

International Crimes Tribunal-1
Old High Court Building, Dhaka, Bangladesh

ICT-BD [ICT-1] Case No.07 of 2018

Present:

Justice Md. Shahinur Islam, Chairman

Justice Amir Hossain, Member

Justice Md. Abu Ahmed Jamadar, Member

Order No.04

05 December, 2018

Chief Prosecutor

Vs.

(1) Md. Anisur Rahman Manik [absconding] (2) Md. Mokhlesur Rahman Mukul [absconding] (3) Md. Saidur Rahman Ratan[absconding] (4) Md. Shamsul Haque Bachchu (5) Shamsul Haque Fakir[absconding] (6) Nurul Haque Fakir [absconding] (7) Md. Sultan Mahmud Fakir[absconding] (8) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal and (9) Nakib Hossain Adil Sarker[absconding]

Mr. Tapas Kanti Baul, Prosecutor: For the prosecution

Mr. Abdus Sattar Palwan, Advocate: Engaged for 02 accused (1) Md. Shamsul Haque Bachchu and (2) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal

Mr. Gaji M.H Tamim, Advocate : State defence Counsel for 07 absconding accused (3) Md. Anisur Rahman Manik (4) Md. Mokhlesur Rahman Mukul (5) Md. Saidur Rahman Ratan (6) Shamsul Haque Fakir (7) Nurul Haque fakir (8) Md. Sultan Mahmud and (9) Nakib Hossain Adil Sarker

[Decision on framing charges]

Accused (1) Md. Shamsul Haque Bachchu and (2) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal have been brought before the Tribunal from prison. The rest 07 accused have been absconding.

On wrapping up the submission on charge framing matter pressed on by both sides on 27 October , 2018, the Tribunal[ICT-1] fixed today for rendering its decision and as such the record is taken up for order on indictment matter. Before we pass the order, we consider it proper and relevant to craft a brief portrayal of the context of the case and succinct arguments advanced by both prosecution and defence before this Tribunal.

I. Formation of the Tribunal

1. This International Crimes Tribunal-1 (hereinafter referred to as the “Tribunal”) has been constituted under the International Crimes (Tribunals) Act enacted in 1973 (hereinafter referred to as the “Act”) by the sovereign Parliament of Bangladesh intending to provide provisions for the detention, prosecution and punishment of individual or group of individuals or member or members of auxiliary force as defined in the Act responsible for the offences of genocide, crimes against humanity, war crimes as enumerated in sub-section (2) of section 3 of the Act committed in the territory of Bangladesh especially in 1971 during the war of liberation. The preamble of the Act reflects this core objective. However, no Tribunal was set up and

as such no one could be brought to justice under the Act until the government established ‘Tribunal’ (Tribunal-1) on 25th of March 2010.

II. Brief Historical Context

2. In all the earlier cases, already disposed of, the Tribunal described the settled historical context that heaved the Bengali nation to start fighting for self-determination and independence of the motherland—**Bangladesh**. Bangabandhu Sheikh Mujibur Rahman the Father of the Nation in his historic speech of 7th March, 1971, called on the people of Bangladesh to strive for independence.

3. Long 46 years after the nation achieved its independence, recognizing the historic March 7 speech of Bangabandhu Sheikh Mujibur Rahman, the Father of the Nation as a world documentary heritage by the UNESCO is the stamp of immense pride for the nation indeed. This recognition shall prevent distortion of the history. The truth is thus the 7 March blazing speech of Bangabandhu calling on the freedom-loving Bangalees indispensably activated and inspired the whole nation, excepting a few pro-Pakistan people to get prepared for the war of liberation.

4. On 26th March, following the onslaught of “Operation Search Light” by the Pakistani Military on 25th March, Bangabandhu declared independence of Bangladesh immediately before he was arrested by the Pakistani authorities.

5. It is now the settled history that in the War of Liberation that ensued in 1971 under the leadership of Bangabandhu the Father of the Nation, all people of the then East Pakistan wholeheartedly supported and participated in the call to free Bangladesh but a small number of Bangalee, Biharis, other pro- Pakistanis, as well as members of a number of different religion-based political parties joined and/or collaborated with the Pakistani occupation army to actively oppose the creation of independent Bangladesh and most of them committed and facilitated the commission of diabolical atrocities in the territory of Bangladesh, directing non-combatant pro-liberation civilians. As a result, 3 million (thirty lacs) people were killed, more than 2,00,000 (two lacs) women were raped, about 10 million (one crore) people were forced to deport to India as refugees and million others were internally displaced. It also experienced unprecedented destruction of properties all over Bangladesh, in violation of laws of war and fundamental rights of protected civilians.

6. The Pakistan government and the occupation military created number of auxiliary forces such as the Razakars, the Al-Badar, the Al-Shams, the Peace Committee etc. essentially to collaborate with the military in identifying and eliminating all those who were perceived to be sympathized with the liberation of Bangladesh, individuals belonging to minority religious groups especially the Hindus, individuals belonging to Awami League and other pro- independence

political parties, Bangalee intellectuals and unarmed civilian population of Bangladesh.

7. The arraignments as have been pressed by the prosecution in the case in hand, by submitting formal charge involve the atrocious attacks allegedly carried out directing civilian population, in violation of customary international law and the laws of war, by the accused persons belonging to Razakar Bahini—an auxiliary force created to further policy and plan of the Pakistani occupation army in the context as briefly narrated herein above.

III. Brief account of the Accused Persons

8. It is essentially needed to focus on brief account of the accused persons they had in 1971 which is essentially chained to the arraignments brought. The brief account of the accused persons as has been described in the formal charge is as below:

1.Md. Anisur Rahman Manik (70)

Accused Md. Anisur Rahman Manik (70) is the son of late Abdul Khaleque Sarkar and Most. Sufia Khatun of village-Dewpara under Police Station-Trishal of District-Mymensingh. He was born on 16-02-1950. His father Abdul Khaleque Sarkar, a local leader of Muslim League along with other activists and supporters of anti-liberation political parties formed a Peace Committee at Trishal Police Station. Accused Md. Anisur Rahman Manik along with other's after having a short training conducted by Pakistani Occupation Army at

Mymensingh formed Razakar Bahini under the command of Abdul Khaleque Sarkar at Trishal police station locality. In 1971, he actively participated in committing heinous prohibited acts constituting the offences of crimes as crimes against humanity, prosecution alleges.

2.Md. Mokhlesur Rahman Mukul (65)

Accused Md. Mokhlesur Rahman Mukul (65) is the son of late Abdul Khaleque Sarkar and Most. Sufia Khatun, of village-Dewpara under Police Station-Trishal, District-Mymensingh. He was born on 10.11.1956. His father Abdul Khaleque Sarkar, a local leader of Muslim League along with other activists and supporters of anti-liberation political parties locally formed a Peace Committee at Trishal Police Station. Accused Md. Mokhlesur Rahman Mukul along with other's after taking a short training conducted by Pakistani Occupation Army at Mymensingh Sadar formed Razakar Bahini at Trishal police station area. He actively participated in committing heinous atrocious activities constituting the offences of crimes against humanity during the war of liberation, prosecution alleges.

3.Md. Saidur Rahman Ratan (62)

Accused Md. Saidur Rahman Ratan (62) is the son of late Abdul Khaleque Sarkar and Mother of Late Most. Sufia Khatun, of village-Dewpara under police station-Trishal, District-Mymensingh. His father Abdul Khaleque Sarkar, a local leader of Muslim League along with other activists and supporters of anti-liberation political parties locally formed a Peace Committee at Trishal Police Station. Accused

Md. Mokhlesur Rahman Mukul along with other's after taking a short training conducted by Pakistani Occupation Army at Mymensingh Sadar formed Razakar Bahini at Trishal police station area. He, in exercise of his affiliation with Razakar Bahini actively participated in committing atrocious activities directing civilian population constituting the offences of crimes against humanity during the war of liberation, prosecution alleges.

4.Md. Shamsul Haque Bacchu (70)

Accused Md. Shamsul Haque Bacchu (70), son of late Saju Mamud Mondal @ Saju Morol (Adopted son of Abdul Khaleque Sarkar) and late Most. Sufia Khatun, of village-Dewpara under Police Station-Trishal, District-Mymensingh. Accused Md. Shamsul Haque Bacchu on having short training conducted by Pakistani Occupation Army stationed in Mymensingh Sadar contributed in forming local Razakar Bahini under the command of Abdul Khaleque Sarkar at Trishal police station area. He actively participated in committing atrocious activities directing unarmed civilians constituting offences as crimes against humanity, during the war of liberation, prosecution alleges.

5. Shamsul Haque Fakir (75)

Accused Shamsul Haque Fakir (75) is the son of late Achhmat Ali Fakir and late Most. Achhia Khatun, of village-Biarta under police station-Trishal, District-Mymensingh. (Now lives in Canada). Presently he is 75 years old, as has been found in investigation.

Accused Shamsul Haque Fakir contributed in forming local Razakar Bahini. He actively participated in committing offences as crimes against humanity, during the war of liberation in 1971, prosecution alleges.

6.Nurul Haque Fakir (70)

Accused Nurul Haque Fakir (70) is the son of late Achhmat Ali Fakir and late Most. Achhia Khatun, of village-Biarta under Police Station-Trishal, District-Mymensingh. (Now lives in America). Presently he is 70 years old as has been found in investigation. Accused Nurul Haque Fakir was affiliated with the locally formed Razakar Bahini under the command of Abdul Khaleque Sarkar at Trishal police station area. He actively participated in committing atrocious activities directing civilians constituting the offences as crimes as crimes against humanity during the war of liberation.

7.Md.Sultan Mahmud Fakir (62)

Accused Md. Sultan Mahmud Fakir (62) is the son of late Achhmat Ali Fakir and Mother of Late Most. Achhia Khatun, of village-Biarta, Police Station-Trishal, District-Mymensingh. Presently he is 62 years old as has been found in investigation. Accused Nurul Haque Fakir was affiliated with the locally formed Razakar Bahini under the command of Abdul Khaleque Sarkar at Trishal police station area. He actively participated in committing atrocious activities directing civilians constituting the offences as crimes as crimes against humanity during the war of liberation.

8. *Abul Basar Md. Mofazzal Hossain alias Moulavi Mofazzal (72)*

Accused Abul Basar Md. Mofazzal Hossain alias Moulavi Mofazzal (72) is the son of late Abdul Jabbar alias Hafez Abdul Jabbar and late Edunnesa, of village-Taltola (under Kanihari Union), Police Station-Trishal, District-Mymensingh, at present- Plot No. 209-210, Hasan Uddin Old Thana Road, Mishsree Tola Masque Road, Uttar Badda, Police Station-Badda, D.M.P, Dhaka, was born on 01-09-1949. Presently he is 72 years old [as per evidence]. He after undergoing short training in Mymensingh he joined locally formed Razakar Bahini under the command of Abdul Khaleque Sarkar at Trishal police station area. He actively participated in committing heinous crimes as crimes against humanity, during the war of liberation, prosecution alleges.

9. *Nakib Hossain Adil Sarkar (66)*

Accused Nakib Hossain Adil Sarkar (66) is the son of late Mahatab Uddin Sarkar alias Gedu Chairman and late Fazilatun Nesa, of village-Hadder Bhita, Police Station-Trishal, District-Mymensingh, at present- Darirampur, Ward No. 8, Trishal Pourshova, Police Station-Trishal, District-Mymensingh was born on 04-04-1954. Presently he is 66 years old as has been unveiled in investigation. Accused Nakib Hossain Adil Sarkar after having short training in Mymensingh conducted by Pakistani Occupation Army contributed in forming local Razakar Bahini under the command of Abdul Khaleque Sarkar at Trishal police station area. He actively participated in accomplishing

heinous crimes as crimes against humanity during the war of liberation, prosecution alleges.

IV. Procedural History

9. The Investigation Agency of the Tribunal constituted under the Act of 1973 started investigation pursuant to complaint register serial no. 77 dated 26.01.2017, in respect of commission of offences enumerated in section 3(2) of the Act of 1973 allegedly perpetrated by (1) Md. Anisur Rahman Manik (2) Md. Mokhlesur Rahman Mukul (3) Md. Saidur Rahman Ratan (4) Md. Shamsul Haque Bachchu (5) Shamsul Haque Fakir (6) Nurul Haque fakir (7) Md. Sultan Mahmud Fakir (8) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal and (9) Nakib Hossain Adil Sarker.

10. During investigation i.e at pre-trial stage two accused Md. Shamsul Haque Bachchu and (2) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal could be detained in prison vide Tribunal's order dated 15.02.2017 and 10.12.2017, as prayed by the Investigation Officer through the Chief Prosecutor .

11. The Investigation Officer [IO] submitted its report together with documents and materials collected and statement of witnesses, on wrapping up of investigation before the Chief Prosecutor against in all 09 suspect accused persons of whom 07[seven] could not be arrested.

12. The Chief Prosecutor, on the basis of the report and documents submitted therewith by the Investigation Agency, after completion of

investigation, submitted the 'Formal Charge' on perusal of which Tribunal, under Rule 29(1) of the Rules of Procedure, took cognizance of offences on 28.08.2018 under section 3(2) read with section 4(1) of the Act of 1973, allegedly committed in 1971 around the localities under police station- Trishal, District Mymensingh.

13. After having the report in execution of warrant of arrest issued against seven [07] accused who could not be arrested the Tribunal, for the purpose of holding proceedings in absentia against them, by its order dated 28.08.2018 directed publication of notification in two national daily news papers. But these accused did not turn up despite such notification published in daily news papers and as such treating them absconded the Tribunal by its order dated 24.09.2018 fixed 23.10.2018 for hearing the charge framing matter by appointing Mr. Gaji M.H Tamim as state defence counsel, at the cost of Government, to defend the absconding accused persons.

14. Then on 23.10.2018 hearing on charge framing matter took place when both sides placed their respective submission.

V. Submission by the Prosecutor

15. **Mr. Tapas Kanti Baul**, the learned prosecutor in advancing his submission drew attention to the formal charge and materials submitted therewith. It has been submitted that the accused persons belonged to locally formed Razakar Bahini; that they deliberately collaborated with the Pakistani occupation army to further its policy

and plan. The accused persons were engaged in carrying out atrocious activities around the localities under Trishal Police Station of District Mymensingh; that the materials collected by holding investigation shall demonstrate *prima facie* that the accused persons were culpably and actively engaged in launching attacks directing pro-liberation civilian population as narrated in the formal charge that resulted in committing the offences of torture, abduction , confinement , other inhumane act and murder as crimes against humanity as enumerated in the Act of 1973.

16. The materials, statement of cited witnesses and the documents collected *prima facie* provide reasonable grounds of proceedings by framing indictments against the accused persons, as have been pressed--- with this the learned Prosecutor concluded his submission.

VI. Submission on behalf of the defence

17. Mr. Abdus Sattar Palwan, the learned counsel defending the two accused detained in prison submitted that these accused did not belong to Razakar Bahini; that document relied upon by the prosecution in this regard is not reliable; that these accused had no nexus with the alleged arraignment constituting the offences as has been narrated in the formal charge and that there has been no ground of proceedings against these accused persons. Thus they deserve to be discharged.

18. Mr. Gaji M.H Tamim, the learned state counsel defending the seven absconding accused submitted that there has been no *prima*

facie material to indict these accused persons for the arraignments as have been brought in the Formal Charge ; that they did not belong to any auxiliary force; and that none of them was engaged in any anti-liberation activities. Thus these accused deserve to be discharged.

VII. Deliberations and Decision

19. We have gone through the formal charge, statement of witnesses and the documents submitted therewith. We reiterate that at this stage neither the guilt nor the innocence can be adjudicated decisively. The accused persons shall be treated innocent, till they are found guilty. Their culpability, if any, can only be well determined at trial, not at this stage.

20. Now, at this stage, we are to merely see the *prima facie* complicity and participation of the accused persons with the commission of alleged offence and of course, treating them innocent, till they are found guilty.

21. The formal charge and documents submitted therewith cumulatively demonstrate, at this stage that there has been *prima facie* disclosure of participation, substantial contribution and abetment of the accused persons to the perpetration of the alleged offences as enumerated in section 3(2) of the Act of 1973.

22. Rule 36 of the ROP provides provision of trying the persons accused of offences at one trial as they allegedly committed the same offences being the associates of the group of attackers, allegedly in

exercise of their membership in locally formed Razakar Bahini. Thus, trying them jointly is lawfully approved.

23. Affiliation of accused persons with auxiliary force, as alleged by the prosecution too can be well determined only in trial and not at this stage. Thus, we are not going to render any definite finding on it.

24. However, mostly on *prima facie* perusal from the particulars of facts narrated in the Formal Charge we are of the view that there are sufficient and substantial materials before this Tribunal to presume *prima facie* that accused persons had nexus with the commission of the alleged offences as specified under section 3(2) of the Act.

25. In view of above, now, we proceed to read out the charges framed. We are of the view that there are sufficient and substantial materials before this Tribunal to frame charges against accused (1) Md. Anisur Rahman Manik (2) Md. Mokhlesur Rahman Mukul (3) Md. Saidur Rahman Ratan (4) Md. Shamsul Haque Bachchu (5) Shamsul Haque Fakir (6) Nurul Haque fakir (7) Md. Sultan Mahmud Fakir (8) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal and (9) Nakib Hossain Adil Sarker for the offences allegedly committed during the War of Liberation in 1971 as specified under section 3(2) of the Act of 1973 for which they are alleged to be criminally liable under sections 4(1) of the Act of 1973. The charges are thus framed against them in the following manner.

Charges

We,

Justice Md. Shahinur Islam, Chairman

Justice Amir Hossain, Member

Justice Md. Abu Ahmed Jamadar, Member

Of the International Crimes Tribunal -1

Do hereby charge you the accused (1) Md. Anisur Rahman Manik (2) Md. Mokhlesur Rahman Mukul (3) Md. Saidur Rahman Ratan (4) Md. Shamsul Haque Bachchu (5) Shamsul Haque Fakir (6) Nurul Haque fakir (7) Md. Sultan Mahmud Fakir (8) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal and (9) Nakib Hossain Adil Sarker as follows:

Charge No.01

[Abduction, confinement, torture and murder of a non-combatant freedom fighter Abdul Hamid @ Hamon]

That on 22.08.1971 at about 11:00 A.M a group formed of armed Razakars including you the accused (1) Md. Anisur Rahman Manik (2) Md. Mokhlesur Rahman Mukul (3) Md. Saidur Rahman Ratan (4) Md. Shamsul Haque Bachchu (5) Shamsul Haque Fakir (6) Nurul Haque fakir (7) Md. Sultan Mahmud Fakir (8) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal and (9) Nakib Hossain Adil Sarker by launching attack at the house of Rustom Ali of village-Kanihari under police station Trishal of District Mymensingh forcibly captured unarmed freedom-fighter Abdul Hamid @ Hamon when he attempted to go into hiding sensing their presence and then took him away to the Razakar camp set up at Ahmadabad High School under

police station Trishal , District Mymensingh where he was subjected to torture.

Keeping the victim in captivity an amount of ransom money was demanded which was paid to Razakar commander to secure victim's release. But nevertheless the victim was not set freed. On 23.08.1971 at about 09:00 P.M the detained victim was taken out to the culvert adjacent to the Razakar camp where he was shot to death by you the accused persons. Later on, dead body was recovered and brought to his house and his relatives buried it. With this you the accused persons plundered the house of the victim freedom-fighter.

Therefore, you the accused (1) Md. Anisur Rahman Manik (2) Md. Mokhlesur Rahman Mukul (3) Md. Saidur Rahman Ratan (4) Md. Shamsul Haque Bachchu (5) Shamsul Haque Fakir (6) Nurul Haque fakir (7) Md. Sultan Mahmud Fakir (8) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal and (9) Nakib Hossain Adil Sarker by your act forming part of attack jointly participated, facilitated, abetted and substantially contributed to the commission of the offences of **'abduction', 'confinement', 'torture' and 'murder'** as crimes against humanity as specified in section 3(2)(a)(g)(h) read with section 4(1) of the International crimes (Tribunals) Act, 1973 which are punishable under section 20(2) of the Act.

Charge No.02

[Abduction, confinement and torture caused to 02 civilians]

That on 23.08.1971, at dawn a group formed of you the accused (1) Md. Anisur Rahman Manik (2) Md. Mokhlesur Rahman Mukul (3) Md. Saidur Rahman Ratan (4) Md. Shamsul Haque Bachchu (5) Shamsul Haque Fakir (6) Nurul Haque fakir (7) Md. Sultan Mahmud Fakir (8) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal and (9) Nakib Hossain Adil Sarker by launching attack at village Biyarta under police station Trishal, District-Mymensingh unlawfully detained Niyamat Ali Dhak [now dead], Azizur Rahman and Abdul Matin and took them away to Razakar camp at Ahmadabad High School where they were subjected to brutal torture in captivity. On 25.08.1971 the victims got conditional release in exchange of ransom money.

Therefore, you the accused (1) Md. Anisur Rahman Manik (2) Md. Mokhlesur Rahman Mukul (3) Md. Saidur Rahman Ratan (4) Md. Shamsul Haque Bachchu (5) Shamsul Haque Fakir (6) Nurul Haque fakir (7) Md. Sultan Mahmud Fakir (8) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal and (9) Nakib Hossain Adil Sarker by your act forming part of attack jointly participated, facilitated, abetted and substantially contributed to the commission of the offences of **‘abduction’, ‘confinement’ and ‘torture’** as crimes against humanity as specified in section 3(2)(a)(g)(h) read with section 4(1) of the of the International crimes (Tribunals) Act, 1973 which are punishable under section 20(2) of the Act.

Charge No.03

[Abduction, confinement, torture and other inhumane act caused to a civilian Yunus Ali @ Inu who was eventually killed]

That on 25.08.1971, at 01:00 P.M a group formed of you the accused (1) Md. Anisur Rahman Manik (2) Md. Mokhlesur Rahman Mukul (3) Md. Saidur Rahman Ratan (4) Md. Shamsul Haque Bachchu (5) Shamsul Haque Fakir (6) Nurul Haque fakir (7) Md. Sultan Mahmud Fakir (8) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal and (9) Nakib Hossain Adil Sarker by launching attack at Kalir Bazar under police station-Trishal, District-Mymensingh forcibly captured an unarmed civilian Yunus Ali @ Inu who used to provide assistance to freedom-fighters and keeping him in captivity at Razakar camp of Ahmadabad High School caused torture to him.

On 26.08.1971 when the relatives of the victim including his wife had been waiting outside the camp with the hope of getting victim's release the detained victim Yunus Ali @ Inu was brought outside the camp. You the accused started beating him with butt of rifle and stick and at one stage, you accused Anisur Rahman Manik shot him to death and forced the relatives of victim to quit the site and buried the dead body under the bamboo orchard adjacent to the Razakar camp.

Therefore, you the accused (1) Md. Anisur Rahman Manik (2) Md. Mokhlesur Rahman Mukul (3) Md. Saidur Rahman Ratan (4) Md. Shamsul Haque Bachchu (5) Shamsul Haque Fakir (6) Nurul Haque fakir (7) Md. Sultan Mahmud Fakir (8) Abul Basar Md. Mofazzal

Hossain @ Moulavi Mofazzal and (9) Nakib Hossain Adil Sarker by your act forming part of attack jointly participated, facilitated, abetted and substantially contributed to the commission of the offences of **‘abduction’, ‘confinement’ and ‘torture’ other ‘inhumane act’ and ‘murder’** as crimes against humanity as specified in section 3(2)(a)(g)(h) read with section 4(1) of the of the International crimes (Tribunals) Act, 1973 which are punishable under section 20(2) of the Act.

Charge No.04

[Abduction, confinement, torture and other inhumane act caused a non-combatant freedom- fighter who was eventually murdered]

That freedom-fighter Abdur Rashid alias Rashul of village Dholaiman under police station Trishal, District-Mymensingh came to his house, being unarmed. On 16.09.1971, at 11:30 A.M he moved to Dr. Wajed Ali of Kalir bazaar to have medical treatment, along with his 03 years old son and elder daughter. On receiving this information a group formed of you the accused (1) Md. Anisur Rahman Manik (2) Md. Mokhlesur Rahman Mukul (3) Md. Saidur Rahman Ratan (4) Md. Shamsul Haque Bachchu (5) Shamsul Haque Fakir (6) Nurul Haque Fakir (7) Md. Sultan Mahmud Fakir (8) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal and (9) Nakib Hossain Adil Sarker by launching attack at Kalir bazaar forcibly captured dragging him out from the hiding place and caused inhumane torture to his son throwing him to the nearby paddy field. The detained victim was then taken away to Razakar camp at Ahmadabad High School where he was subjected to inhumane torture.

Relatives including wife of the detained victim Abdur Rashid @ Rashul made frequent efforts to get the victim's release but you the accused persons did not pay heed to it. On 19.09.1971 at about 10:00 A.M victim's wife and family members moved again to Razakar camp to secure victim's release when they saw you the accused persons and some other Razakars taking the victim to a nearby ditch where he was shot to death. Victim's dead body was buried at an unknown place.

Therefore, you the accused (1) Md. Anisur Rahman Manik (2) Md. Mokhlesur Rahman Mukul (3) Md. Saidur Rahman Ratan (4) Md. Shamsul Haque Bachchu (5) Shamsul Haque Fakir (6) Nurul Haque fakir (7) Md. Sultan Mahmud Fakir (8) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal and (9) Nakib Hossain Adil Sarker by your act forming part of attack jointly participated, facilitated, abetted and substantially contributed to the commission of the offences of **'abduction', 'confinement' and 'torture' other 'inhumane act' and 'murder'** as crimes against humanity as specified in section 3(2)(a)(g)(h) read with section 4(1) of the of the International crimes (Tribunals) Act, 1973 which are punishable under section 20(2) of the Act.

Charge No. 05

[Abduction, confinement, torture and other inhumane act caused to 08 civilians of villages- Kanihari, Biyarta, Sultanpur, Baroi Gao under police station-Trishal, District-Mymensingh]

That on 10.11.1971, at 10:00 A.M a group formed of you the accused (1) Md. Anisur Rahman Manik (2) Md. Mokhlesur Rahman

Mukul (3) Md. Saidur Rahman Ratan (4) Md. Shamsul Haque Bachchu (5) Shamsul Haque Fakir (6) Nurul Haque fakir (7) Md. Sultan Mahmud Fakir (8) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal and (9) Nakib Hossain Adil Sarker and some other armed Razakars by launching attack at the house of Golam Sobhan and Md. Hafiz Uddin, supporters of war of liberation of village-Baroi Goa under police station-Trishal, District-Mymensingh looted households and valuables.

In conjunction with the attack, at about 12:00 P.M you the accused persons also carried out looting households by launching attack at the house of Afaz Uddin[now dead] and forced Ruhul Amin to carry the looted valuables towards the Razakar camp. Later on in exchange of ransom money Ruhul Amin got release.

In conjunction with the attack and leaving the looted goods at the camp you the accused persons and your cohorts unlawfully detained 07 civilians by launching attack at villages- Kanihari, Biyarta, Sultanpur, Baroi Gao and took them away to the Razakar camp where they were kept confined. Eventually the detained victims got release in exchange of ransom money, on 25.11.1971.

Therefore, you the accused (1) Md. Anisur Rahman Manik (2) Md. Mokhlesur Rahman Mukul (3) Md. Saidur Rahman Ratan (4) Md. Shamsul Haque Bachchu (5) Shamsul Haque Fakir (6) Nurul Haque fakir (7) Md. Sultan Mahmud Fakir (8) Abul Basar Md. Mofazzal

Hossain @ Moulavi Mofazzal and (9) Nakib Hossain Adil Sarker by your act forming part of attack jointly participated, facilitated, abetted and substantially contributed to the commission of the offences of **abduction, confinement, torture and other inhumane act** as crimes against humanity as specified in section 3(2)(a)(g)(h) read with section 4(1) of the of the International crimes (Tribunals) Act, 1973 which are punishable under section 20(2) of the Act.

Charge No.06

[Abduction, confinement, torture and other inhumane act caused upon 04 Hindu civilians of villages-Kushtia Prothamkhnada and Kalibazaar under police station-Trishal, District-Mymensingh]

That on 10.11.1971, at 07:00 P.M , in continuation of the attack as narrated in charge no.05 a group formed of you the accused (1) Md. Anisur Rahman Manik (2) Md. Mokhlesur Rahman Mukul (3) Md. Saidur Rahman Ratan (4) Md. Shamsul Haque Bachchu (5) Shamsul Haque Fakir (6) Nurul Haque fakir (7) Md. Sultan Mahmud Fakir (8) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal and (9) Nakib Hossain Adil Sarker and some other armed Razakars by launching attack at villages-Kushtia, Prothamkhnada and Kalibazaar under police station-Trishal, District-Mymensingh forcibly captured Dharendra Chakravorty [now dead], Birendra Chakravorty, Dinesh Chnadra Ghosh [now dead] and Harakumar Ghosh [now dead] and took them away to Razakar camp where they were subjected to torture in captivity. Few days later, the detained victims were set at liberty on condition of being converted to Islam religion.

Therefore, you the accused (1) Md. Anisur Rahman Manik (2) Md. Mokhlesur Rahman Mukul (3) Md. Saidur Rahman Ratan (4) Md. Shamsul Haque Bachchu (5) Shamsul Haque Fakir (6) Nurul Haque fakir (7) Md. Sultan Mahmud Fakir (8) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal and (9) Nakib Hossain Adil Sarker by your act forming part of attack jointly participated, facilitated, abetted and substantially contributed to the commission of the offences of **‘abduction’, ‘confinement’, ‘torture’ and ‘other inhumane act’** as crimes against humanity as specified in section 3(2)(a)(g)(h) read with section 4(1) of the of the International crimes (Tribunals) Act, 1973 which are punishable under section 20(2) of the Act.

26. Thus, you the accused persons have been indicted as above for committing the offences under section 3(2)(a)(c)(g)(h) of the International Crimes(Tribunals) Act, 1973, punishable under section 20(2) read with section 4(1) of the Act which are within the cognizance and jurisdiction of this Tribunal. And we hereby direct you to be tried by this Tribunal on the said charges.

27. You accused (1) Md. Shamsul Haque Bachchu and (2) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal have heard and understood the aforesaid charges which have been read out and explained [**in Bangla**] in the open court in your presence.

Question: Do you plead guilty or not.

Answer:

28 The charges so framed have been read over and explained to the accused (1) Md. Shamsul Haque Bachchu and (2) Abul Basar Md. Mofazzal Hossain @ Moulavi Mofazzal to which they pleaded not guilty and claimed to be tried according to law.

29. The rest seven accused (3) Md. Anisur Rahman Manik (4) Md. Mokhlesur Rahman Mukul (5) Md. Saidur Rahman Ratan (6) Shamsul Haque Fakir (7) Nurul Haque fakir (8) Md. Sultan Mahmud and (9) Nakib Hossain Adil Sarker remained absconded and as such the charges framed against them could not be explained to them.

30. Let 22.01.2019 be fixed for opening statement and examination of prosecution witnesses. Prosecution is directed to submit copy of all the documents it relies upon, for the purpose of furnishing the same with the defence, if meanwhile the same are not supplied to the defence. At the same time the engaged counsel and state defence counsel are directed to submit a list of witnesses along with documents, if any, which the defence intends to rely upon, as required under section 9(5) of the Act on or before the date fixed.

Justice Md. Shahinur Islam, Chairman

Justice Amir Hossain, Member

Justice Md. Abu Ahmed Jamadar, Member