

International Crimes Tribunal-1
Old High Court Building, Dhaka, Bangladesh.
ICT-BD [ICT-1] Case No.03 of 2017

Present:

Justice Md. Shahinur Islam, Chairman

Justice Amir Hossain, Member

Judge Md. Abu Ahmed Jamadar, Member

Order No.07
05 March, 2018

Chief Prosecutor

Vs.

- (1) Md. Abdul Khalek @ Abdul Khalek Mondol
- (2) M. Abdullah-Al-Baki @ Abdullahel Baki
- (3) Khan Rokonzaman @ Rokonzaman AND
- (4) Zahirul Islam @ Zahurul Haque @ Tekka Khan

Mr. Zead-Al-Malum and Ms. Rezia Sultana Begum, Prosecutors:

For the prosecution

Mr. Mujahidul Islam Shaheen, Advocate: For accused (1) Md. Abdul Khalek @ Abdul Khalek Mondol

Mr. Gaji M.H Tamim, State defence Counsel: For accused (2) Khan Rokonzaman @ Rokonzaman and (3) Zahirul Islam @ Zahurul Haque @ Tekka Khan

Mr. Abdus Sattar Palwan, Advocate: For accused (4) M. Abdullah-Al-Baki @ Abdullahel Baki

[Decision on framing charges]

Accused (1) Abdul Khalek Mondol is present before this Tribunal as has been brought from prison and accused (2) Abdullah-Al-Baki @

Abdullahel Baki, on bail is also present on dock. Two other accused remained absconded.

On closure of hearing on charge framing matter and discharge applications on 18.01.2018, 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 indispensable to outline a brief portrayal of the context of the case and succinct argument advanced by both prosecution and defence, in course of hearing.

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 perpetrated in the territory of Bangladesh in 1971 during the war of liberation. The preamble of the Act reflects this core objective. However, 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 considered it necessary to describe the settled historical context that imbued the Bengali nation to start struggling 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. We reiterate that long 46 years after the nation achieved its independence the historic March 7 speech of Bangabandhu Sheikh Mujibur Rahman, the father of the nation has been recognized as a world documentary heritage by the UNESCO which is indeed the stamp of immense pride for the nation. This recognition shall prevent distortion of the history and the 7 March glowing speech of Bangabandhu calling on the freedom-loving Bangalees indispensably activated and stimulated the whole nation, excepting a few pro-Pakistan people to get prepared for the war of liberation.

4. On the 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 birth of independent Bangladesh and most of them committed and facilitated the commission of appalling atrocities in the territory of Bangladesh, directing non-combatant pro-liberation civilians. As a result, 3 millions (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. The nation 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 armed force created number of auxiliary forces such as the Razakars, the Al-Badar, the Al-

Shams, the Peace Committee etc. essentially to collaborate with it in identifying and facilitating to wipe out all those who were perceived to be sympathized with the liberation of Bangladesh, individuals belonging to Hindu religious groups, individuals belonging to Awami League and other pro-independence political parties, Bangalee intellectuals, non-combatant freedom-fighters and unarmed civilian population of Bangladesh.

7. In the case in hand, the arraignments as have been pressed by the prosecution, by submitting formal charge involve the deliberate brutal atrocious attacks allegedly carried out directing civilian population of the localities under Police Station-Satkhira of District [now]-Satkhira by the accused persons in collaboration with their accomplice Razakars and Pakistani occupation army in the context as already briefly narrated herein above.

III. Brief account of the Accused Persons

8. Before we render our decision on charge framing matter let us have a look what has been stated in the formal charge about the identity of the accused persons .

(i) Accused Md. Abdul Khalek @ Abdul Khalek Mondol

Accused Md. Abdul Khalek @ Abdul Khalek Mondol [72] son of late Lutfor Rahman @ Lal Chand Mondol and late Deljan Bibi was born on 01.08. 1944 at village-Khalilnagar under Police Station-Satkhira of District [now] Satkhira. He passed 'Kamil' examination in 1965 and then passed BA in 1969 from Satkhira College. He obtained M.A degree in Islamic Studies from Dhaka University. He was involved with Islami Chhatra Sangha [ICS] the student wing of Jamaat-E-Islami. In 1971 he was the main organizer of Razakar Bahini of the then Satkhira Sub-Division and was engaged in carrying out atrocious criminal activities directing civilans population maintaining affiliation with the Pakistani occupation army, prosecution alleges. After independence, in 2001 he was elected a Member of Parliament in

National Parliamentary Election from Satkhira-2 constituency as a candidate of Jamaat-E Islami.

(ii) Accused M. Abdullah-Al-Baki @ Abdullahel Baki

Accused A M. Abdullah-Al-Baki @ Abdullahel Baki[102] son of late Ahmmad Ali and late Kulsum Bibi was born on 07.12.1913 at village Bularati under Police Station-Satkhira of District[now] Satkhira. He studied up to BA class. Prior to 1971 he was a Muslim League activist. In 1971 he was a potential Razakar in Satkhira Sub-Division and identified himself as a ‘Major’ of Satkhira Sub-Division Razakar Bahini, prosecution alleges.

(iii) Accused Khan Rokonuzzaman @ Rokonuzzaman

Accused Khan Rokonuzzaman @ Rokonuzzaman [64] son of late Mohabbat Ali Khan and late Ohida Khanam was born on 05.02.1952 at village Dkahhin Palashpol under Police Station-Satkhira of District[now] Satkhira. He studied up to HSC. In 1971, while he was a student of HSC in Satkhira College he was actively involved with Islami Chhatra Sangha[ICS], the student wing of Jamaat-E-Islami. During the war of liberation he joined Satkhira Sub-Divisional Razakar Bahini and became known as a notorious Razakar, prosecution alleges.

(iv) Accused Zahirul Islam @ Zahurul Haque @ Tekka Khan

Accused Zahirul Islam @ Zahurul Haque @ Tekka Khan[65] son of late Ayzuddin Mollah and late Suraj Bibi was born on 15.03.1951 at village- Boikari under Police Station- Satkhira and District[now] Satkhira. He studied up to HSC. In 1971 while he was a student of Satkhira College he was actively associated with Islami Chhatra Sangha [ICS], the student wing of Jamaat-E-Islami and joined Sub-Divisional Razakar Bahini and was engaged in brutal activities directed against civilans and as such he was locally known as ‘Tekka Khan’, 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. 55 dated 16.06.2015, in respect of commission of offences enumerated in section 3(2) of the Act of 1973 allegedly perpetrated in 1971 during the war of liberation around the localities under Police Station-Satkhira and District[now] Satkhira.

10. During investigation, on prayer of the IO through the prosecution the Tribunal ordered issuance of warrant of arrest [WA] against the accused Md. Abdul Khalek Mondol. In execution of WA issued the accused already arrested in connection with three cases lodged with Satkhira Police Station was produced before the Tribunal on 25.8.2015 when he showing arrested in this case Tribunal ordered to send him to prison by issuing custody warrant.

11. On application filed by the prosecution on 03.05.2016 Tribunal by its order permitted the investigation officer to interrogate the accused Md. Abdul Khalek Mondol at the safe home of the Investigation Agency. The accused was then interrogated accordingly on 12.05.2016 in presence of his counsel and physician as ordered by the Tribunal

12. The Investigation Officer [IO] submitted report together with documents and materials collected and statement of witnesses, on wrapping up of investigation before the Chief Prosecutor on 08.02.2017 on the basis of which the Chief prosecutor by filing an application before the Tribunal prayed for issuance of warrant of arrest against the three accused M. Abdullah-Al-Baki @ Abdullahel Baki, Khan Rokonuzzaman @ Rokonuzzaman and Zahirul Islam @ Zahurul Haque @ Tekka Kha. On hearing the application the Tribunal by its order dated 08.03.2017 issued warrant of arrest in execution of which accused M. Abdullah-Al-Baki @ Abdullahil Baki was arrested

and produced before the Tribunal on 19.03.2017 when he was released on bail considering his grave old age complications.

13. 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 20.03.2017 under section 9(1) of the Act of 1973 before this Tribunal alleging that all the 04 accused persons were engaged in committing the offences of crimes against humanity by facilitating, aiding and abetting and also for complicity to commit such crimes narrated in the formal charge during the period of War of Liberation in 1971 around the localities under Police Station Satkhira of District[now] Satkhira.

14. The Tribunal, under Rule 29(1) of the Rules of Procedure, took cognizance of offences as mentioned in section 3(2) (a)(b)(g)(h) of the Act of 1973, by application its judicial mind to the Formal Charge and materials and documents submitted therewith.

15. Out of 04 accused 02 accused Khan Rokonuzzaman @ Rokonuzzaman and Zahirul Islam @ Zahurul Haque @ Tekka Khan could not be arrested till taking cognizance of offences. After having the report in execution of warrant of arrest issued against them the Tribunal, for the purpose of holding proceeding in absentia against them, ordered publication of notification in two national daily news papers. But despite publication of such notice as required in law those 02 accused did not turn up and as such treating them absconded the Tribunal ordered for hearing the charge framing matter by appointing state defence counsels, at the cost of Government, to defend the 02 absconding accused persons.

16. Then the hearing on charge framing matter took place on 18.01.2018 when both sides placed their respective submission. The

Tribunal also heard the applications seeking discharge of accused Md. Abdul Khalek Mondol and two absconding accused.

V. Submission by the Prosecutor

17. Ms. Rezia Sultana the learned prosecutor drawing attention to the events narrated in formal charge and documents in relation to those submitted that the accused persons belonging to locally formed Razakar Bahini carried out atrocious activities around the locality of District [now] Satkhira, in collaboration with the Pakistani occupation army in 1971, during the war of liberation. The Investigation Agency on finding materials showing involvement of the accused persons with the events constituted the offences of crimes against humanity, as narrated in the formal charge submitted its report on scrutiny of which and documents and materials submitted therewith demonstrate prima facie involvement of accused persons with the commission of offences directing civilans.

18. Mr. Mujahidul Islam Shaheen defending the accused Md. Abdul Khalek Mondol by filing an application seeking discharge submitted that there has been no material to frame charge against this accused for alleged offences; that this accused did not belong to Razakar Bahini and was not associated with the commission of any of offences alleged and as such he deserves to be discharged.

19. Mr. Gaji MH Tamim the learned stated defence counsel defending 02 absconding accused submitted that there has been no material to connect these two accused with the offences alleged. By filing an application seeking discharge the learned state defence counsel submitted that they deserve to be discharged as there has been no lawful material to substantiate the arraignment brought against these two accused.

20. Mr. Abdus Sattar Palwan the learned counsel defending the accused M. Abdullah-Al Baki [on bail] submitted that there has been no prima facie case against this accused; that there has been no material to show this accused's involvement with the commission of any of offences alleged. By filing an application discharge has been sought for this accused, on the grounds stated therein.

VI. Deliberations and Decision

21. We have vigilantly gone through the formal charge, statement of witnesses and the documents submitted therewith. It is true, at this stage neither the guilt nor the innocence can be adjudicated decisively.

22. But at this stage, it appears that the formal charge and the statement of witnesses *prima facie* disclose participation, substantial contribution and abetment and complicity of the accused persons to the perpetration of the alleged offences as enumerated in section 3(2) of the Act of 1973. However, 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.

23. However, on *prima facie* examination of materials forming part of the record, we are convinced that the proposed arraignments deserve to be considered and resolved effectively through trial, on presentation of evidence. At this stage, we are to just concentrate our attention to the arraignments and facts related to the events alleged as has been disclosed in the Formal Charge as well as the statement of witnesses and documents submitted therewith.

24. Prosecution avers that the accused persons were the potential members of locally formed Razakar Bahini. We refrain from rendering explicit finding on this issue, at this stage. This issue can be well resolved at trial only, on evaluation of evidence tendered. Besides, the Act of 1973 permits to prosecute, try and punish even an 'individual' or 'group of individuals' if found responsible for the offences enumerated in the Act.

25. 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 the accused persons innocent, till they are found guilty.

26. 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.

27. In view of the discussion as made above and considering the submissions advanced by both sides, we are of the view that the applications seeking discharge of some of accused persons, having no substantial merit, are hereby rejected. Rather, we have found *prima facie* the nexus of the accused persons with the commission of the alleged offences, mostly from the particulars of facts narrated in the Formal Charge.

28. Thus, we are of the view that there are sufficient and substantial materials and reasonable grounds before this Tribunal to presume *prima facie* that accused persons were involved with the commission of offences during the War of Liberation in 1971 as specified under section 3(2) of the Act for which they now need to stand trial under the Act of 1973.

29. Accordingly, 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. Abdul Khalek @ Abdul Khalek Mondol, (2) M. Abdullah-Al-Baki @ Abdullahel Baki, (3) Khan Rokonzaman @ Rokonzaman and (4) Zahirul Islam @ Zahurul Haque @ Tekka Khan for the offences allegedly committed during the War of Liberation in 1971 as

enumerated in 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

Judge Abu Ahmed Jamadar, Member

Of the International Crimes Tribunal -1

Do hereby charge you (1) Md. Abdul Khalek @ Abdul Khalek Mondol, (2) M. Abdullah-Al-Baki @ Abdullahel Baki, (3) Khan Rokonuzzaman @ Rokonuzzaman and (4) Zahirul Islam @ Zahurul Haque @ Tekka Khan as follows:

Charge No.01: 04 accused indicted

**[Event No. 01 as narrated at pages 39-47 of the Formal Charge]
[Offences of Abduction, confinement and torture of 06 naval commandos [freedom-fighters] of whom 02 were shot to death]**

That on 16 August, 1971 the six victims, the naval commandos [freedom fighters] returned Sutarkhali after detonating eight foreign ships in Mongla port and started moving by boat towards Ashashuni Police Station under District-Satkhira[former Sub-Division] to get sheltered. But their boat mistakenly arrived at the river Betna, due to storm. On the following day at about 02:30 A.M they faced attack launched by Razakars led by Razakar commander Isaque near the Razakar camp at Budhata Ferry in Ashashuni Police Station. The Razakars at a stage got the six naval commandos detained and took them away to Budhatia Razakar camp where they were subjected to torture

On the following day ie on 18.8.1971 at about 08:00 A.M you the accused (1) Md. Abdul Khalek, Razakar committee organizer, (2) Razakar commander M. Abdullah-Al Baki, (3) Razakar Khan

Roknuzzaman and Zahirul Islam @ Zahurul Haque @ Tekka Khan being accompanied 10/12 Razakars coming to Budhatia Razakar camp took away 02 injured naval commandos Aftab Uddin and Sirajul Islam to the bank of the river Betna, on direction of you the accused Md. Abdul Khalek where you the accused M. Abdullah-Al Baki and accused Khan Roknuzzaman shot them to death.

On the same day at about 04:00 P.M the 04 other naval commandos and 03 other civilans detained at the Razakar camp were taken to 'Diamond Hotel' at Boro Bazar, Satkhira town which was known as 'torture center' where the detainees were subjected to torture in the name of grilling.

On 25 August, 1971 on order of you the accused Md. Abdul Khalek 02 detainees Md. Imam Bari and Mujibur Rahman were shifted to the camp of Pakistani occupation army set up at Chachra Morh, Jessore and you the accused Md. Abdul Khalek also ordered to send 02 other detainees Md. Khalilur Rahman and Imdadul Haque Sardar to Satkhira Thana custody and later on they were taken back to the army camp at Chachra turn[morh], Jessore where the 04 naval commandos along with 17/18 civilans were subjected to brutal torture in protracted captivity . Finally, on 17 September, 1971 the 04 detained victims managed to flee from the army camp and participated in the war of liberation.

Therefore , you the accused (1) Md. Abdul Khalek @ Abdul Khalek Mondol, (2) Md. Abdullah-Al-Baki @ Abdullahel Baki, (3) Kham Roknuzzaman @ Roknuzzaman[absconded] and (4) Zahirul Islam @ Zahirul Haque[absconded] are hereby charged for actively participating, facilitating, abetting and substantially contributing 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: 02 Accused indicted

[Event No.02 as narrated at pages 47-49 of the formal charge]

[Offences of Abduction, confinement, torture and murder of Komoruddin Dhal]

That on 18 August 1971 at about 01/01:30 P.M you the accused (1) M Abdullah-Al Baki @ Abdullahel Baki and (2) Khan Rokonuzzaman @ Rokonuzzaman being accompanied by 10/12 Razakars by launching attack forcibly captured Komoruddin Dhali from his house at village Gobindapur under Police Station-Satkhira of District[now] Satkhira and took away first to Dhulihar Bazar and then to Satkhira by a pick-up. Afterwards, detainee's dead body was found on the bank of the river Betna adjacent to Binerpota Bridge.

Therefore, you the accused (1) **M. Abdullah-Al Baki @ Adullahel Baki** and (2) **Khan Rokonuzzaman @ Rokonuzzaman** are hereby charged for participating, abetting, facilitating, contributing and complicity in committing abduction, confinement, torture and murder as crimes against humanity, as part of systematic attack directing against unarmed civilians as specified in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) of the Act for which you the accused persons have incurred liability under section 4(1) of the Act.

Charge No.03: 02 accused indicted

[Event No.03 as narrated at page 49-52 of the formal charge]

[Offences of abduction, confinement, torture and murder of Sobdar Ali of village Foyzullahpur]

That on 18 August, 1971 at about 03:00-03:30 P.M you the accused (1) **M. Abdullah-Al Baki @ Abdullahel Baki** and (2) **Khan Rokonuzzaman @ Rokonuzzaman** and your 4/5 accomplice Razakars forcibly captured Sabdar Ali Sarder, the president of No.14

Fingri Union Awami League from the place at Dhulihar Bazar, when he was on his way back to home and took him away to Ashashuni Police Station by a pick-up and then he was taken to 'Diamond Hotel' at Boro Bazar, Satkhira which was Razakar Headquarter and since then the detained victim could not be traced even

Therefore, you accused **(1) M. Abdullah-Al Baki @ Adullahel Baki and (2) Khan Rokonuzzaman @ Rokonuzzaman** are hereby charged for participating, abetting, facilitating, contributing and complicity in committing 'abduction', 'confinement', 'torture' and 'murder' as crimes against humanity, as part of systematic attack directing against unarmed civilians as specified in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) of the Act for which you the accused persons have incurred liability under section 4(1) of the Act.

Charge No.04:03 accused indicted

[Event No.04 as narrated at page 52-55 of the formal charge]

[Offences of confinement , torture and murder of Sohel Uddin Sana, a local Awami League leader of Dhulihar Union under Satkhira Police Station]

That on 17 August, 1971 at about 03:00-04:00 P.M you the accused (1) Md. Abdul Khalek @ Abdul Khalek Mondol (2) M. Abdullah-Al Baki @ Adullahel Baki and (3) Khan Rokonuzzaman @ Rokonuzzaman being accompanied by 10/12 accomplice Razakars arriving at village Dhulihar under police Station Satkhira launched attack at the house of Sohel Uddin Sana, a local Awami League leader and with this he along with his son A. Jalil Sana started moving towards the house of Abu Sayed of village Protap Nagar under Police Station Ashashuni of District[now] Satkhira. But on the way, at the place Budhata Bazar he was forcibly captured by Ashashuni Razakar commander Isahak [now dead] and his accomplices and his son however managed to escape.

On the following day, the detained victim was then handed over to you the three accused persons and then the detainee along with the four other detainees [victims of the event narrated in charge no.01] was taken to 'Diamond Hotel', at Boro Bazar, Satkhira town and since then he could not be traced even.

Therefore, you accused **(1) Md. Abdul Khalek @ Abdul Khalek Mondol (2) M. Abdullah-Al Baki @ Abdullahel Baki and (3) Khan Rokonuzzaman @ Rokonuzzaman** are hereby charged for participating, abetting, facilitating, contributing and complicity in committing '**confinement**', '**torture**' and '**murder**' as crimes against humanity, as part of systematic attack directing against unarmed civilians as specified in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) of the Act for which you the accused persons have incurred liability under section 4(1) of the Act.

Charge No.05: 02 accused indicted

[Event No.05 as narrated at page 55-58 of the formal charge]

[Offences of abduction and murder of Abul Hossain of village Kathanda under Police Station and District [now] Satkhira]

That on 22 June, 1971 at about 07:00 A.M Abul Hossain, a local Awami League activist and his brother Golam Hossain had been at the land nearer to their house at village Kathanda under Police Station and District [now] Satkhira. At about 08:30/09:00 A.M when Golam Hossain went to home to have meal you the **accused (1) Md. Abdul Khalek @ Abdul Khalek Mondol and (2) Zahirul Islam @ Zahurul Haque @ Tekka Khan** being accompanied by 10/12 accomplice Razakars forcibly captured Abul Hossain from the field and took him away to No.03 Boikari Union where he was killed in a jute field behind Boikari BOP.

Therefore, you accused (1) Md. Abdul Khalek @ Abdul Khalek Mondol and (2) Zahirul Islam @ Zahurul Haque @ Tekka Khan are hereby charged for participating, abetting, facilitating, contributing

and complicity in committing ‘**abduction**’ and ‘**murder**’ as crimes against humanity, as part of systematic attack directing against unarmed civilians as specified in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) of the Act for which you the accused persons have incurred liability under section 4(1) of the Act.

Charge No.06: 02 accused indicted

[Event No.06 as narrated at page 58-63 of the formal charge]

[Offences of abduction, confinement and torture of Sanaullah Sardar @ Nonai Sardar, Md. Abdul Malek, Md. Abdul Ahad and Md. Basir Ahmed of village-Aichpara under Police Station Kolaroa of District[now] Satkhira]

That on 19 August, 1971 the Pakistani army and Razakars detained **Md. Basir Ahmed** a freedom fighter when he was on move to Bashdoho Bazar under Police Station Satkhira from WAPDA turn[Morh] and took him away to the army camp set up at Agardari Union Council Office where he was subjected to cruel torture in captivity that resulted in injury on his hand and leg.

On 27 August, 1971 at about 11/11:30 A.M a group of Pakistani occupation army and Razakars forcibly captured **Sanaullah Sardar @ Nonai Sardar**, his son **Md. Abdul Malek Sardar** and a non-combatant freedom fighter **Abdul Ahad** son of Gopal Gain by launching attack at the house of A.M Sanaullah Sardar at village-Aichpara under Police Station- Kolaroa of District[now] Satkhira and took them away to away to the army camp set up at Agardari Union Council Office where they were subjected to inhuman torture.

On 05 September, 1971 at about 12 P.M the four detainees were taken to Kadamtola Hatkhola Bazar Razakar camp wherefrom they were next taken to 'Diamond Hotel' at Boro Bazar Road in Satkhira town by a vehicle. The detainees were subjected to torture keeping in captivity, you the accused **M. Abdullah-Al-Baki**, accused **Khan Rokonuzzaman @ Rokonuzzaman** and your accomplices brutally tortured and scolded them in different manners in the name of grilling.

On 15 September, 1971 at about 04:00 A.M detainees **Sanaullah Sardar, Abdul Malek Sardar** and **Abdul Ahad** got release from captivity by intervention of Shahabuddin[now dead] the uncle of A, Malek , in exchange of money. On the same day, in evening another detainee **Md. Basir Ahmed** managed to escape from the Diamond Hotel and went to India and joined the war of liberation.

Therefore, you the accused (1) M. Abdullah-Al-Baki @ Abdullahel Baki (2) Khan Rokonuzzaman @ Rokonuzzaman and Zahirul Islam @ Zahurul Haque @ Tekka Khan are hereby charged for participating, abetting, facilitating, contributing and complicity in committing ‘**abduction**’ ‘**confinement**’ and ‘**torture**’ as crimes against humanity, as part of systematic attack directing against unarmed civilians as specified in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) of the Act for which you the accused persons have incurred liability under section 4(1) of the Act.

Charge No.07: 02 accused indicted

[Event no. 07 as narrated at page 64-66 of the Formal Charge]

[Offences of abduction, confinement, torture and rape allegedly committed on Amirun and Sofura Khatun of villages- Kathanda and Boikari under Police Station Satkhira]

That at the end of May, 1971 pursuant to an announcement made in a meeting with the local villagers led by you accused Abdul Khalek Mondol, accused Zahirul Islam @ Zuhurul Islam @ Tekka Khan that the Awami League activists and freedom fighters were *kaffirs*[non-believers] and thus their households and wives were considered for others’ enjoyment. Such inciting announcement was followed by looting households and burning down the houses of freedom-fighters and Awami League activists of villages- Kathanda and Boikari under Police Station Satkhira of District [now] Satkhira.

In conjunction with such attack you the accused Abdul Khalek Mondol, accused Zahirul Islam @ Zuhurul Islam @ Tekka Khan being accompanied by two Pakistani army men forcibly captured Amirun[now dead] of village Kathanda and taking at the kitchen of the house committed sexual invasion upon her. Mst. Sofura Khatun of Boikari village was also sexually ravished keeping her detained at the house of Shariat Ullah by Pakistani occupation army.

Therefore, you the accused (1) Md. Abdul Khalek @ Abdul Khalek Mondol and (2) accused Zahirul Islam @ Zuhurul Islam @ Tekka Khan are hereby charged for participating, abetting, facilitating, contributing and complicity in committing **‘confinement’ ‘rape and ‘other inhumane act’** as crimes against humanity, as part of systematic attack directing against unarmed civilians as specified in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) of the Act for which you the accused persons have incurred liability under section 4(1) of the Act.

30. 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 the accused persons to be tried by this Tribunal on the said charges.

31. You the accused (1) **Md. Abdul Khalek @ Abdul Khalek Mondol[detained in prison]** and (2) **M. Abdullah-Al-Baki @ Abdullahel Baki [on bail]** 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:

32. The charges so framed have been read over and explained to the accused (1) **Md. Abdul Khalek @ Abdul Khalek Mondol** and (2) **M. Abdullah-Al-Baki @ Abdullahel Baki** to which they pleaded not guilty and claimed to be tried according to law. The rest 02 accused Khan Rokonuzzaman @ Rokonuzzaman and Zahirul Islam @ Zahurul Haque @ Tekka Khan remained absconded and as such the charges framed against them could not be explained to him.

33. Let 15.04.2018 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 learned engaged defence counsel and learned state defence counsel are directed to submit a list of witnesses along with documents 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

Judge Md. Abu Ahmed Jamadar, Member