

**IN THE SUPREME COURT OF  
BANGLADESH**

**HIGH COURT DIVISION**

**(CRIMINAL REVISIONAL  
JURISDICTION)**

**Present:**

**Mr. Justice Md. Shohrowardi**

**Criminal Revision No. 1040 of 2007**

**Imani and others**

**.....Convict Petitioner**

**-versus-**

**The State**

**.....Opposite Party**

No one appears

.... For the convict petitioner

Mr. Md. Anichur Rahman, DAG with

Mr. Mir Moniruzzaman, AAG with

Mr. Md. Sarwar Alam Khan, AAG with

Ms. Nargis Parvin (Alija), AAG

....For the State

**Heard on 02.02.2026, 03.02.2026, 15.02.2026  
and 18.02.2026**

**Judgment delivered on 26.02.2026**

On an application under sections 439 and read with section 435 of the Code of Criminal Procedure, 1898 Rule was issued calling upon the Deputy Commissioner, Moulvibazar to show cause as to why the impugned judgment and order dated

11.07.2007 passed by Additional Sessions Judge, Moulvibazar in Criminal Appeal No. 61 of 2000 affirming the judgment and order dated 29.08.2000 passed by Additional District Magistrate, Moulvibazar in G.R. No. 83 of 1995 convicting the petitioner Nos. 1 Imani and 2 Kadir under section 324 of the Penal Code, 1860 and sentencing them thereunder to suffer rigorous imprisonment for 06 (six) months and convicting the petitioner Nos. 3 Rahim Ullah and 4 Jasim under section 324 of the Penal Code, 1860, and sentencing them thereunder to suffer rigorous imprisonment for 03 (three) months should not be set aside and/or pass such other or further order or orders as to this court may seem fit and proper.

The prosecution's case, in short, is that on 01.03.1995 at about 9.00 am, on the way to Moulvibazar for Eid shopping, when the informant Modris Mia reached the east side of Najirabad Akhra, the accused Imani and others, armed with deadly weapons, attempted to kill him. The accused Imani dealt a dao blow to his head, which caused grievous injury, and the accused Motin beat him with a rod to the middle finger of his right hand, which caused bleeding injury. The accused Jasim dealt a dao blow to the left leg, which caused grievous injury, and the accused Hatem Ullah snatched away Tk. 6,200 kept in the money bag in his hand. The accused Kadir dealt a dao blow to his head, which caused bleeding injury; the accused Rahim caused grievous injury to his left hand, the accused Milon Miah caused indiscriminate injuries by a rod on his body, which caused swelling injuries. Hearing the hue and cry, the witnesses

Ishak Ullah, Kanichur, Jalil, Imtiaj, Rahman Chowkider, Atul Chandra Namosutra, and others came to the place of occurrence. The victim was taken to Moulvibazar Sadar Hospital.

After lodgment of the FIR, S.I. Najimul Haque was appointed as the investigating officer of the case. During investigation, the investigating officer 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 the alamats and after completing investigation found prima facie truth of the allegation and submitted charge sheet on 04.04.1995 under sections 147/148/323/324/325/326/307/379 of the Penal Code, 1860.

During the trial, charges was framed against the accused Imani under section 148/326/307 of the Penal Code, 1860, and the accused Rahim Ullah and Jasim under sections 148/324 of the Penal Code, 1860, and the accused Kadir under section 148/324/307 of the Penal Code, 1860. The prosecution examined 09 witnesses to prove the charge against the accused persons, and the defence cross-examined the prosecution's witnesses. After examination of the P.Ws. the accused persons were examined under section 342 of the Code of Criminal Procedure, 1898 and the defence declined to examine any D.W. After concluding trial, the Additional District Magistrate, Moulvibazar by judgment and order dated 29.08.2000 convicted Imani and Abdul Kadir under section 324 of the

Penal Code, 1860 and sentenced them thereunder to suffer rigorous imprisonment for 06 (six) months, the accused Rahim Ullah and Jashim under section 324 of the Penal Code, 1860 and sentenced them thereunder to suffer rigorous imprisonment for 03 (three) months.

Being aggrieved by, and dissatisfied with the said judgment and order, the convict petitioners filed Criminal Appeal No. 61 of 2000 before the Additional Sessions Judge, Moulvibazar. After hearing the appeal, the appellate court by impugned judgment and order affirmed the judgment and order passed by the trial court against which the convict petitioner obtained the Rule.

P.W. 1 Modrish Mia stated that he is the informant of the case. On 01.03.1995 at 9.00 am on the way to Moulvibazar, when he reached near the akhra, the accused Imani dealt a dao blow to the right side of his head, and accused Kadir Mia dealt dao blow to the middle of his head and accused Rahim caused injuries to the finger of left leg. The accused Jasim dealt a dao blow to his right leg, the accused Abdul Motin broke the middle finger of his right hand by rod, the accused Nuru Mia caused indiscriminate injuries on his body by rod, the accused Hatim Ullah snatched away Tk. 6200 from the moneybag kept in his left hand. Hearing hue and cry, witnesses Ishak Ullah, Kohinoor, Jalil, Robban, Intiaz, Minaj, Atul Namosutra, and others came to the place of occurrence and saved him. Thereafter, the accused persons fled away. Hearing about the occurrence, his son Sachchu came to the place of occurrence

and took him to the hospital. He claimed that he was admitted to the hospital for seven days. Due to enmity, the accused persons committed the offence. They are terrorists. He proved the FIR as exhibit-1 and his signature on the FIR as exhibit-1/1. During cross-examination, he stated that hearing about the occurrence from him, his son lodged the FIR. He admitted that 4 criminal cases and one civil suit are pending between the accused persons and him. The place of occurrence is a land, and Ratan Namosutro is the owner of the land. Six witnesses mentioned in the FIR are residents of four different villages, and two of them are residents of his village. Immediately after the occurrence, the witnesses came to the place of occurrence, and the accused persons fled away to the north side. Three witnesses are his relatives. He handed over his bloodstained cloths to his son, who subsequently handed over those bloodstained cloths to the investigating officer. He disclosed the occurrence to his son at the hospital. He lodged the FIR at about 11.30/12.00 noon. It took 30 minutes to write the FIR. He started at about 10.30 am for Thana. The doctor examined him at 10/10.30 am. Four people took him to the hospital. Witness Ishak is the brother of his wife, and his house is situated on the opposite side of the river. Jalil is also a resident of the village Birampur situated on the opposite side of the river, and Sachchu is his son. He did not hand over the certificate to the police. He denied the suggestion that no occurrence stated by him took place, or that due to enmity, he filed a false case.

P.W. 2 Sachchu stated that the occurrence took place on 01.03.1995 at 9.00 am. He is the son of the victim. Hearing the hue and cry, he, along with the other members of his family, went to the place of occurrence and saw that his father Modrish Mia was lying in a bleeding condition. He heard from his father, Ishak Ullah, Kuhinoor, Jalil, Mijan, and Atol Namosutra that the accused Imani dealt a dao blow to the right side of the head of his father which caused bleeding injury. The accused Motin dealt a rod blow to the middle finger of his right hand. Consequently, his middle finger was broken. The accused Rahim dealt a dao blow to the finger of his left leg, accused Jasim dealt a dao blow to the right leg of his father which caused grievous bleeding injury, accused Kadir dealt two dao blows on the head of the victim, the accused Jalil caused injuries by rod on the different parts of the body of his father. The accused Hatim Ullah snatched away Tk. 6200 kept in a money bag in the hand of his father. He took his father to Gobindhagonj Hospital. He heard about the occurrence from his father and collected the medical certificate, and thereafter he lodged the FIR. During cross-examination, he stated that the place of occurrence is situated about a half-kilometer away from his house. At the time of the occurrence, he was present there. He admitted that his father was taken to custody in a case lodged by the accused Abdul Motin. He denied the suggestion that no occurrence took place, as stated by him or that due to enmity, he lodged the FIR.

P.W. 3 Ishak Ullah stated that the occurrence took place on 17<sup>th</sup> Falgun 1401. On that day at 8.00/8.30 am, he started from his house for Moulvibazar. When he reached the road of Nazirabad, he found Intaj, Kuhinoor, Rabban, and Minaj. Thereafter, they started together. He found Modrish on the east side of Akhra. Suddenly, he raised a hue and cry. Thereafter, he went to the east side. At that time, Jalil was cultivating land. He was also present at the place of occurrence. The accused Imani caused dao blow to the right side of the head of Madris, accused Kadir also dealt two dao blow to the head of Madrish, accused Matin dealt a rod blow, consequently his middle finger of his left hand was broken, accused Jasim dealt a dao blow to the right leg and accused Rahim caused injury to the left hand of Madrish, accused Jalil dealt rod blow indiscriminately to the different parts of the body of the victim. Consequently, he fell on the ground. At that time, the accused Hatem Ullah snatched away the money bag from the victim Madris. The victim was taken to Moulvibazar Hospital at 10/10:30 am. During cross-examination, he stated that he is the brother of the sister of the informant. His house is situated at Konagao, and the place of occurrence is situated at Nazirabad. The place of occurrence is situated about half a kilometer from his house. He and the victim were accused of GR No. 4991 lodged by the accused Motin. Many cases are pending between the parties. He denied the suggestion that, due to previous enmity regarding the pendency of the case between the parties, he falsely deposed in the case.

P.W.4 Abdus Suban stated that after 3 days of the occurrence, he heard about the occurrence. The accused persons are his brother and cousin. The defence declined to cross-examine P.W.4.

P.W.5 Kohinoor stated that the occurrence took place at 9.00 am on 17<sup>th</sup> Falgun 1401. He, along with Ishak Ullah, Jabbar, Rabban, Intaj, and Minaj were going to the Eid bazar and reached the west side of the Boishnob Akhra. At that time, he heard the hue and cry of Madrish. Thereafter, he went to the place of occurrence and saw that Imani, Kadir, and Rahim had beaten the victim. Imani dealt a blow to the right side of Madrish's head, and Rahim dealt a rod blow on different parts of his body, which caused swelling injury. Kadir dealt a dao blow to the head of Madris, and Rahim caused injury to the middle finger of the left hand of Madrish. Sachchu, son of Madris, came to the place of occurrence. He disclosed the occurrence to Sachchu. He, along with Sachchu, Ishaq, and Intaj, took the victim to Moulvibazar Hospital. He heard from Madrish that the accused Hatim Ullah snatched away Tk. 6000 from his money bag. During cross-examination, he stated that his mother is the sister of the wife of the victim Madrish. The local bazaar is situated about a half-kilometer away from the place of occurrence. The place of occurrence is situated about half a kilometer from his house. Hearing the hue and cry, the locals of Nazirabad came to the place of occurrence. He affirmed that the informant also filed another case against the accused persons, and he is also a witness to that case. When he

reached the place of occurrence, the accused persons shifted about 14 yards from the place of occurrence. At about 10.00 am, the doctor examined the victim. He stayed at the hospital till 2.00 pm. He denied the suggestion that no occurrence took place, as stated by him, or he deposed falsely.

P.W. 6 Abdul Jalil stated that the occurrence took place on 17<sup>th</sup> Falgun, 1401 at 9.00 am. At that time, he was cultivating land on the east side of the place of occurrence. Hearing hue and cry, he went to the place of occurrence and saw that the accused Imani dealt a dao blow to the right side of the head of the Madrish, accused Kadir dealt two dao blows to the head of Madrish. accused Rahim caused injury to the middle finger of his left hand, accused Jasim dealt a dao blow to the right leg of Madrish. The victim Madrish informed him that the accused Hatim Ullah snatched away Tk. 6200. During cross-examination, he admitted that the accused Hatim is aged about 85 years. None of the village Nazirabad came to the place of occurrence, although there was 30/40 shops in the bazaar. He denied the suggestion that he was an accused in a case lodged by Noresh and Surendra or that the accused persons were the witnesses of that case for which he deposed falsely.

P.W.7 Ahsan Ullah stated that in his presence, the investigating officer seized the bloodstained cloth, lungi, and other wearing apparel. He signed the seizure list. During cross-examination, he stated that he is the brother of the sister of the informant.

P.W. 8 Dr. Md. Shahjamal stated that on 01.01.1995 at 10.15 am, while he was discharging his duty at Moulvibazar Sadar Hospital, he examined Madrish Mia, who was admitted to the hospital. There are 7 injuries in the medical certificate issued by him. Injuries Nos 1 and 6 are grievous in nature. The occurrence took place within 2 hours. He issued the medical certificate.

P.W. 9 Md. Najibul Haque is the Investigating Officer. He stated that on 01.03.1994, he discharged his duty at Moulvibazar Thana. The Officer-in-Charge of Moulvibazar Thana appointed him as the investigating officer of the case. He visited the place of occurrence, recorded the statement of witnesses under section 161 of the Code of Criminal Procedure, 1898, seized the alamats, and prepared the sketch map and index. After completing the investigation, he found the prima facie truth of the allegation made against the accused persons and submitted charge sheet. During cross-examination, he stated that 'A' mark is the place of occurrence, D, E, B, and H marks are situated around the place of occurrence, and none of the owners of those houses are witnesses to the occurrence.

No one appears on behalf of the convict petitioner.

The learned Deputy Attorney General Mr. Md. Anichur Rahman Khan, appearing along with learned Assistant Attorney General Ms. Nargis Parvin (Alija) on behalf of the State, submits that P.W. 1 Madrish is the victim and, hearing hue and cry, P.Ws. 1 to 6 went to the place of occurrence and witnessed

the occurrence and also heard about the occurrence from P.W. 1 victim Madrish. P.W. 8 Dr. Md. Shahjamal examined the victim P.W. 1 Madrish, at the hospital. During the trial, the prosecution proved the charge against the accused beyond all reasonable doubt, and both the courts below, on correct assessment and evaluation of the evidence, legally passed the impugned judgment and order. He prayed for discharging the Rule.

I have considered the submission of the learned Deputy Attorney General Mr. Md. Anichur Rahman Khan, who appeared along with the learned Assistant Attorney General Ms. Nargis Parvin (Alija) on behalf of the state, perused the evidence, impugned judgments and orders passed by the courts below, and the records.

On perusal of the evidence, it reveals that the place of occurrence is situated to the east of Akhra of village Nazirabad, which is a holy place of Hinduism, and the houses of P.Ws. 1 to 7 are situated about half a kilometer away from the place of occurrence. P.W. 7 is a resident of the village Konagao. P.W. 6 admitted that none of village Nazirabad came to the place of occurrence although there was 30/40 shops in the bazar. On scrutiny of the evidence of P.Ws 1 to 7 reveals that they are closely related to each other, and many cases are pending between the parties. None of the said Akhra is examined in the case. Although P.W. 8 Doctor Md. Shahjamal examined the victim at Moulvibazar Sadar Hospital, but the medical

certificate of the victim Madrish, has not been proved in the case.

P.W. 1 victim Madrish stated that he was admitted to the hospital for about 7 days, but his discharge certificate was not proved in the case. Although the victim allegedly sustained several injuries from sharp cutting weapons, the bloodstain wearing apparels of the victim has not been proved in the case. Furthermore, without a medical certificate, a conviction cannot be awarded under section 324 of the Penal Code, 1860.

In view of the above facts and circumstances of the case, evidence, findings, observation, and the proposition, I am of the view that the courts below committed serious illegality in convicting the petitioner under section 324 of the Penal Code, 1860 without any medical certificate.

I find merit in the rule.

In the result, the Rule is made absolute.

The impugned judgment and order passed by the courts below against the convict petitioners Imani, Kadir, Rahim Ullah, and Jasim are hereby set aside.

Send down the lower Court's records at once.