



IN THE COURT OF JUDICIAL MAGISTRATE 2nd COURT, RAGHUNATHPUR, PURULIA Present: Smt. Sanjukta Bhattacharya (JO Code-WB01346) [14-08-2026] GR Case No. 684/2025(CIS No.: 949/2025) CNR No.: WBBPU06001403-2025 TR No.: 200/2025 Presented on : 10-12-2025 Registered on : 10-12-2025 Decided on : 14-08-2026 Duration : 0 years, 8 months, 4 days The allegation u/s-126(1),117(2) , 351(2),BNS arising out of Neturia PS Case No.149/2025 Dated 04-09-2025.	
Complainant	STATE OF WEST BENGAL Sk. Sher Alam (De facto complainant)
REPRESENTED BY	Learned Assistant Public Prosecutor Sri Lalit Majee
ACCUSED PARENTAGE AND RESIDENCE	Sk. Raja s/o Late Sk. Abu Hanip @Hanib , residing at village Nimdanga PS-Neturia, District-PuruliaA-1,
REPRESENTED BY	Learned Advocate Sri Bipul Hazra

Date of Offence	04-09-2025
Date of FIR	04-09-2025
Date of Charge sheet	30-09-2025
Date of Framing of Charge	30-01-2026
Date of commencement of Evidence	21-02-2026
Date on which Judgement is reserved	14-08-2026
Date of the Judgement	14-08-2026
Date of the Sentencing order, if any	Not applicable



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 468 of BNSS
A-1	Sk. Sher Alam	Surrendered on 06-09-2025	06-09-2025	Sections-126(2), 117(2) 351(2) BNS	Acquitted	Not Applicable	Not Applicable

LIST OF WITNESSES :

A. Prosecution:

Rank	Name	NATURE OF EVIDENCE
PW-1	Sk. Sher Alam	Defacto complainant/victim
PW-2	Sk. Sabir	Related/Other witness
PW-3	Sk. Sabir	Other witness
PW-4	Sk. Jahid	Related/Other witness
PW-5	Dr. Amreen Akhtar	Medical Officer
PW-6	ASI Pradip Chakraborty	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

A. LIST OF PROSECUTION EXHIBITS :

Sr. No.	Exhibit Number	Description
1.	Exhibit P-1	Entire FIR
2.	Exhibit P-2	Original injury report
3.	Exhibit P-3 and P-3/1	Formal FIR and receiving endorsement of SI Gopal Chandra Mann of Neturia PS
4.	Exhibit P-4and Exhibit P-4/1	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
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 arises from a FIR complaint lodged by the de facto complainant (herein after referred to as D/C), namely Sk. Sher Alam s/o Late Sk. Abu Hanip @Hanib of village Nimdanga , PO- Neturia , PS- Neturia , District-Purulia to the effect that on 04-09-2025 at about 12.30 hrs accused being the own brother assaulted the D/C man with rod as well as threatened him with dire consequences over the issue of family matter. As a result , the D/C received grievous head injury and was treated at Harmandih BPHC. Hence, this case.

1.2 Over the complaint one specific case being Neturia PS Case No.149/2025 dtd.04-09-2025 u/s- 126(2), 117(2), 351(2) of Bharatiya Nyaya Sanhita (hereinafter referred to as BNS,)2023, was registered against the present sole accused.



2. INVESTIGATION AND FILING OF CHARGE-SHEET:

2.1. The accused person (A-1) voluntarily surrendered before the Court of Learned Additional Chief Judicial Magistrate, Raghunathpur on 06-09-2025 and was granted bail on the self same date. Bail Bond was furnished on behalf of surety(ies) on that date.

2.2 After proper investigation, Police submitted charge Sheet no. 126/2025 dated 30-09-2025 against the accused u/s- 126(2), 117(2), 351(2) BNS,2023.

2.3. The case was taken cognizance by Learned Additional Chief Judicial Magistrate, Raghunathpur as on 10-10-2025 and the record was transferred to this Court for disposal.

3. APPEARANCE AND FRAMING OF CHARGE:

3.1. On perusal of the materials on record it appears that, after the case record been transferred to this Court, the present accused person was examined under sections-263 of Bharatiya Nagarik Suraksha Sanhita, 2023, (hereinafter referred to as only “BNSS,2023.”) The substance of accusation was read over and explained to the accused of which he pleaded “not guilty” and claimed to be tried. Such being the case, the present accused was charged for commission of offences punishable u/s126(2), 117(2), 351(2) BNS,2023.

4. COMMENCEMENT OF TRIAL AND EXAMINATION OF ACCUSED U/S 351 BNSS:

4.1. After consideration of charge, the trial commenced by taking evidence of altogether six prosecution witnesses. CSW-1/ Sk. Sher Alam was first examined as PW-1 and discharged. Thereafter comes the evidence of Sk. Sabir s/o Late Sk. Abu Hanip @Hanib and CSW-3/ Sk. Sabir s/o Late Sk. Alamin, CSW-4/ Sk. Jahid respectively were examined as PW-2 to PW-4 and cross examined and discharged. Lastly, comes the evidence of CSW-5/



Dr. Amreen Akhtar and CSW-8/ ASI Pradip Chakraborty who being the investigating officer was examined as PW-6 and discharged. Thereafter, completion of evidence, accused was examined u/s-351 BNSS, 2023 and he pleaded innocence and declined to adduce any evidence on his behalf. Defense Witness scope stands closed.

5. ARGUMENT

5.1 Argument presented by prosecution :

Learned Assistant Public Prosecutor for the State has contended inter alia that, in this case FIR was lodged by D/C right immediately after the occurrence leaving no room for embellishments in FIR. Secondly, Learned Counsel argued that, the victim corroborated the prosecution case. He even argued that, injury report admitted into evidence strengthened the prosecution case, thereby submitting that prosecution has indeed established its own case where the 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, Place of Occurrence remain unidentified. Secondly, Ld. Counsel even raised the attention of this Court regarding the fact that evidence of alleged victim so far the mode and manner of the same, remain not corroborated with the, becoming the weak link to rope the accused for alleged commission of the offence. 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 the accused, from the charge of this case.

6. POINTS FOR DETERMINATION:

1. Whether the accused person has committed offences u/s 126(2), 117(2), 351(2) BNS,2023?
2. Whether the prosecution has proved the guilt of the accused person beyond



reasonable doubt?

7. DECISION WITH REASONS:

7.1 Both the points are taken up together for sake of brevity and convenience. Now, in order to prove this case, the prosecution has first adduced oral evidence of the de-facto complainant as PW-1, and as per his version, incident took place on 04-09-2025 at 12.30 PM inside his house . PW-1 went on to narrate that, there was one civil household dispute owing to construction of wall , which you earlier undertook to erect but refused to do so; and on the relevant date, one heated altercation took place followed by physical assault. Regarding the mode and manner of assault , the witness testified that, sole accused , admittedly being one of the biological brothers in relation to D/C, all of a sudden assaulted him by means of a roller machine which is used for painting the house and struck five to six times over the head, leading to severe bleeding injury .

7.2 Secondly, comes the evidence of one Sk. Sabir, who adduced that,D/C is his younger brother and the incident took place five to six months prior to the date of his evidence. This witness faltered during trial and failed to state any other particulars of the matter. The immediate next witness, Sk. Sabir s/o Late Sk. Alamin comes across as an adjacent villager in relation to D/C and he even remained in complete silence about the matter. The next witness namely one Sk. Jahid comes across as nephew in relation to D/C but failed to state any particulars about the matter.

7.3 After the evidence of private witnesses , comes the evidence of the medical officer , who treated the victim/D/C man ,and as per her version,on 04-09-2025, she treated patient Sher Alam and on physical examination , found lacerated injury (3 cm x 5 cm) over scalp with bleeding. The medical witness was of the opinion injury may be grievous as radiology report was not available. However , in the cross -examination , held on self same date the



same witness admitted that, nature of alleged offending weapon is not stated by the patient to her. Even , an alternative medical possibility , in the form of suggestion was admitted by the concerned witness as and when she acknowledged such similar kind of injury may be detected if a person falls on hard surface. The last witness , examined by prosecution in this case is the police investigating officer , who narrated in his examination in chief the duties performed in discharge of official functions, after receiving the charge of investigation, right after perusing FIR, visiting PO, examining available witnesses , seized the alleged offending article/ painting roller brush ,collection of injury report of the victim man prior to submission of chargesheet against the accused in this case. Whilst confronting the questions put forth during cross -examination, the police witness admitted that , he failed to record statement of D/C man earlier during investigation. Besides them ,no other witness further been brought by the prosecution to corroborate the case in material particulars.

7.4 Scanning the evidence on record on record , it comes up First Information Report(hereinafter referred to as only “FIR”) was registered right on the date of alleged cause of action , promptly . In this case , the scenario of the emergence of the cause of action demands kind attention as the matter arose in between two biological brothers owing to construction of wall which the accused brother, though agreed earlier, refused to erect later. The evidence on record clearly suggests that , at first verbal altercation broke out followed by free fight ; and in that course of such fight, accused assaulted him on his head five to six times ,by means of a roller machine ,used for painting the house., resulting in bleeding injury. Be it noted ,the right of private defense is not available in a free fight, as both sides willingly engage in a mutual, premeditated, or pitched battle, neither party can claim self-defense because every participant is considered an aggressor and is held individually liable for their own specific acts. The settled law does not separate an attacker from a defender because both willingly joined the clash. Proving who the real aggressor is requires reconstructing the sequence of events using medical reports, independent eyewitnesses, and physical site



evidence during the trial. Here the case lies , striking someone on the one of the most vital yet sensitive part / head with an object is treated as a serious use of force under the law. Evidence must show precisely who inflicted the head blow, as in such case of free fight, common intention do not automatically apply.

7.5 Now , in this case , alleged Place of Occurrence as suggested by the exhibited rough sketch map and index happens to be inside four corners of house of D/C man and not in public glare . The name of only available witness who allegedly timely intervened as stated by the D/C man himself is Sk. Sabir/ PW-2 in this case , who dressed the wound by piece of cloth over the affected area. However , whilst appreciating the record , it comes PW-2 remained in complete silence about the matter and right away adduced that, he is bereft of any personal knowledge about the same. Even the prosecution , for best reasons known, did not declare him hostile. The weakest link in this case , the other family member examined as PW-4 in this case also failed to state any details about the matter as he acknowledged being outside due to work. To utter dismay , it appears had at all prosecution case to be relied , same took place inside a private residential property , what prevented the prosecution to examine any other family members who were available at the spot at that relevant point of time , to witness the matter after hearing hue and cry . Same remains unanswered by prosecution. Again in this present case , the other witness examined as PW-2 was an adjacent neighbour and he remain unfazed about the entire aspect . Be it noted , as a matter of prudence , in case where the other family members of both D/C as well as accused family preferred to remain mum , the conduct of an adjacent neighbour who chose to be silent about the issue , cannot be treated as an exceptional one.

7.6 Appreciating now , the available oral evidence , it comes up , it was the first time , D/C was adducing evidence and prior to it , his statement was not earlier recorded by police. Even, PW-1 admitted in his oral evidence whilst confronting the questions put forth in cross-



examination that, the facts deposited by him during his examination in chief was not earlier stated in substance of police complaint. Be it note police complaint is not a substantive piece of evidence and any fact which is rendered on oath by a witness, on dock is only substantive piece of evidence; it can only be used to corroborate or contradict the maker of the report. Omissions in the complaint regarding a specific fact or detail stated later in court amount to a contradiction or omission and it do not automatically make a witness's subsequent court testimony inadmissible or useless. However, in this context, the defense ploy to impeach the witness's credibility during cross-examination did not go unnoticed. The other aspect touching down the issue of when a complainant or witness gives a deposition in court for the first time without a prior police statement recorded, the testimony remains legally permissible, but the defense can question its reliability due to the lack of a previous record as without any reason, the defense side is bereft of the opportunity to contradict the witness. The actual substantive evidence, what the settled law stands, is what the witness deposes under oath during the court trial, not what is written in a police diary. It is noteworthy to mention, yet an unrecorded statement of such vital material witness as he is both D/C as well only victim man in this case, brings to radar sloppy investigative work by the police.

7.7 Now coming to the investigative part in this case, it transpires, from discussion, statement of vital material witness not recorded by police and even the same, if at all, can be overlooked, the seizure list prepared by on 25-09-25 is quite surprising. Going by the trajectory of the case, matter was registered on 04-09-25, accused surrendered before Learned Court of Additional Chief Judicial Magistrate, Raghunathpur on 06-09-2025 and the offending article/ alleged paint roller brush was seized on 25-09-25, just before submission of chargesheet. Nothing ever comes the seizing of the said article was as per leading discovery of statement of accused in remand. Even, nothing further comes up, alleged article was produced as alamat for sake of identification during trial. Moreover, neither blood stained clothes of the victim was seized nor blood tainted earth was sent for



chemical examination. Coming to academic significance , in this context , defective investigation does not automatically lead to an acquittal. However, if a material defect damages the core of the prosecution's case or creates a reasonable doubt, it can result in an acquittal. This case is certainly one such kind , where material omissions shook the edifice of the prosecution case at large. Even , so far the exhibited medical evidence is concerned , it is a mere opinion based one and to ascertain the real nature of alleged injury , no further medical investigation report corroborate to determine in actual , at all nature of alleged injury is grievous.

7.8 Thus ,whilst appreciating the evidence on record , I do further, concede with the the defense side , the matter remain uncorroborated by cogent, consistent and unflinching oral and documentary evidence. Considering the available evidence on record, it would not be nothing wrong to state that, prosecution indeed failed to establish chain of facts establishing requisite mens rea and actus reus on the part of accused to rope the accused into scene of crime. After perusal the available oral and documentary evidence on record and considering the argument presented by Ld. Counsels of both sides and other materials on record, including examination of accused u/s 351BNSS, it is appears to me that, ingredients of the offence punishable under sections- 126(2), 117(2), 351(2) BNS,2023 ,are not thus, established by any credible evidence. In these circumstances, this Court has no other way but to hold the accused person innocent and accordingly acquit him from the charge of this case.

Hence, it is

ORDERED

that the accused person namely, (A-1) Sk. Raja is found “not guilty” of having committed an offence punishable only under sections- 126(2), 117(2), 351(2) BNS,2023 and is acquitted of the said offences as per provisions of 271(1) BNSS,2023. The surety be discharged from bail bond.

The defacto complainant man/victim may prefer as per Section- 413 of BNSS. 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, Purulia.

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

Thus, the case is disposed off.

Note in 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