

WBPU060011922024



IN THE COURT OF JUDICIAL MAGISTRATE 2 nd COURT, RAGHUNATHPUR, PURULIA	
Present: Smt. Sanjukta Bhattacharya	
(JO Code:WB-01346)	
[20-07-2026]	
GR Case No. 404/2024 (CIS No.766/2024)	
CNR No.: WBPUO6001192-2024	
TR No.: 100/2024	
Presented on : 09-12-2024	
Registered on : 09-12-2024	
Decided on : 20-07-2026	
Duration : 1 years, 7 months, 11 days	
The allegation u/s-447,323,325,34 of Indian Penal Code, 1860 arising out of Santaldih PS Case No. 70/2024 Dated 23-06-2024.	
Complainant	STATE OF WEST BENGAL Madan Rajak (De facto complainant)
REPRESENTED BY	Learned Assistant Public Prosecutor Sri Lalit Majee
ACCUSED , PARENTAGE AND PLACE OF RESIDENCE	Niru @Niranjan Rajak s/o Puran RajakA-1 , Puran Rajak s/o Late Bhuklal RajakA-2, Jiren Rajak s/o Puran RajakA-3, Jayanta Rajak s/o Puran RajakA-4, Pahilu @Pahalu Rajak s/o Late Paltu RajakA-5, and Raju Rajak s/o Late Paltu RajakA-6 All residing at village Shyampur , PS-Santaldih, District-Purulia.
REPRESENTED BY	Ld. Advocate Sri Jiten Mahato

Date of Offence	23-06-2024
Date of FIR	23-06-2024
Date of Charge sheet	30-06-2024
Date of Framing of Charge	07-02-2025
Date of commencement of Evidence	01-04-2025
Date on which Judgement is reserved	20-07-2026
Date of the Judgement	20-07-2026
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	Niru @Niranjana Rajak	Surrendered on 24-06-2023	24-06-2023	Sections 447/323/325/34 of Indian Penal Code	Acquitted	Nil	Not Applicable
A-2	Puran Rajak	Surrendered on 26-06-2024	26-06-2024	Sections 447/323/325/34 of Indian Penal Code	Acquitted	Nil	Not Applicable
A-3	Jirena Rajak	Surrendered on 26-06-2024	26-06-2024	Sections 447/323/325/34 of Indian Penal Code	Acquitted	Nil	Not Applicable
A-4	Jayanta Rajak	Surrendered on 26-06-2024	26-06-2024	Sections 447/323/325/34 of Indian Penal Code	Acquitted	Nil	Not Applicable
A-5	Pahilu @Pahalu Rajak	Surrendered on 26-06-2024	26-06-2024	Sections 447/323/325/34 of Indian Penal Code	Acquitted	Nil	Not Applicable
A-6	Raju Rajak	Surrendered on 03-07-2024	03-07-2024	Sections 447/323/325/34 of Indian Penal Code	Acquitted	Nil	Not Applicable

LIST OF WITNESSES:

A. Prosecution witness, if any:

Rank	Name	NATURE OF EVIDENCE
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PW-1	Madan Rajak	Defacto complainant/ victim
PW-2	Pari Rajak	Mother of victim
PW-3	Parasuram Mahato	Other witness
PW-4	Mahadeb Mudi	Other witness
PW-5	ASI Sudarshan Mahato	Police witness/ investigating officer

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 written complaint
2.	Exhibit P-2	Formal FIR
3.	Exhibit P-2/1	Recieving endorsement of SI Habibur Rahaman of Santaldih PS
4.	Exhibit P-3 and P-3/1	Rough sketch map and index

B. Defence:

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

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
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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 23-06-2024 at 09.15 hrs one FIR Complaint was received by O/C Santaldih PS filed by the Defacto Complainant (hereinafter DC only) man Madan Rajak s/o Late Bhushan Rajak , of village Shyampur under SantaldihPS, District- Purulia to the effect that, 23-06-2024 at about 06.30 hrs, accused persons entered inside the paddy field of D/C for cultivation work. That as and when D/C and his family members protested , accused hit son of D/C namely one Badal Rajak on his head with lathi and he sustained bleeding injury over there . It is further alleged that, accused hit D/C and his grandson with lathi and they all received greivous injuries on their persons. Hence, this case.

1.2 Over the complaint one specific case being Santaldih PS Case No.70/2024 dtd.23-06-2024 u/s-447, 323,325,34 of Indian Penal Code was registered against all the accused .

2. INVESTIGATION AND FILING OF CHARGE-SHEET:

2.1. Perusal of the order sheets reveal that, the accused person (A-1) was arrested and produced before the then Court of Learned Additional Chief Judicial Magistrate, Raghunathpur , Purulia voluntarily surrendered on 24-06-2024 and was enlarged on bail on the self -same date The rest accused voluntarily surrendered before the then Court of Learned Additional Chief Judicial Magistrate, Raghunathpur , Purulia voluntarily surrendered on 29-06-2024 and 03-07-2024 and they were enlarged on bail on self -same dates.

2.2 After proper investigation, Police submitted charge Sheet no.51/2024 dated 30-06-2024 against the accused u/s-447,323,325 and 34 of Indian Penal Code.

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2.3. The case was taken cognizance by Learned Additional Chief Judicial Magistrate, Raghunathpur as on 11-07-2024. Thereafter, the record was transferred to this Court for disposal.

3. APPEARENCE AND EXAMINATION OF ACCUSED UNDER SECTION 240 OF CODE OF CRIMINAL PROCEDURE/FRAMING OF CHARGE:

3.1. On perusal of the materials on record it appears that, after the case record been transferred to this Court, all the present accused persons were put to trial for commission of offence punishable under Sections- 447,323,325,34 of Penal Code.

4. COMMENCEMENT OF TRIAL AND EXAMINATION OF ACCUSED UNDER SECTION 313 OF CODE OF CRIMINAL PROCEDURE:-

4.1. After charge hearing, the trial commenced by taking evidence of altogether five prosecution witnesses. CSW-1/Madan Rajak, CSW-2/Pari Rajak, CSW-3/ Parasuram Mahato, CSW-4/ Mahadeb Mudi and CSW-9/ASI Sudarshan Mahato respectively were all examined as PW-1 to PW-5 and cross-examined and discharged. Thereafter, completion of evidence accused were examined u/s-313 of Criminal Procedure Code with statutory warnings and pleaded innocence and declined to adduce any evidence on their behalf. The scope of defense witness stands closed. Argument is heard.

5. POINTS FOR DETERMINATION:

- 1) Whether the accused persons have committed offences u/s- 447,323,,325,34 of Indian Penal Code?
- 2) Whether the prosecution has proved the guilt of the accused persons beyond reasonable doubt?

6. DECISION WITH REASONS:

6.1 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 D/C man 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 D/C man has been able to successfully establish its case, then only the burden shifts on the accused to explain its stance and present its defence.

6.2 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.

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Now, scanning the available evidence on record, it comes up from the substance of evidence of PW-1, that he is the D/C man himself. As per version of PW-1, the incident took place two to three years prior to the date of his evidence in the morning at 7 AM in their paddy field and that in the Bengali month of Jaisthya. The witness went on to reveal that, as and when paddy seeds were reaped for cultivation, accused persons with ulterior motive, came to the field and assaulted him and as a result, he was pushed down on the ground. The witness further more revealed that, his son namely one Badal Rajak was assaulted by means of “lathi” on his head by the accused and he was later medically treated. In the course of cross-examination, held on the same date PW-1 readily acknowledged that, after ten to twelve days after cause of action, he registered the matter. He even admitted that, on the basis of self same cause of action, accused side file one counter case and he along with his other family members were tried under section 302 of Indian Penal Code. This is in crux the substance of his evidence.

6.3 The next witness /PW-2/happens to be the wife of D/C man and she claimed that, her husband had filed the case and the matter of one instance of physical assault, took place in one paddy field. The witness alike PW-1 revealed that, her son namely one Badal Rajak was assaulted on his head by the accused persons without specifying in particulars the mode and manner of assault. The witness even admitted that, she was present inside the house at the relevant point point of time and she herself did not witness the alleged occurrence. The rest two witnesses being PW-3 and PW-4 respectively, who claimed themselves as co-villagers remained stoic during trial and did not utter a single word about the matter.

6.4 The last witness to be examined in this case is the investigating officer and as per his version, on 23-06-2024, after receiving the charge of investigation, he had gone to the spot as identified by the D/C man and prepared rough sketch map and index, examined available witnesses namely – Pari Rajak, Poroshuram Rajak, Mahadeb Nandy, Debkumar Rajak under section 161 of Code of Criminal Procedure. The police witness admitted that, he collected the injury report of victim Badal Rajak from Para BPHC on 29-06-2024, prior to submission of chargesheet. Whilst facing cross-examination, the witness admitted that, he failed to verify the ownership details of disputed land. The police witness acknowledged the fact, one of the accused Dhiru Rajak (since deceased) had died due to physical assault arising out of same cause of action, on 18-06-2024 at Ranchi RIMS Hospital. Besides the same, the police witness admitted the fact that save and except 23-06-2024, the police witness did not go to alleged PO on any other date. This is the crux of prosecution evidence. Besides them, no other witnesses, were examined by the prosecution, to corroborate the case.

6.5 Going by the factual matrix, it comes up that, the dispute arose on a single date incident as and when the accused wrongfully trespassed into the paddy cultivable land of D/C which was later followed by physical assault. Now, on perusal of the materials on record, it transpires incident took place on 23-06-

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2024 and FIR was registered on the self-same date. It is pertinent to note that, promptly lodging a First Information Report (FIR) provides early, first-hand information about a crime to the police, helping to avoid potential exaggeration or concocted stories later. Now the succeeding paragraphs would deal with appreciation of evidence in the light of statutory provisions.

6.7. Coming to the sections against which accused are charged with, the first section here comes is **Section 447 of Indian Penal Code**. Now the impetus of the said section owes its origin to the offence of criminal trespass, which is defined under Section-441 of Indian Penal Code, which reads as under: "Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit "criminal trespass". Now, the offence of house trespass is defined under Section-447 of Indian Penal Code, 1860 as follows: Whoever commits trespass shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both. In order to prove the guilt of accused, now, firstly the prosecution has to prove that, the accused person entered in the property, which was in possession of the DC man. Now it is to be noted that for fulfilling the essential ingredients of trespass, it is not essential that D/C man shall be owner of the said property. Two essential ingredients must follow in this case is an unauthorized entry and wrongful intent. Mere property disputes are not enough; the act must be intentional and maliciously committed. Now, nothing is forthcoming that, alleged PO (paddy cultivable land) belongs to that of D/C side only.

6.8 In plethora of judicial decisions, it had been upheld from time to time that, this statutory provision had been designed to protect possession as distinguished from title in the sense that the question in whom title to the land or property vests is alien to the alleged offence in question. Now, at the time of careful analysis of evidence, no such cogent evidence transpires to substantiate that, D/C man exclusively is in possession of the alleged Place of Occurrence, rather if the rough sketch map and index as admitted into documentary evidence, is relied, it shows the said spot is cultivable by four co-sharers and one of such co-sharers include one of the accused namely- Pahilu @Pahalu Rajak (A-5). In this connection, it is pertinent to mention, offence of criminal trespass as enshrined under Section 447 of the Indian Penal Code cannot lie against a co-sharer for entering joint, undivided property and the reason behind the same, is that a co-sharer has a lawful, joint ownership right to the whole property until a formal, legal partition occurs. Hence forth, without slightest hesitation, I do find prosecution failed to establish mens rea on the part of the accused for alleged commission of offence.



6.9 The other two sections again which all the accused are charged are **sections 323 and 325 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.” 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.” On the other, **Section-325 of the Penal Code** provides for the punishment of grievous hurt. Again, the term grievous hurt has been defined under **Section-320 of the Indian Penal Code** and had particularly categorised eight kinds of hurt as grievous only in nature which are - Emasculation, permanent privation of the sight of either eye, permanent privation of the hearing of either ear, privation of any member or joint, destruction or permanent impairing of the powers of any member or joint, permanent disfiguration of the head or face, fracture or dislocation of a bone or tooth, any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.” The discussion in the succeeding paragraphs would entail in the light of appreciation of prosecution evidence, whether the factors regarding mode and manner of injury along as well the nature and perception of the victim play any role in order to attract the ingredients of the statutory provision.

7.0 Be it noted that, in this case from the oral evidence of PW-1 who along with his son / Badal Rajak are both victims in this case were assaulted by “lathi”. On the other, it transpires from the available record that, neither the name of alleged victim / Badal Rajak been cited as witness in the chargesheet nor he been examined by the prosecution at any stage of trial. In absence of his oral evidence, the extent of alleged head injury caused by means of “lathi” remain unascertained. Again, it cannot be disregarded that, PW-1 remained silent in his evidence, about the alleged mode and manner of assault and; even the specific roles played the accused in this case. Appreciating the evidence available on record, it comes up PW-2 being the wife of D/C is an indirect witness but even nothing



comes up, regardless of whatsoever she said in her deposition, was disclosed to her by the alleged victims themselves or by any other third person . Now , only after ascertaining the same , her evidence can be classified as hearsay and otherwise not. Besides PW-1, nevertheless , it can be found not a single independent private witness corroborated in material particulars the alleged mode and manner of assault. Appreciating further the testimony of other witnesses , it comes up although PW-3 and PW-4 are adjacent co-sharers, but they remained stoic silence about the matter . Moreover , no such alleged offending weapon (“lathi”) been seized and produced as alat for sake of identification during trial . Even , no medical evidence is forthcoming in the record to strengthen the prosecution case in any manner . In absence of cogent , unflinching oral as well medical evidence , prosecution failed to establish the ingredients of both sections 323 and 325 of Indian Penal Code.

7.1 What boils from discussion is that,one statement by one of witnesses may not be taken out of context to abjure guilt on the part of all accused persons. When the case of the prosecution is based on evidence of eye witnesses, some embellishments in prosecution case caused by evidence of any prosecution witness although not declared hostile, cannot by itself be ground to discard entire prosecution case. On the basis of mere statement of one prosecution witness on a particular fact, the other prosecution witness cannot be disbelieved. Discrepancies in witness testimony are considered material if they are significant and affect the core issues of a case, rather than minor inconsistencies. normal contradictions appearing in the testimony of a witness do not corrode the credibility of a party’s case but material contradictions do so. Invariably , in this case , both material omissions/ contradictions are patently visible in the testimonies of prosecution witnesses, which gives rise to incertitude.

7.2 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. Appreciating the evidence on record , it eventually transpires that, there is lies animosity in between the rival parties to dispute owing to cultivable land and on the basis of alleged self -same cause of action, accused had already served in judicial custody with regards to section 302 of Penal Code charged against them due to assault and death of one of the accused Dhiru Rajak. Now, going by the case, nevertheless it is found 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 . According to settled principle, 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.

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7.4 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 Advocates representing both the sides, I am of the considered view, the prosecution has miserably failed to establish the ingredients of the offences punishable under **sections 447,323,325,34 of Indian Penal Code** beyond all shadow of reasonable doubt and the accused are all entitled to benefit of doubt. In these circumstances, this Court has no other way but to hold 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) **Niru @Niranjana Rajak** , (A-2) **Puran Rajak** , (A-3) **Jiren Rajak**, (A-4) **Jayanta Rajak** , (A-5) **Pahilu @Pahalu Rajak** and (A-6) **Raju Rajak** respectively found “not guilty” of having committed offences punishable under **sections 447, 323,325, 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 man 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 alamsats, 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 this 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