

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

Present:

**Mr. Justice Md. Shohrowardi**

**Criminal Revision No. 111 of 2007**

Abdul Hannan and others

-Vs-

The State and another

No one appears

....For the petitioners

Mr. Md. Anichur Rahman Khan, DAG

with

Mr. Mir Moniruzzaman, AAG with

Mr. Md. Sarwar Alam Khan, AAG with

Ms. Nargis Parvin (Alija), AAG

...For the State

**Heard on 19.02.2026 and 04.03.2026**

**Judgment on 05.03.2026**

On an application under sections 439 of the Code of Criminal Procedure, 1898 Rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and order dated 26.11.2006 passed by the Sessions Judge, Meherpur in Criminal Appeal No. 16 of 2002 affirming the judgment and order dated 26.08.2002 passed by the Additional District Magistrate, Meherpur in Meherpur P.S. Case No. 4 dated 03.06.2001 corresponding G.R. No. 163 of 2001 convicting the petitioner Abdul Hannan, Zakirul Islam and Azizul Hoque under section 324 of the of the Penal Code, 1860 and sentencing them

thereunder to suffer rigorous imprisonment for 2(two) years and 06(six) 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 the informant Md. Awlad Hossain purchased 39.5 decimals of land of Dag No. 215, by registered deed No. 7117 dated 29.07.1995, and 28 decimals of land of former Dag No. 216 by registered deed No. 8345 dated 24.09.1995, and he has been possessing the said 77.5 decimals of land since 1995, and the witnesses 1 Md. Sirajul Haque 2. Abdul Gani 3. Mokter Hossain 4. Shafi 5. Md. Shuk Ali Sheikh and 6. Yearul Islam owned the adjacent land by purchase. In the meantime, accused Abdul Hannan, along with his people, threatened to dispossess them from their land. On 01.06.2001, they were cultivating their land and at 9.30 am, suddenly, Abdul Hannan, Zakirul Islam, Manan, Babul, Azizul Hoque, Ayaj Uddin, Mosharaf, Jullo, Sallu, Khairul Islam, Fuzel, Ashadul, Gazi Rahman and Ejal Uddin, armed with ramdao, hashua, kiris, iron rod, stick, fala, and rifle, encircled them and accused Earul opened one round blank fire and scolded them with filthy language. At that time, he tried to save his life. Subsequently, at the order of Samsul, the accused Earul opened fire, which caused injury to the left armpit of Abdul Gani. At that time, accused Zullo caused a ramdao blow to the middle of his head. Consequently, he sustained grievous injury. Thereafter, the accused Abdul Hannan dealt a ramdao blow to the back side of his waist. He dealt a dao blow to the left side of the armpit and buttock of Mukter. He also dealt a dao blow, which caused injury

to the head of Mukter. The accused Azizul dealt a ramdao blow to the back side of Mokter, which caused grievous bleeding injury. The accused Zakirul dealt a ramdao blow to the left cheek of Sirajul. The accused Zullu dealt a hashua blow to the left leg of Sirajul, accused Zafirul dealt a ramdao blow, which caused cut injury to his two fingers of his left hand. Other witnesses were also beaten indiscriminately with lathi and iron rods. Hearing the sound of gunfire, locals assembled at the place of occurrence, and the accused persons flee away. The victims were taken to Meherpur General Hospital and admitted there. Since the informant was busy with the treatment of the victim, there was a delay in lodging the FIR.

S.I. Md. Mizanur Rahman was appointed as the investigating officer of the case. During the investigation, he visited the place of occurrence, prepared the sketch map and index, collected the medical certificate of the victim, recorded the statement of witnesses under section 161 of the Code of Criminal Procedure, 1898, and seized the alamats. After completing the investigation, he found the prima facie truth of the allegation against the convict-petitioners and 12 others and submitted charge sheet against them on 12.08.2001 under sections 144/149/323/324/326/307 of the Penal Code, 1860, and did not send up the accused Zullo in the charge sheet.

During trial, Additional District Magistrate, Meherpur by order dated 09.12.2001 framed charge against the accused Abdul Hannan, Azizul and Zakirul under section 324 of the Penal Code,

1860, against the accused Earul under sections 326/307 of the Penal Code, 1860 and against all accused including the convict petitioners under section 149 of the Penal Code, 1860 which was read over to them and they pleaded not guilty to the charge and claimed to be tried flowing law. The prosecution examined 9 witnesses to prove the charge against the accused persons, and the defence cross-examined the prosecution's witnesses. After examination of the prosecution witnesses, the accused persons were examined under section 342 of the Penal Code, 1860, and the defence declined to adduce any DW.

After concluding the trial, the trial court by judgment and order dated 26.08.2002 convicted the accused Abdul Hannan, Zakirul Islam, and Azizul Hoque under section 324 of the Penal Code, 1860, and sentenced them to suffer rigorous imprisonment for 06 months and acquitted all other accused from the charge framed against them. Being aggrieved by and dissatisfied with the said judgment and order passed by the trial court, the convict petitioners filed Criminal Appeal No. 16 of 2002 before the Sessions Judge, Meherpur, who, by impugned judgment and order, affirmed the judgment and order passed by the trial court against which the convict petitioners obtained the Rule.

No one appears on behalf of the convict petitioner.

Learned Deputy Attorney General Mr. Md. Anichur Raham, appearing along with learned Assistant Attorney General Mr. Mir Moniruzzaman on behalf of the state submits that the allegation against the accused Hannan, Zakirul and Azizul

Hoque has been proved by the prosecution witnesses and the medical certificate issued by P.W.7 and both the courts below on correct assessment and evaluation of the evidence legally passed the impugned judgments and orders. He prayed for discharging the rule.

I have considered the submission of the learned Deputy Attorney General Mr. Md. Anichur Raham Khan, who appeared along with learned Assistant Attorney General Mr. Mir Moniruzzaman on behalf of the state, perused the impugned judgments and orders passed by the courts below, the evidence adduced by the prosecution, and the records.

In the FIR, it has been alleged that the accused Abdul Hannan dealt a remdao blow to the back of the victim Mukter and a dao blow to the head of Mukter. The victim Mukter is examined as P.W. 2. He stated that the accused Hannan dealt a blow to his head. P.W. 1 Sirajul stated that Hannan dealt a blow to the back of Mukter. P.W. 3 Abdul Gani stated that the accused Hannan dealt a dao blow to the head of Mukter. P.W. 5 Monirul stated that the accused Hannan dealt a ramdao blow to the back of the Mukter, and he also dealt a blow to his head. P.W. 6 Earul is a hearsay witness. P.W. 7 is the medical officer who issued the medical certificate of the victim. P.W. 9 is the informant. He stated that the accused Hannan dealt a remdao blow to the back and head of Mukter.

On scrutiny of the evidence, it reveals that in the FIR, the informant P.W. 9 Awlad Hossain stated that after the gunshot, he

fled away from the place of occurrence. Nothing has been stated in the FIR about the source of information about the occurrence as stated in the FIR. During cross-examination, P.W. 9 Awlad Hossain admitted in cross-examination that after being shot by Earul, he fled away from the place of occurrence to save his life and took shelter in the paddy field, so that no one could see him, which proved that P.W. 9 was not present at the time of causing injury to P.W. 2 Mukter Hossain. P.W. 2 Mukter Hossain stated that the accused Hannan caused injury to his head by a kirish. The allegation made in the FIR against the accused Hannan is not corroborated by P.W. 2 Mukter. The instruments used regarding the commission of the alleged offence are also contradicted by the witnesses. In the FIR, it has been alleged that the accused Earul opened fire with a gun, and P.W. 3 Goni sustained injury by gunshot, which is not corroborated by P.W. 3 Gani. Therefore, it is crystal clear that the informant made an exaggeration in the FIR. It is found that several cases are pending between the informant and the accused parties.

In the FIR, it has been alleged that the accused Zakirul Hossain dealt a blow to P.W. 1 Sirajul, which caused grievous injury to his cheek, and he also cut down two fingers of the left hand of Asadul. P.W. 1 Sirajul Islam stated that the accused Zakirul dealt a blow to the right side of his head and cut down 2 fingers of the left hand of Asadul with a dao. P.W. 3 Abdul Gani stated that Zakirul dealt a dao blow to the head of Siraj. P.W. 5 Monirul stated that the accused Zafirul dealt a ramdao blow to the head of Siraj, which caused injury to his cheek. P.W. 7

Doctor Nitta Nanda examined the victim P.W. 1 Sirajul Islam and issued the medical certificate, which is proved as exhibit-4. In Exhibit 4, the doctor mentioned that he found (1). Incised wound above the right eye measuring 2x1”.

On scrutiny of the above evidence, it is found that the allegation made in the FIR against the accused Zakirul is not corroborated by the medical certificate exhibit-4, and the allegation made in the FIR against him that he caused injuries by remdao is also not corroborated by P.Ws. 1, 3, 5, and 9. Although P.W. 2 Mukter is an injured victim, he did not corroborate the injury sustained by P.W. 1. The trial court did not consider the material contradiction appearing in the evidence of prosecution witnesses regarding the instruments used for the commission of the alleged offence. The trial court also misread the material evidence of the prosecution witnesses and overlooked the contradiction appearing in the evidence of the prosecution witnesses and the appellate court below, without scrutiny of the evidence adduced by the prosecution mechanically affirmed the judgment and order passed by the trial court.

In view of the above evidence, findings, observation, and the proposition, I am of the view that the prosecution failed to prove the charge against the accused persons beyond all reasonable doubt.

I find merit in the Rule.

As a result, the rule is made absolute.

The impugned judgments and orders passed by the courts below against the convict petitioners 1. Abdul Hannan 2. Zakirul Islam and 3. Azizul Haque are hereby set aside.

Send down the lower Court's records at once.