

**FORM A**

In The Court of Additional District and Sessions Judge, Fast Track 1 <sup>st</sup> Court, Diamond Harbour, South 24 Parganas Present: Amitabha Das (Sessions Judge)(WB00926) Date of the Judgement: 31.03.2026 CNR No. : WBSP10-000559-2012 Case No. <i>ST 05(08)2012 (CIS 12 OF 2012)</i> SC 12(05) 2012 GR no. 1419/1996 (Details of FIR/Crime and Police Station)	
Complainant : Ramdhan Halder	STATE OF WEST BENGAL
Represented by	Name of the Advocate Ld PP In Charge :
ACCUSED	Dipankar Sardar, Kamalendu Naskar, Sasticharan Sardar, Lal Mohan Tanti, Gorachand Tanti, Subal Naskar, Prashanta Tanti.
REPRESENTED BY	ADVOCATE

**FORM B**

Date of Offense	02.12.1996
Date of FIR	102/1996 dt. 02.12.1996
Date of Chargesheet	03/97 dt. 27.01.1997
Date of Framing of Charges	28.08.2012
Date of commencement of Evidence	11.10.2012
Date on which Judgment is reserved	NIL
Date of the Judgment	31.03.2026
Date of the Sentencing Order, if any	NIL

**Accused details**

Sl. no	Name of Accused	Date of arrest	Date of release on Bail	Offenses charged with	Whether acquitted or convicted	Sentence imposed	Period of detention Undergone During Trial for purpose of Section 428, Cr.P.C
	Dipankar Sardar, Kamalendu Naskar, Sasticharan Sardar, Lal Mohan Tanti, Gorachand Tanti, Subal Naskar, Prashanta Tanti.	15.02.1998	15.02.1998	148/324/30 7/34	Acquitted	NIL	Accused not sentenced

**FORM- C****List of the prosecution /defense/court witness****A. Prosecution**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW 1	Harendranath Tanti	Victim
PW2	Ramdhan Halder	Complainant
PW3	Manashi Tanti	Neighbour
Pw4	Badal Sardar	Eye witness
PW5	Chittaranjan Tanti	Eye witness

**B. Defense witnesses, if any**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, OTHER WITNESS)
DW1	NIL	NIL

**C. Court witnesses, if any**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW 1	NIL	NIL

## List of prosecution/defense/court exhibits

## A. Prosecution

Sr.No.	Exhibit Number	Description
1	Exhibit P-1/W2	Complaint

## B. Defense

Sr. No.	Exhibit Number	Description
1	NIL	NIL

## C. Court Exhibit

Sr. No.	Exhibit Number	Description
I	NIL	NIL

## D. Material objects :

Sr. No.	Material Object Number	Description
1	NIL	NIL

**JUDGMENT**

On 27.01.1997, Paresh Chakroborty, Sub-Inspector of Police P.S Mandir Bazaar has filed this charge sheet against the accused persons namely Dipankar Sardar, Kamalendu Naskar, Sasticharan Sardar, Lal Mohan Tanti, Gorachand Tanti, Subal Naskar, Prashanta Tanti. for the offense punishable under Section 148/307/34 of Indian Penal Code and S 5/7 Arms Act.

The case of the prosecution as delineated in the F.I.R is that the Defacto complainant Ramdhan Halder lodged the instant complaint on 01.12.1996 against the said accused persons alleging that on 01.12.1996 at about 2.00 pm Basanta Sardar, Parikshit Sardar and others armed with lathi, chowki, katari, pipe gun came to the barga land of Ramdhan and Gobardhan in Mouza Dulalpur over which he is the bhag chasi and started harvesting paddy and when the complainant Ramdhan Halder, Gobardhan and Bhaddar Tanti raised objection and protested against such activities the accused persons got enraged and

began to throw brick bats at them and Rup Kumar fired bullet at them from his pipe-gun and one bullet hit Haren Tanti on his right knee as a result he fell on to the ground. And Sadhan Haldar also got hit by the brick bats thrown by the accused persons on his head causing severe bleeding injury for which he was provided with stitches.

The defacto complainant filed the F.I.R. before Mandir Bazar P.S on 01.12.1996. On the basis of such information, the crime was registered on 01.12.1996, having FIR No. 102/1996 dt. 01.12.1996. The case was endorsed to S.I Paresh Chakroborty of Mandir Bazar P.S for investigation and report.

### **INVESTIGATION**

After assuming the charge of the investigation, I.O of the case visited the P.O and examined the available witnesses and recorded their statements u/s.161 of Cr.P.C. On the basis of such investigation, he arrested the accused person.

After completion of the investigation the I.O of this case submitted the Charge Sheet being no. 03 dt. 27.01.2007 under Section 148/307/34 of Indian Penal Code and S 5/7 Arms Act against the accused persons Dipankar Sardar, Kamalendu Naskar, Sasticharan Sardar, Lal Mohan Tanti, Gorachand Tanti, Subal Naskar, Prashanta Tanti. Cognizance of the offence was thereafter taken by the Ld A.C.J.M, Diamond Harbor.

Copy of the relevant documents of the investigation was duly supplied to the accused person as per Section 207 of CrPC and the case was committed to the Court of the Ld Additional District Judge, Diamond Harbour. The Ld Court subsequently transferred the case to this Court for trial and disposal.

### **CHARGE**

This Court after hearing the Ld. P.P and the Ld. Counsel for the accused person and on perusal of the materials on record and the case diary, framed charge u/Sec. 148/307/34 of Indian Penal Code and S 5/7 Arms Act against the accused persons on 08.08.2012. The contents of the charges under above sections were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

### **EVIDENCE ADDUCED**

Thereafter, evidence of the case was commenced and the prosecution has examined as many as Five witnesses. During trial the victim Harendranath Tanti was examined as PW1, the Complainant Ramdhan Halder was examined as PW2, Manashi

Tanti being the eye witness was examined as PW 3, Badal Sardar was examined as PW 4 and Chittaranjan Tanti the relative of the victim is examined as PW 5.

### **DEFENSE CASE**

From the trends of the cross-examination of prosecution witnesses and examination of accused persons u/s. 313 of Cr.P.C. It appears that innocence is the main defense in the instant case and that the fact as alleged by the defalcator-complainant is false and fabricated. No defense evidence has been adduced from the side of the accused person.

### **POINT FOR CONSIDERATION**

Having regard to the materials placed on record and the submissions made by both the parties, the following points arise for my consideration:

Whether the prosecution has been able to bring home the alleged charges u/Sec. 148/307/34 of Indian Penal Code and S 5/7 Arms Act leveled against the accused persons beyond the shadow of all Reasonable doubts?

### **FINDINGS OF THE COURT WITH REASONS**

Now, let us consider and analyze the evidence and materials on record for the just decision of the case.

At the very outset of the discussion, it is pertinent to mention here that in order to prove the guilt of the accused person it is the rule of Law that the FIR out of which the instant case of the prosecution has originated, the contents of which has to be proved by the prosecution during trial in the instant case beyond the shadow of all reasonable doubts. The fact as alleged by the prosecution is that on 01.12.1996 at about 2.00 pm Basanta Sardar, Parikshit Sardar and others armed with lathi, chowki, katari, pipe gun came to the barga land of Ramdhan and Gobardhan in Mouza Dulalpur over which he is the bhag chasi and started harvesting paddy and when objections were raised the accused persons started throwing brick bats and Rup Kumar fired a bullet at them which had hit Harendra Tanti on his right knee.

In my attempt to unravel the truth, I have carefully scrutinized the oral testimony of the witnesses as well as the exhibited documents. What appears to me is that the Victim Harendranath Tanti was examined as P.W 1. He has stated in his examination in chief that on the last part of Agrhayan 16 years ago at about 2.00 P.M. the accused persons namely, Basanta Sardar, Parikshit Sardar, Rup Kumar, Sasthi Sardar, Kamalendu Naskar, Dipankar Sardar, Putul Sardar, Lal Mohan

Tanti, Subal Laskar, Gorachand Tanti, Prasanto Tanti and Sushanta Tanti came to the Barga land of Ramdhan and Gobardhan at mouja Dulalpur armed with lathi, katari, pipe gun etc. They started cutting paddy from the said land. When the witness along with Gobardhan and Ramdhan went to the said field on getting information Rup Kumar who was also present at the place fired a bullet from his fire arm and the said bullet hit the witness on his right knee causing severe bleeding injury. He was thereafter admitted at the Hospital. During cross examination the witness said that he cannot say whether the disputed land is recorded in the name of Ramdhan Babu as bargadar. He admitted that the wife of Parikshit Sardar cultivate the said land. The witness also stated that there are case and counter case between the parties and also as admitted that he did not sustain any bullet injury on the alleged date. It can therefore be inferred that though the victim in his examination-in-chief has stated that Rup Kumar fired a bullet that hit him on his right knee but during cross examination the witness admitted that he did not sustain any bullet injury. The version of the witness therefore is self contradictory and therefore cannot be relied upon.

PW2, the complainant himself has stated in his evidence that he is one of the Bhagchasis of the disputed land and on the date of incident the accused persons started harvesting paddy and when he and Gobardhan Haldar raised objection the accused persons started throwing brickbats at them and Rup Kumar fired a bullet that hit Haren Tanti on his right knee. He thereafter informed the local P.S and has filed the complaint. He also stated that Sadhan Haldar also sustained bleeding injury on his head as he was hit by brick bats thrown by the accused. During cross he has admitted about case and counter case filed against each other. So the fact that transpires from the said version that there is a standing dispute in between the complainant and the accused persons relating to possession and cultivation of the disputed land.

The other witnesses namely Manashi Tanti being the eye witness was examined as PW 3, and she could state about any alleged incident even she has failed to recognise the complainant. Even other independent witnesses i.e Badal Sardar was examined as PW 4 and Chittaranjan Tanti the relative of the victim is examined as PW 5, both the witnesses have also failed to state about any incident alleged in the complaint. The supporting witnesses did not narrate a single fact about how the victim had sustained injury. Neither there is any injury report which can

support the case of the prosecution about any gun shot injury. No specific names were mentioned by the witnesses except Rupkumar who have assaulted the victim. From the record it appears that Rup kumar has already expired and he has been filed in this case. In view of the evidence as discussed above it appears that the witnesses failed to state who among the accused persons have committed the assault even there is sufficient doubt as to the involvement of the accused persons with the alleged offense.

Thus, the prosecution has failed to corroborate the written complaint and also the fact alleged by them. So, it is sufficiently doubtful whether any incident has at all happened as alleged. Thus, having no such incriminating materials in hand, I find that the prosecution case does not have much merit to stand. As such, in my opinion, the accused persons merits acquittal.

Needless to say, that in a criminal case the entire burden of trial heavily lies on the prosecution. The prosecution is under obligation to show with evidence that the accused person has committed offense in the manner as stated in the F.I.R. Until and unless, the guilt is proved beyond reasonable doubt, the accused person is presumed to be innocent.

After considering all evidence and materials on record, I am of the view that the prosecution has failed to prove the case within the meaning of section 148/307/34 of Indian Penal Code and S 5/7 Arms Act. In order to arrive at the decision in respect of offense, the prosecution has to show the materials as discussed above that the victim had sustained bullet injury fired by the accused Rup Kumar(since deceased). But the prosecution has failed to submit the materials in order to bring charge u/s 148/307/34 of Indian Penal Code and S 5/7 Arms Act against the accused persons. The oral evidence is also not corroborated with the facts stated by the prosecution. Even the independent witnesses have failed to mention about how the accused persons were involved with the offense.

In such circumstances, I have no other option left than to hold that the prosecution has failed to prove the case to the best judicial satisfaction of this Court. There is no other option but to hold that the prosecution has grossly failed to prove the guilt of the accused person U/S 148/307/34 of Indian Penal Code and S 5/7 Arms Act beyond the shadow of all reasonable doubts. It must be remembered that a person cannot be held to be guilty only on the basis of the charge-sheet filed without having proper corroboration.

Thus, on my earnest and conscious consideration of the facts and circumstances of the case, the instant case suffers from various probabilities and improbabilities which remained unanswered by the prosecution.

I therefore proceed to pass the following order.

Hence, it is

**O R D E R E D**

that the accused persons namely Dipankar Sardar, Kamalendu Naskar, Sasticharan Sardar, Lal Mohan Tanti, Gorachand Tanti, Subal Naskar, Prashanta Tanti are found not guilty for committing the offenses punishable u/Sec. 148/307/34 of Indian Penal Code and S 5/7 Arms Act. and are acquitted under Section 235(1) of Cr.P.C.

The Bail bond and surety bond of the accused persons stands discharged. The Alamats if any be destroyed in accordance with law after the expiry of the appeal period.

D/C by me.

Sd/-

Additional District & Sessions Judge,  
Fast Track, Court – I, Diamond Harbour.