

In The Supreme Court of Bangladesh  
High Court Division  
(Criminal Revisional Jurisdiction)

**PRESENT:**  
**MR. JUSTICE MD. SHOHROWARDI**

**CRIMINAL REVISION NO. 1709 OF 2017**

Md. Izal Uddin Master and others  
..... Convict-petitioner.

-Versus-

The State and others  
..... Opposite party

Mr . Kazi Akbar Ali, Advocate  
.....For the convict petitioner.

Mr. Golam Mostofa Tara, DAG with  
Mr. A. Monnan, AAG

....For the State  
Mr. Md. Ashfakuzzoha, Advocate  
.....For the Opposite party.

**Heard on 16.11.2023, 29.11.2023, 03.12.2023**

**Judgment delivered on 13.12.2023**

**MD. SHOHROWARDI, J.**

This Rule under section 439 of the Code of Criminal Procedure, 1898 was issued calling upon the opposite party to show cause as to why the impugned judgment and order dated 21.05.2017 passed by the Additional Sessions Judge, Court No.1, Jhenaidah, in Criminal Appeal No.99 of 2013 affirming those dated 17.09.2013 passed by the Chief Judicial Magistrate, Jhenaidah in G.R. No.36 of 2011 arising out of Harinakundu Police Station Case No.9 dated 18.03.2011 convicting the appellant Md. Izal Uddin Master under section 325 of the Penal Code, 1860 and sentencing him thereunder to suffer rigorous imprisonment for 2(two) years and to pay a fine of Tk.2,000, in default, to suffer simple imprisonment for 2(two) months and convicting the appellant Nurul Islam Mondal @ Islam Mondal, Md. Atiar Rahman @ Chite and

Md. Delwar Hossain under section 323 of the Penal Code, 1860 and sentencing them to suffer rigorous imprisonment for 6(six) months and to pay a fine of Tk.500, in default, to suffer simple imprisonment for 1(one) month more should not be set-aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

The prosecution case, in short, is that P.W. 1 Md. Mahabubur Rahman Rashid (Alok) along with his brother P.W. 8 Md. Mahabubur Rahman Tota were returning home after cultivating their land at Jamlakutir. While they were crossing the land of accused Izal Uddin Master, the accused persons Nos. 1. Izal Uddin Master 2. Nurul Islam Mondal @ Islam Mondal 3. Md. Atiar Rahman @ Chite and 4. Md. Delwar Hossain were hiding in the field. Suddenly accused Izal Uddin Mater started roaring telling others to catch them. Instantaneously, accused Izal Uddin Master dealt a lathi blow beside the neck of the informant P.W.1. Consequently he fell on the ground. After that, Islam Mondol, Ikhtiar @ Ikti, Atiar @ Chite and Delwar started beating P.W. 1. The accused Atiar @ Chite caused injuries on the leg and different parts of the body of the informant P.W.1 which caused bleeding injuries. The accused Delwar caused injury on the head of P.W.1. Consequently, the informant lost his sense and the accused persons caused indiscriminate blows to different parts of his body. While the accused Izal Uddin Master and accused Islam attempted to kill P.W. 1, his brother P.W. 8 Md. Mahabubur Rahman Tota tried to save P.W.1. At that time, Izal Uddin Master dealt a lathi blow which caused injury on the left hand of P.W. 8 Md. Mahbubur Rahman Tota. Consequently, the bone of the left hand was broken. After that, the accused Ikhtiar again caused injury to the same hand. The accused Islam caused injury on the back of the right leg of P.W. 8 Md. Mahbubur Rahman Tota. The accused Izal Uddin and accused Islam attempted to kill Tota. The accused Delwar, Ikhtiar caused indiscriminate blows on the body of the

Tota. Sensing the death of the victims, the accused persons fled away. The father of the informant Md. Mafiz Uddin was working near the place of occurrence and he also witnessed the occurrence. While Md. Mafiz Uddin came to the place of occurrence, the accused persons fled away. The father of the victims took them to Harinakunda Hospital and was admitted there. After conducting an x-ray of the left hand of Tota, it was found that his bone of the left hand was broken which is visible in the x-ray plate. There was enmity between the Izal Uddin Master and the informant party before the occurrence.

P.W. 9 Inspector Sarder Younus Ali took up the investigation of the case. During the investigation, he visited the place of occurrence, prepared the sketch map and index, recorded the statement of witnesses under section 161 of the Code of Criminal Procedure, 1898, seized alams, collected the medical certificates of the victims and completed the investigation. He found prima facie truth of the allegation against the accused persons and submitted charge sheet on 29.04.2011 against the accused persons named in the FIR. Thereafter, the case record was sent to the Chief Judicial Magistrate, Jhenaidah.

During the trial, charge was framed on 08.04.2012 against the accused persons under sections 143/323/325/118 of the Penal Code, 1860 which was read over and explained to them and they pleaded not guilty to the charge and claimed to be tried following the law. The prosecution examined 9 (nine) witnesses to prove the charge against the accused persons. After examination of the prosecution witnesses, the accused persons were examined under section 342 of the Code of Criminal Procedure, 1898 and declined to examine any DW.

After concluding the trial, the Chief Judicial Magistrate, Jhenaidah by judgment and order dated 17.09.2013 convicted the accused Izal Uddin Master under section 325 of the Penal Code, 1860 and sentenced him to suffer rigorous imprisonment for 02 (two) years

and a fine of Tk. 20,000, in default, to suffer rigorous imprisonment for 02(two) months and convicted the accused Md. Nurul @ Islam Mandal, accused Md. Atiar @ Chite and accused Md. Delwar Hossain under section 323 of the Penal Code, 1860 and sentenced them to suffer rigorous imprisonment for 6(six) months and a fine of Tk. 500 each, in default, to suffer imprisonment for one month against which the convict petitioners filed Criminal Appeal No. 99 of 2013 to the Sessions Judge, Jhenaidah which was heard by the Additional Sessions Judge, Court No. 1, Jhenaidah who by impugned judgment and order affirmed the judgment and order passed by the trial Court against which the convict petitioners obtained the instant Rule.

P.W. 1 Mahabubur Rashid Alok stated that on 18.3.2011 at 12.35 pm he along with his brother Mahabubur Rahman Tota were returning home keeping his father in the field after cultivating land. On the way to their home, when they reached beside the land of accused Izal Uddin Master, the accused persons were hiding in the field and suddenly encircled them. The accused Izal Uddin first dealt a bamboo stick blow on the back of his neck. Consequently, he fell on the ground. Instantaneously accused Atiar @Chite dealt bamboo stick blows which caused injuries on the left leg and different parts of his leg. The accused Delwar Hossain caused a lathi blow on the head of Mahabubur Rashid causing skin bleeding injury. The accused persons inflicted indiscriminate blows which caused bleeding injuries on his body. The accused Izal Uddin and accused Islam tried to kill him by pressing his throat. His younger brother Md. Mahbubur Rahman Tota attempted to save him. At that time, accused Izal Uddin Master caused injury by lathi on the left hand of Tota. Consequently, his left hand was broken and he fell on the ground. After that, the accused Delwar and others caused indiscriminate blows on Tota. The accused Islam caused injury by lathi on the right leg of Tota. The accused Izal and Islam also

attempted to kill Tota by pressing his throat. The accused Delwar and Atiar dealt indiscriminate blows on Tota. At that time, Md. A. Mannan Chowdhury and Md. Babar Ali and his father came to the place of occurrence and the accused fled away. Since there was an enmity, the accused persons attempted to kill the victims. He claimed that his father took them to Horinakunda Hospital. While he was under treatment at the Hospital, he lodged the FIR. He proved the FIR as exhibit-1 and his signature as exhibit-1/1. On recall, he stated that the investigating officer seized the bloodstained cloths of the victims and took the signatures of the witnesses. During cross-examination, he stated that Izal Uddin is the cousin of his father. He was wearing Panjabi, Pajama and Genji. He proved the bloodstain Panjabi as material exhibit 1, the bloodstain Genji as material exhibit -2 and the bloodstain pyjama as material exhibit 3. He proved the bloodstain lungi and full shirt of Tota as material exhibit-4. He proved the bloodstain full shirt as material exhibit-5 which was seized on 19.03.2011. He affirmed that there was human blood on each wearing apparel. In the presence of the doctor and nurse, the investigating officer seized the alampats. He was admitted at Horinakunda Hospital for 2 days and on 19.3.2011, they were admitted to Jhenaidah Hospital for 3/4 days. Since his health condition was deteriorated, he was taken to Dhaka Medical College Hospital and he was under treatment for more than 2 months. But he was not admitted there. He took treatment in outdoors at Dhaka Medical College Hospital. The land of Izal Uddin Master was situated to the north side of the place of occurrence and his land was situated to the south side of the place of occurrence. His brother Mahabub is serving in the police department and he is a Senior SP, now posted at Dhaka and his wife is serving at BCS Administration Academy. They are not the witness of the case.

P.W. 2 Abdul Mannan Chowdhury stated that accused Izar Uddin, Islam, Atiar, Ikhtiar and Delwar are known to him. The occurrence took place on 4<sup>th</sup> Choitro 02(two) years ago. On that day, he along with his cousin Babar Ali and Muslim Mondal were returning to their house. On the way to their house, hearing hue and cry, he along with his brother went to the place of occurrence at 12.30/12.45 pm and saw that Izanul and 4(four) others were beating Mahabub and his brother. The Father of Mahabub was also present there. The accused Izal dealt a lathi blow on the neck of Mahabub @ Alok. Consequently, he fell on the ground and accused Atiar dealt lathi blows indiscriminately on different parts of his body which caused bleeding injuries. The accused Iktiar and Delwar also caused injuries. The accused Izal ordered to catch Mahabub. At that time accused Izal dealt a lathi blow on the left hand of Md. Mahbubur Rahman Tota, consequently bone of his wrist was broken. The accused Ikhtiar, Delwar, Atiar also beaten Tota. After that, many locals assembled at the place of occurrence and the victims were taken to the Hospital. During cross-examination, he stated that at the time of occurrence, they were present 15/20 hands far from the place of occurrence. He affirmed that he saw that the accused persons were beating Mahabubur Rashid Alok on his neck but he could not see the specific place or location of the injuries. He affirmed that they caused injury on the neck. There was bleeding on the neck of Mahabubur Rashid Alok. He affirmed that there was a single injury caused by the lathi on the body of Tota and his left hand was broken. He also affirmed that Izal had broken his left hand by a lathi blow.

P.W. 3 Babar Ali stated that the accused and the informant party were known to him and their house was situated in the neighbouring village. The occurrence took place on 4<sup>th</sup> Choitro at 12.30/1.00 pm. He along with Md. Manan Chowdhury was returning their home. At that

time, they witnessed an altercation took place between Mahabub and Izal Uddin Master. The accused Izal Master caused a lathi blow on the neck of Mahabubur Rashid Alok. Consequently, he fell on the ground. The accused Atiar caused lathi blows on different parts of his body which caused bleeding injuries and other accused persons caused indiscriminate blows on different parts of the body of the victim. When Mahabub Tota tried to save his brother, accused Izal dealt a bamboo stick blow on his left arm. Consequently, the ulna of the left hand was broken. The accused Islam dealt a lathi blow on the right leg. The accused Islam, Delwar, Atiar caused indiscriminate blows to his body. He and Mannan came to the place of occurrence and tried to save the victims. At that time father of the victim also came at the place of occurrence. The locals also assembled at the place of occurrence and the accused persons fled away. The victims were taken to Hospital. During cross-examination, he stated that at the time of the quarrel, he went to the place of occurrence and saw that Mahabub Rashid was beaten. He was standing 15/20 hands far from the occurrence but he did not try to resist the accused persons. Mahabubur Rashid along with Tota were beaten about 10/15 minutes. Mannan was standing beside him. At that time, no other person was present there. After the occurrence, he saw Tota in a bleeding condition. He made the statement to the investigating officer after one month and 10 days. He affirmed that Mannan and Mahabub are not his relations.

P.W. 4 Md. Murad Ali stated that the occurrence took place on 4<sup>th</sup> Choitra about 02 years ago. While he was present in his house situated at village Sreerampur, he heard that Alok and Tota, two sons of his cousin, were admitted to Hospital. On the next day at 11.00 am, he went to Hospital. The Sub-Inspector came to the Hospital. Two injured persons were admitted in the same room. The investigating officer seized the bloodstained panjabi and genii of Alok and the bloodstained

lungi and full shirt of Tota in his presence and prepared the seizure list. He signed the seizure list. He proved the Panjabi, pyjama, ganzi, check lungi and full shirt mentioned in the seizure list as exhibits 1 to 5. During cross-examination, he stated that he was not an eyewitness of the occurrence. The wearing apparel of the victims was handed over to the investigating officer by the victims and there was blood in those wearing apparel.

P.W. 5 Md. Abul Kalam Azad stated that on 19.3.2011 he went to Horinakunda Hospital at 11.00 a.m. and found the victims Alok and Tota in injured condition. The bloodstain pyjama, Punjabi and Genji of Alok and bloodstain full sleeve shirt and lungi were seized from the bed. He signed the seizure list. He proved the seizure list as exhibit-2 and his signature as exhibit-2. He identified the bloodstain-wearing apparel of the victims. During cross-examination, he stated that the wearing apparel of Alok was given by Alok and wearing apparel of Tota was given by Tota. In all the wearing apparel, there was fresh blood. Two wearing apparel of Tota and three wearing apparel of Alok were seized by the investigating officer. He affirmed that Izal Master is his village uncle.

P.W. 6 Dr. Robiul Hassan stated that on 18.03.2011 while he was discharging his duty as Emergency Medical Officer, Horinakunda Hospital, one Mafiz Uddin (72) of village Pardakalpur identified the victim Md. Mahabubur Rashid and another injured Md. Mahabubur Rahman also came to the said hospital. He examined the victims and found the following injuries on the victim Md. Harun-or-Rashid;

- i) Bruise over the middle of the Lt sole of Lt foot.
- ii) Swelling of the RT parietal region of the scalp measuring 2"X1".
- iii) Abrasion over the whole body.



He also found the following injuries on the body of the victim Mahabubur Rahman;

- i) Huge swelling of the middle of the Lt Forearm X-ray Lt Forearm, b/v. shows the shaft of the Lt Ulna. X-ray plate attached with M.C.
- ii) Swelling of the lateral aspect of the middle of Rt leg.

Comments: ১নং জখমীর All injuries are caused by blunt weapons and simple in nature.

২নং জখমীর ক্ষেত্রে ১ নং জখমঃ caused by blunt weapon and grievous in nature.

২নং injury caused by blunt weapon and simple in nature.

He opined that the injuries were caused on the body of the victim Md. Mahabubur Rashid is simple in nature and injury No. 1 of the victim Mahabubur Rahman is grievous. After examination of the victims, the medical board issued the certificate. He proved the medical certificates as exhibits 3 and 4. Dr Jamalur Rashid RMO and Dr. Arun Kumar Das MO, signed the medical certificates. On 19.3.2011, he referred the victim Mehbubur Rahman to Jhenaidah Sadar Hospital for treatment of the fractured of his hand. During cross-examination by the defence, he stated that there was swelling abrasions on the whole body of P.W. 1 victim Alok and there were also 3"x2" 4/1/2 injuries on the head of the victim Md. Rashid and there was a fracture on the left hand of Mahabub Rahman Tota, and there was a second injury on the right leg of Mahabub Rahman Tota. He denied the suggestion that he did not examine the victims.

P.W.7 Md. Mafiz Uddin is the father of the victims P.Ws. 1 and 8. He stated that on 18.3.2011 at 11:45 p.m. the occurrence took place. He along with his two sons P.W. 1 and 8 were cultivating the land. After irrigation, he along with the victims were returning home. While they reached near the cornfield, accused Izal Uddin Master, Islam

Atiar, Delwar, and Ite came out from the cornfield along with dau, and lathi in their hands. The accused Izal Uddin caused injury on the neck of victim Mahabubur Rahman Alok with the stick. Consequently, he fell on the ground. At that time, accused Islam, Iti, Chite, and Delwar started beating his son Alok. The accused Atiar caused injuries on the leg, neck and head of Alok and the accused Ikhtiar also beat Alok and pressed his throat. Subsequently, he stated that Ikhtiar caused injury to the head of Alok. After that, Delwar also attempted to cause injury on the back of Alok. The accused Ikhtiar and Delwar also caused injury by lathi. When Tota attempted to save his brother, the accused Izal dealt a lathi blow on the left hand of the victim Tota. Consequently, his hand was broken. The accused Ikhtiar again caused a blow on the broken hand of Tota. He claimed that he raised a hue and cry and the accused persons fled away. The victims were taken to Harinakuda Hospital. During cross-examination, he stated that the accused Izal Uddin is his cousin. The land of Izal Uddin Master and his land were situated beside the land of each other. The quarrel took place on the cornfield of accused Izal Uddin Master. Ibrahim and his three sons were also present on that day and no other persons were present there. He affirmed that there was blood on the Panjabi, pyjama and Genji of Alok. Tota was subsequently beaten. There were two injuries on the left hand of Tota and there was also bleeding. He affirmed that before the occurrence, the cases regarding the land were pending between them. The victims were taken to Jhenaidah Sadar Hospital and they were admitted for 02 days. Subsequently, they were taken to Dhaka but they were not admitted to any Hospital in Dhaka. He denied the suggestion that there was no injury on the body of the victim.

P.W. 8 Md. Mahabubur Rahman Tota stated that the occurrence took place on 18.3.2011 at 12.45 pm. At that time, he along with his brother Alok and father were irrigating in the paddy field. After

irrigation, they were returning home. When they reached the cornfield of the accused Izal Uddin Master, the accused Izal, Isam, Atiar Rahman Chite, Ikhtiar @ Chite, and Delwar came out from the cornfield. At that time, Izal ordered to catch and he caused injury on the neck of his brother Alok. Consequently, he fell on the ground. At that time, Islam, Delwar and Chite had beaten Alok. The accused Atiar dealt lathi blows below the knee and leg of Alok. The accused Delwar caused injury by lathi on the head of Alok and pressed the throat to kill him. At that time, he tried to save Alok but accused Izal caused injury on his left hand. Consequently, the bone of his left hand was broken. The accused Ikhtiar again caused injury on the same hand. The accused Islam also caused injury on the right leg. The accused Delwar also beat him. Subsequently, stated that Atiar beat him. After the occurrence, his father took the victim to Horinakunda Hospital where he was referred to Jhenaidah Sadar Hospital. The bloodstained clothes of the victims were seized by the investigating officer. During cross-examination, he stated that the place of occurrence was the cornfield of accused Izal Uddin Master. Beside the cornfield of Izal, their paddy field was situated. He affirmed that at the time of occurrence, except he, his brother, his father and the accused persons, none was present in the field. Firstly Alok was beaten. While Alok was beaten, he went to save him and consequently, he was also beaten. There were 3(three) injuries on the leg and foot of his brother and there was bleeding. His hand was broken. Subsequently, he stated that the upper part of his elbow was broken and there were 02(two) injuries in the same place of his hand. He was admitted to Harinakunda Hospital on the 18<sup>th</sup> at 1:00 pm and on the 19<sup>th</sup>, he was referred to Jhenaidah Sadar Hospital. On the 20<sup>th</sup>, he was referred to Dhaka Medical College Hospital. No treatment was given at Harinakunda Hospital and Jhenaidah Hospital. He was treated at Dhaka Medical College Hospital. After 15 days of treatment at

Dhaka Medical Hospital, they came back to their house. The medical reports were given to the investigating officer. There was a long pending dispute between his father and accused Izal Uddin Master.

P.W. 9 Sardar Yunus Ali is the investigating officer. He stated that on 18.03.2011 he was posted at Harinakunda Thana. He stated that he visited the place of occurrence, prepared the sketch map and index, recorded the statement of witnesses under section 161 of the Code of Criminal Procedure, 1898, collected the medical reports of the victims and seized the documents. During the investigation, he found the prima facie truth of the allegation made against the accused persons and submitted charge sheet on 29.04.2011 against the accused persons. He proved the signature of the then officer-in-charge on the FIR as exhibit-2 and his signature on the seizure list as exhibit-2/2. He proved the sketch map and index as exhibit-7 and his signature as exhibit-7/1 and 7/2. During cross-examination, he stated that the place of occurrence is situated at 3 km far from the Thana. He affirmed that victim Tota was admitted to Harinakuda Hospital on that day at 20.15. Subsequently, they took treatment at Dhaka Medical College Hospital. On the next day, he prepared the seizure list. The alamats were handed over to him by P.W. 1 and 8 at Harinakunda Hospital. He prepared the sketch map. There was enmity between the parties regarding the land.

Learned Advocate Mr. Kazi Akbor Ali appearing on behalf of the convict petitioner having drawn evidence of the P.W. 8 submits that admittedly there was a previous enmity between the parties regarding the land and P.W. 8 in cross examination stated that no treatment was given by the doctor at Harinakunda and Jhenaidah Hospital to the victims and no medical certificate was issued from the Dhaka Medical College Hospital. The prosecution only examined the witnesses who were closely related to each other excluding the other persons who were present at the time of occurrence took place at about noon at the

cornfield situated beside the road. He further submits that the brother of the informant is a Senior S.P. and the informant party by their influence managed to obtain a Medical Certificate from the Hospital falsely implicating the accused persons and the Courts below without proper assessment of the evidence illegally convicted the accused persons. Therefore, he prayed to make the Rule absolute.

Learned Deputy Attorney General Mr. S.M. Golam Mostofa Tara appearing on behalf of the State submits that P.Ws. 1 and 8 are the victims and P.Ws. 2, 3 and 7 are also the eye witnesses of occurrence. The evidence of P.Ws. 1 and 8 are corroborated by P.Ws, 2, 3, 7 and P.W. 6 Dr. Md. Robiul Hasan who issued the medical certificate of the victims P.Ws. 1 and 8. The prosecution by adducing direct evidence proved the charge against the accused persons beyond all reasonable doubt. Therefore, he prayed for discharging the Rule.

I have considered the submission of the learned Advocate Mr. Kazi Akbor Ali who appeared on behalf of the convict petitioner and the learned Deputy Attorney General Mr. Golam Mostofa Tara who appeared on behalf of the state, perused the evidence, the impugned judgment and order passed by the courts below and the records. I have also considered the submission of the learned Advocate Mr. Abdul Alim Miah Jewel who assisted the State.

On perusal of the evidence, it appears that the evidence of the victim P.W.1 that accused Atiar dealt a blow by trick made of bamboo on his left leg is corroborated by P.Ws. 2, 3, 7, 8 and the P.W. 6 who issued the medical certificate (exhibit-3). The evidence of P.W. 1 as regards causing injury by a stick made of bamboo on the head of the victim P.W. 1 by accused Delwar is corroborated by the evidence of P.Ws. 2, 3, 8. P.W. 6 also corroborated the evidence of P.W. 1 as regards the injury caused on the head of the victim P.W. 1 by accused Delwar. The evidence of P.W. 1 as regards causing injury by accused

Islam is corroborated by P.Ws. 3, 7 and 8. P.W. 6 who issued the medical certificate of the victim. P.W. 1 also corroborated the evidence of P.W.1. P.W. 6 also opined that there were abrasions on the whole body of the victim P.W. 1. The injuries caused on the body of the victim P.W. 1 by the accused Atiar, Delwar and Islam are simple, although, there were abrasions on the whole body of the victim P.W. 1. The evidence of P.W. 8 Mahbubur Rahman Tota that while he resisted the accused person to save his brother Alok, accused Izal Uddin Master caused a lathi blow on his left hand which caused injury on the upper part of his wrist is corroborated by the evidence of P.Ws. 1, 2, 3 and 7. The evidence of P.W. 8 regarding the injury of P.W. 8 on his left hand is also corroborated by P.W. 6. On careful examination of the x-ray plate attached to the medical certificate of victim P.W. 8 Mahabubur Rahman Tota depicts that one of the main bone (ulna) of his left hand had broken. P.W. 6 opined that the injury caused on the left hand of the victim P.W.8 is grievous.

A scrutiny of the evidence of the prosecution witnesses, reveals that the defence by cross-examining P.Ws. 1 and 8 affirmed that there was bleeding on the wearing apparel of the P.Ws. 1 and 8 seized from the Horinakunda Hospital. By cross-examining P.W. 8, the defence also affirmed that the ulna of the left hand of P.W. 8 had broken. By cross-examining the prosecution witnesses, the defence failed to make out a case of false implication. Rather the defence affirmed that P.Ws. 1 and 8 were injured at the time of occurrence. P.W. 6 opined that all the injuries on the body of the victim P.W. 1 found at the time of examination at Horinakunda Hospital are simple. The defence by cross-examining P.W. 8 affirmed that his left ulna was broken. The X-ray plate attached to the medical certificate (exhibit 4) depicts that the left ulna of P.W. 8 was dislocated and fractured. Therefore, the injury

caused by accused Izal Uddin Master by stick on the left hand of P.W. 8 attracts section 325 of the Penal Code, 1860.

Because of the above evidence of the prosecution witnesses, observations, findings and reasoning, I am of the view that the prosecution proved the charge under section 323 of the Penal Code, 1860 against the accused (1) Md. Nurul Islam Mandal @ Islam Mandal (2) Md. Atiar @ Chite and (3) Md. Delwar Hossain and charge under section 325 of the Penal Code, 1860 against the accused Md. Izal Uddin Master and both the courts below on proper assessment of the evidence of prosecution witnesses legally passed the impugned judgment and order of conviction.

Considering the facts and circumstances of the case and the age of the accused Izal Uddin Master, I am of the view that the ends of justice would be best served, if the sentence passed by the trial court against the convict petitioner Md. Izal Uddin Master is modified as under:

The accused Md. Izal Uddin Master is found guilty of the offence under section 325 of the Penal Code, 1860 and he is sentenced thereunder to suffer rigorous imprisonment for 01(one) year and a fine of Tk. 1000, in default, to suffer imprisonment for 01(one) month more.

The Rule so far relates to convict-petitioner Md. Izal Uddin Master is disposed of with modification of sentence.

The Rule so far relates to convict petitioner (1) Md. Nurul Islam Mandal @ Islam Mandal (2) Md. Atiar Rahman @ Chite and (3) Md. Delwar Hossain is hereby discharged.

The trial court is directed to do the needful.

However, there will be no order as to costs.

Send down the lower court's record at once.

**(MD. SHOHWARDI, J)**