from revealing the truth and shield the criminals. At the same time, what is quite astonishing in this case, is that two persons, who were allegedly present at the same place at the same time and most importantly they themselves are injured ones, have different accounts of the self same incident.

7.10 Moreover, again the name of alleged samaritan/ PW-2/ Rajib Mondal, whose name resurfaces in the evidence of other prosecution witnesses, denied his physical presence at the scene of crime. Delving further, so far evidence of PW-2/ Rajib Mondal, it comes up on one side he is a relative to D/C and on another happens to be a chance witness. As per the settled legal principle, passersby or neighbors present on a public street during a sudden crime are natural witnesses. The prosecution or the witness must provide a logical, satisfying reason for why they happened to be at that specific place and time. In the case of **Gulichand Vs State of Rajasthan reported in AIR 1974 SC 276**, Court observed that, the testimony of a chance witness, although not necessarily false, is proverbially unsafe. If a person's presence feels doubtful, unnatural, or concocted, courts may discard their statement to prevent false implications. It is not the rule of law that chance witness cannot be believed. The reason for a chance witness being



present on the spot and his testimony requires close scrutiny and if the same is otherwise found reliable, his testimony cannot be discarded merely on the ground of his being a chance witness. Evidence of chance witness requires very cautious and close scrutiny. Again, in the case of **Bahal Singh Vs State of Haryana, reported in AIR 1976 SC 2032**, Court observed that, a person who happens to be at the place of occurrence at the time of incident by sheer coincidence is known as the chance witness. Now, so far this instant case is concerned, it can be found in the cross-examination held on same date, the defense side was able to elicit the fact from the mouth of the concerned witness PW-2 that, he used to work at a guest house at Baranti and usually comes home at night time. If now, the matter allegedly took place at 3PM in the afternoon, then how come his physical presence at the relevant point of time and on the relevant date, been justified? Prosecution failed to offer any satisfactory answer to the same. The alleged sudden entry of this witness into the spot and his testimony lead this Court to infer he is nonetheless, an unreliable witness.

7.11 So far evidence of another alleged victim / husband of D/C lady/ PW-3/ Aditya Mondal goes, it transpires from the evidence on record that, he merely reiterated the same facts as stated by his wife earlier on dock. Here comes the pertinent issue as this concerned witness/PW-3 was present at the time inside the Court room, where earlier witnesses been recorded. In this juncture, it is apt to note that, a witness hears the testimony of earlier witnesses in an Indian courtroom, their evidence remains admissible by law, but its credibility and weight are heavily compromised. The present position holds that, neither any Statute contain an explicit section prohibiting a witness from testifying solely because they stayed inside during prior testimonies. However, at the time of evaluating their evidence, Court is required to adhere to certain tests / standards of extra caution and care, as their prior hearing of other witnesses' testimony can have fair chances that their own subsequent testimony, rendered on dock to be tainted, rehearsed, or influenced. Delving further, in the present case, prosecution did not gain from the evidence of PW-5, who appear to be nonchalant regarding the entire alleged occurrence. However, one aspect found to be striking is that, unlike his wife, who merely stated matter took in front of her house; he whereas, on the other testified that same took place inside his khamar house, leading to shifting of "PO" in this case.

7.12 Embarking further into this particular aspect, it cannot be overlooked significance of PO in a criminal trial. Be it mentioned that, the spot map/sketch map prepared by the investigating officer is relevant under section 9 of the Indian Evidence Act, 1872 and since it is based on the actual observation of the officer at the crime scene, it is treated as direct evidence and is admissible under section 60 of Indian



Evidence Act, 1872. Now , in this case , it can be gathered that, investigating police offer remain unexamined and as such rough sketch map and index were not admitted into documentary evidence . In the absence of same , Court at the time of passing judgment has to rely on the testimony of the witnesses so far the location of PO is concerned . Here only the main discreapnacy and departure in the versions of the witnesses . PO testified by the witness /PW-2 denoted as “sabji bari” of the accused and; from the mouth of other witness PW-3 it is denoted as in the backside of his “khamar bari”. The very nature of PO , at the very outset, whether it is within fourcorners of any private residential property or in public glare cannot be pinpointed , thus leaving the same as unidentified in this case .

7.13 *Scanning the evidence as a whole , it comes up that, two original injury reports/medical documents been admitted into documentary evidence and both the alleged victims were treated on same date . The injury reports disclose serious and grave injury though it is inconsistent with the oral evidence . Although PW-1 stated on dock she had suffered ear bleeding injury but the same is not reflected in her injury report and moreover , no further medical investigation report comes up to corroborate the gravity of the alleged injury. Similar stands in the case of injury report of PW-3 , as the oral evidence appears to be self contradictory with that of medical evidence. PW-3 , in his oral testimony deposed that, he sustained bleeding in his right hand and pain injury all over his person ; however his exhibit speaks of frontal scalp haemotoma and left hand cut injury , which is quite the opposite . Be it mentioned that, although medical evidence is an opinion based one and has no binding value. However , as the evidence is appreciated and read as a whole ,ocular evidence must always be in consonance with the medical evidence and any departure from the same marks as a dent to the prosecution case at large . This case beforehand is also not an exception , as oral evidence being riddled with inconsistencies , the real nature of injury , if at all, caused cannot be determined in any manner.*

7.14 *In this case , accused are charged under section 341 of Penal Code, which states that, the particular section enunciates, “Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may not extend to one month, or with fine which may extend to five hundred rupees, or with both”. As per Section-339 of the Indian Penal Code, to constitute the crime of committing wrongful restraint, the person who was deprived of their liberty must face an obstruction. Other than that, the person who faced the obstruction must feel that they are deprived or not given access to proceed towards the direction they desired to proceed in the first place. The last and main component which is required for it to be called a crime is that, the victim must have the right to proceed towards the desired direction in the first place. The only exception in this Section states that, if a person in good faith, feels that they need to*



obstruct someone's pathway over land and/or water, then it will not amount to wrongful restraint. Henceforth, to suffice the prerequisites of this section, there must be any exertion of physical force by touching any person's body or cause him obstruction in such a manner that the victim has no reasonable means to escape or flee away right at that very point of time. Thus, the prosecution must show three key facts: the accused blocked the victim on purpose, this block stopped the victim from going a specific way, and the victim had a legal right to go that way. **Now in this case when two other factors being unidentified PO as well the commission of alleged assault remain not proved, charge under section 341 of Penal Code also fails.**

7.15 The other section against which accused are charged is Section 294 of Penal Code, which deals with two main ingredients -the action, song, or words must happen in, or close to, a public space and the act or words must be genuinely obscene rather than mere vulgar abuse or profanity and same must cause annoyance to other people nearby. As stated in earlier preceding paragraphs, PO cannot be pinpointed in this case owing to inconsistent oral testimonies. In absence of clear, cogent and unflinching evidence available on record, it cannot be adjudged whether PO is within private domain or in public place. Secondly, nothing comes up from the available materials on record any bystanders or people nearby felt genuinely annoyed, harassed, or disturbed by the behavior of the accused. In this case, not a single independent eye witness is available to corroborate the matter. **As such, prosecution fail to establish the ingredients of Section 294 of Penal Code.**

7.16 It comes up the accused are also charged under **Section 506 of Penal Code.** Now in this case the alleged abusive threatening words stated by D/C in the complaint had not been stated by either of the prosecution witnesses in their evidence and as such the same stands not corroborated. It has been consistently held by the Apex Court and also by various High Courts that before an offence under this section is made out, it must be established that, the accused had an intention to cause an alarm to the victim D/C. Mere expression of words without any intention to cause alarm would not suffice. **Further, mere vague and bald allegations that the accused threatened the victim with dire consequences is not sufficient to attract the provisions under Section 506 of the Penal Code.**

7.17 Delving further, one defense plea in this context, needs to be addressed where it had come up in the evidence of available prosecution witnesses, both sides are admittedly neighbours in relation to each other and accused had earlier filed one criminal proceeding against the D/C side. Now taking into account this very piece of oral evidence, it comes present case is one such counterblast to the retaliation of the earlier case where D/C lady along with her immediate family members were impleaded accused. Needless



to mention, D/C lady at least , being admittedly the accused in the other counter case , nevertheless , happen to interested witness in this case and purportedly to save herself from the outcome of another pending GR case , adduced evidence to falsely implicate the accused. In this juncture , the need of the hour warrants probing into the scope of interested witness. The case of **Dalip Singh vs. State of Punjab reported in 1953 SC 364** one of the earliest cases in relation to appreciation of evidence of interested witnesses it was observed by the Honourable Court that, a witness is normally to be considered independent unless he or she spring from sources which are likely to be tainted and that usually means unless the witness has call such as enmity against accused to wish to implicate him falsely ordinarily a close relative would be the last two screen the real culprit and falsely implicated in a fun person it is true when feeling run high and there is personal cause for enmity that there is a tendency to drive in an Ocean person against whom a witness as a great along with the guilty but foundation must be late for such criticism and the effect of relationship far from being a Foundation is often a sure guarantee of truth. Again, in the case of **Ramashish Rai Vs. Jagdish Singh reported in (2005) 10 SCC 498** the Code made the made following observation the requirement of law is that the testimony of inimical witnesses has to be considered with caution. if otherwise the witnesses are true and reliable their testimony cannot be thrown out on the threshold by branding them as in micabal witnesses buy now .

7.18 As a matter of fact, it cannot be ignored that, with the history of previous enmity between the parties with another criminal counter case proceeding, the possibility of false implication cannot be ruled out. Evidence of PW-1 and PW-3 is can be held as unreliable from this point of view. Coming back to the academic realm, with reference to sections alleged in this case, care should be taken to bring out distinctly as far as possible the connection of either of the accused with the crime and the actual part played by each of them The possibility of innocent persons being falsely implicated should be always borne in mind and this case cannot be treated as an exception.

7.19 Before parting, I am of the considered view that, in view of settled principle of law, a criminal case stands proved on its own legs when the available evidence unerringly form the direct chain connecting the accused to the scene of crime and it is the solemn duty of prosecution to establish the same beyond all shadow of reasonable doubts. Now, it is well settled that, factual chain of circumstances is broken and the version of the prosecution has not been established as was required of it. In the absence of complete chain, the guilt of the accused cannot be inferred and suspicion howsoever grave it may be, cannot take place of proof as that would be miscarriage of justice, which must be avoided. A reasonable doubt is not an imaginary, petty or more probable doubt but doubt becomes a fair doubt and it is based upon reasons and common sense vis-a-vis the testimony on record. It is axiomatic when the evidence for



the defacto complainant is insufficient and lopsided failing to prove the existence of a fact conclusively, then it would amount to a case where prosecution failed to prove its own case beyond reasonable doubt. Nonetheless, the access to path of justice cannot under any circumstance be twisted/moulded on the strength of any imaginary/fictitious cause of action as the settled Maxim goes – “Equity does not aid a party at fault.”.

7.20 . Therefore , in the light of the oral as well as documentary evidence available on record as well taking into account the submission made by Learned Advocate representing both the sides and the substance of examination of accused recorded under section 313 of Code of Criminal Procedure, I am of the considered view, the prosecution has miserably failed to establish the ingredients of the offences punishable under sections- 341,323,294,506,34 of Indian Penal Code beyond all shadow of reasonable doubt and the accused are entitled to benefit of doubt. In these circumstances, this Court has no other way but to hold all the accused persons innocent and accordingly acquit them all from the charges of this case.

Hence, it is,

ORDERED

that the accused persons namely, (A-1) Ramsatya Manadal, (A-2) Prasenjit Mandal, (A-3) Kajal Mandal , (A-4) Rupali Mandal and (A-5) Saraswati Mandal respectively are found “not guilty” of having committed offences punishable under sections 341,323,294,506,34 of Indian Penal Code and they are hereby acquitted in accordance with the provisions being laid down under section-248(1) of the Criminal Procedure Code. Sureties are hereby discharged from the respective bail bonds.

The victim/defacto complainant lady may prefer as per Section-372 of Cr.P.C. and if necessary, avail free legal assistance through District Legal Service Authority, Raghunathpur, Purulia.

Copy of this judgment be intimated to Sub-Divisional District Magistrate, Raghunathpur, Purulia as well to SDLSA, Raghunathpur.

Seized alamats, if any, be disposed of after the statutory period of appeal.

Thus, the case is disposed off.

Note in relevant register.

Let a copy of the judgment be uploaded in CIS at once.

Dictated and Corrected by me,

Sd/-

Judicial Magistrate

2nd Court,Raghunathpur,Purulia

Dictated and Corrected by me,

Sd/

Judicial Magistrate

2nd Court, Raghunathpur,Purulia