

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

ICT-BD [ICT-1] Case No.09 of 2017

Present:

Justice Md. Shahinur Islam, Chairman
Justice Amir Hossain, Member
Judge Md. Abu Ahmed Jamadar, Member

Order No.04
12 March, 2018

Chief Prosecutor

Vs.

(1) Mohammad Khalilur Rahman, (2) Md. Azizur Rahman, (3) Ashok Ali
and (4) Md. Shahnewaj

Mr. Rana Das Gupta, Prosecutor: For the prosecution

Mr. Md. Masud Rana, the learned Advocate: For accused Md. Azizur Rahman, Ashok Ali and Md. Shahnewaz

Mr. Gazi M.H. Tamim, the learned State Defence Counsel: For accused Mohammad Khalilur Rahman

[Decision on framing charges]

Accused (1) Md. Azizur Rahman, (2) Ashok Ali and (3) Md. Shahnewaz are present before this Tribunal as have been brought from prison. Accused Md. Khalilur Rahman has been absconding.

On wrapping up the hearing on charge framing matter on 05 February, 2018, the Tribunal[ICT-1] fixed today for rendering its decision and accordingly the record is taken up for order on indictment matter. Before we pass the order, we consider it appropriate and relevant to make 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.

II. Brief Historical Context

2. In all the earlier cases, already disposed of, the Tribunal described the settled historical context that shoved 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. This recognition shall prevent distortion of the history and 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 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 the occupation army 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 the civilian population by the accused persons in collaboration with their accomplices and Pakistani occupation army in the context as 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 in 1971 .

(i) Accused Mohammad Khalilur Rahman

Accused Mohammad Khalilur Rahman is the son of late Nabi Hossain and late Kadbanu of Village-Noagaon under Police Station Durgapur of District[now]-Netrokona. He is 72 years old as found in investigation although his National Identity Card shows 01.07.1954 as his date of birth. He passed in Kamil (Hadith) in 1976 and served as a teacher of Dwin-e-Dakhil Madrasa, Durgapur. In 1971 he was a member of Islami Chhatra Sangha, the student wing of Jamaat-e-Islami[JEI] and joined in the locally formed Razakar Bahini. Subsequently, he became the commander of the local Al-Badr Bahini and got engaged in committing heinous crimes, prosecution alleges.

(ii) Accused Md. Azizur Rahman.

Accused Md. Azizur Rahman is the son of late Nabi Hossain and late Kadbanu of village-Noagaon under Police Station- Durgapur of District [now]- Netrokona. He is now about 65 years old as found in investigation although his National Identity Card shows 24.07.1957 as his date of birth. He studied up to class VI (six) at a local Nagergati High School. In 1971, during the war of liberation he joined in the locally formed Razakar Bahini and collaborated with the Pakistani occupation army and committed heinous crimes, prosecution alleges.

(iii) Accused Ashok Ali

Accused Ashok Ali is the son of late Tarap Ali and late Sunahar Jan alias Sonahar Jan of village-Alampur under Police Station-Durgapur of District [now] Netrokona. He is now 82 years old as found in investigation although his National Identity Card shows 17.10.1927 as his date of birth. In 1971, during the war of liberation being a supporter of Convention Muslim League he joined in the locally formed Razakar Bahini intending to actively assist and collaborate with the Pakistani occupation army, prosecution alleged.

(iv) Accused Md. Shahnewaj

Accused Md. Shahnewaj of Village-Mou (Janirgaon) under Police Station-Durgapur of District [now]- Netrokona is the son of late Kadar Ali and late Milik Jan. He is now 88 years old as found in investigation although his National Identity Card states 23.03.1904 as his date of birth. He studied up to class IX(Nine) at M.K.C.M Govt. High School. In 1971 being a supporter of Convention Muslim League he got enrolled in the locally formed Razakar Bahini intending to actively assist the Pakistani occupation army, prosecution alleges.

IV. Procedural History

9. The Investigation Agency of the Tribunal constituted under the Act of 1973 started investigation on 30.04.2015 pursuant to complaint register's serial no. 49 dated 01.04.2015, in respect of commission of offences enumerated in section 3(2) of the Act of 1973 allegedly perpetrated by five suspects including the accused (1) Mohammad Khalilur Rahman, (2) Md. Azizur Rahman, (3) Ashok Ali and (4) Md. Shahnewaj.

10. On prayer of the IO the Tribunal by its order dated 12.04.2016 issued warrant of arrest [WA] seeking arrest of all the five suspects including the present four accused persons. In execution of warrant of arrest four were arrested and produced before the Tribunal on 13.04.2016 when they were sent to prison, for the purpose of effective and proper investigation. Suspect accused Mohammad Khalilur Rahman could not be arrested..

11. The four detained accused were interrogated by the Investigation Officer as permitted by Tribunal's order dated 26.4.2016. In course of investigation suspect accused Ramjan Ali, detained in prison died on 30.09.2016 in the Dhaka Medical College Hospital.

12. 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 on 30.01.2017.

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 03.05.2017 under section 9(1) of the Act of 1973 before this Tribunal alleging that the four accused persons had committed the offences of genocide and crimes against humanity, including abetting and also for complicity to commit such crimes narrated in the formal charge during the War of Liberation in 1971 around the localities under the Police Station- Durgapur of the then Netrokona Sub-Division.

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

15. The law enforcement agency could not secure arrest of one accused Mohammad Khalilur Rahman as he remained absconded and there was no immediate prospect of causing his arrest. After having the report in execution of warrant of arrest issued against him the Tribunal, for the purpose of holding proceeding in *absentia* against him, ordered publication of notice in two national daily news papers as required by law. But this accused did not turn up despite such

notification and as such treating him absconded the Tribunal ordered for hearing the charge framing matter by appointing Mr. Gaji M.H Tamim the state defence counsel, at the cost of Government, to defend the absconding accused Mohammad Khalilur Rahman.

16. Then on 05.02.2018 hearing on charge framing matter took place when both sides placed their respective submission, drawing attention to the formal charge and documents submitted therewith.

V. Submission by the Prosecutor

17. Mr. Rana Das Gupta, the learned prosecutor drawing attention to the formal charge and the documents submitted therewith placed his submission in respect of charge framing matter. He submitted that all the 4(four) accused persons were involved and had complicity in commission of the offences of crimes against humanity, genocide as narrated in the formal charge. All the 4(four) accused persons belonged to Razakar Bahini, an auxiliary force created to collaborate with the Pakistani occupation force. Subsequently, accused Mohammad Khalilur Rahman got enrolled as a commander of locally formed Al-Badar Bahini.

18. The learned prosecutor further submitted that 3(three) events as have been narrated in the formal charge resulted in deliberate killing of numerous civilians belonging to a 'political group'- Awami League. The evidence collected during investigation prima-facie demonstrates that all 4(four) accused persons were engaged with the perpetration of offences as narrated in the formal charge, the learned prosecutor added.

19. Mr. Md. Masud Rana, the learned Advocate defending the accused (1) Md. Azizur Rahman, (2) Ashok Ali and (3) Md. Shahnewaz submitted that these accused persons had no involvement with the commission of alleged offences in any manner. There has been no reasonable ground to indict these accused for the alleged offences. Thus, and considering the old age of the accused they deserve to be discharged.

20. Mr. Gazi M.H. Tamim, the learned counsel defending the absconding accused Mohammad Khalilur Rahman submitted that evidence collected during

investigation does not indicate involvement of this accused in committing alleged offences. There has been no prima-facie case to indict this accused for the alleging arraignment.

VII. Deliberations and Decision

21. We have cautiously 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. 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.

22. On *prima facie* examination of the record, we are convinced that the proposed arraignments deserve to be considered and resolved which may only be done at trial, on presentation of evidence. At this stage, we are to just concentrate our attention to the allegations and facts of attacks disclosed in the Formal Charge as well as the statement of witnesses and documents submitted therewith.

23. It appears that the formal charge and the statement of witnesses *prima facie* disclose participation, substantial contribution and abetment of the accused persons in accomplishing the alleged offences as enumerated in section 3(2) of the Act of 1973.

24. Prosecution avers that the accused persons were the potential members of locally formed Razakar Bahini and accused Mohammad Khalilur Rahman later on got engaged in Al-Badar Bahini as its commander. The issue can be well resolved at trial only. Thus, we refrain from rendering definite finding on this issue, at this stage.

25. Besides, the Act of 1973 permits to prosecute, try and punish even an individual or group of individuals for the offences enumerated in the Act. 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 for the alleged offences with which they have been indicted.

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 and Al-Badar Bahini. Thus, trying them jointly is lawfully approved.

27. Defence submitted that the accused persons were not involved with the offences alleged as the evidence collected during investigation does not indicate it. This submission does not have merit. At this stage this matter necessary to determine liability of the accused persons cannot be decided.

28. Next, Mr. Masud Rana the learned counsel defending three accused detained in prison urged discharge of these accused by taking their old age into account. We disagree with such submission. First, old age cannot exonerate a person from being prosecuted and tried for criminal offence. Second, old age creates no bar in prosecuting and trying an individual for criminal offence.

29. In view of the discussion as made above and considering the submissions advanced by both sides, 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.

30. Thus, we are of the view that there are sufficient and substantial materials 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.

31. 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) Mohammad Khalilur Rahman [absconding], (2) Md. Azizur Rahman, (3) Ashok Ali and (4) Md. Shahnewaj 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

Judge Abu Ahmed Jamadar, Member

Of the International Crimes Tribunal -1

Do hereby charge you the accused (1) Mohammad Khalilur Rahman[72], son of late Nabi Hossain and late Kadbanu of Village-Noagaon under Police Station-Durgapur of District[now]-Netrokona, (2) Md. Azizur Rahman[65], son of late Nabi Hossain and late Kadbanu of village-Noagaon under Police Station-Durgapur of District[now]- Netrokona, (3) Ashok Ali[82], son of late Tarap Ali and late Sunahar Jan alias Sonahar Jan of village-Alampur under Police Station-Durgapur of District [now] Netrokona and (4) Md. Shahnewaj[88], son of late Kadar Ali and late Milik Jan of Village-Mou (Janirgaon) under Police Station-Durgapur of District [now]- Netrokona

as follows:

Charge No.01

[Event no.01 as narrated at page 23-26 of the formal charge]

[Offences of ‘abduction’, ‘confinement’, ‘torture’, ‘looting’, ‘arson’, ‘other inhumane act’ and ‘murder’ by launching attack at village Bhulipara]

That in the second week of May, 1971 a gang formed of 20/25 Razakars, Pakistani occupation army and you the accused (1) Mohammad Khalilur Rahman, (2) Md. Azizur Rahman, (3) Ashok Ali and (4) Shahnewaj launched attack at village- Bhulipara under Police Station- Durgapur of District[now] Netrokona when one army man, in connivance with you the accused persons attempted to commit sexual ravishment upon Tarikunnesa, the mother of Samsul Haque , a freedom fighter. The attempt of such criminal act was in vein as Md. Nurul Islam snatched away the arms of the said army man with bravery. The gang then by launching attack forcibly captured Innas Ali the father of Nurul Islam from his house, looted households and burnt down the house.

The gang, in conjunction with the attack also forcibly captured Ayub Ali, a follower of Awami League and then it keeping the two detainees with them

headed towards the army camp set up at Birisiri and on the way at 05:00 P.M shot the detainee Ayub Ali to death on the bank of the river Someswari and threw the dead body into the river. Another detainee Innas Ali got release after one-week captivity at the army camp on condition of facilitating surrender of his son Nurul Islam with the arms that he snatched away from an army man.

Therefore, you the accused (1) Mohammad Khalilur Rahman, (2) Md. Azizur Rahman, (3) Ashok Ali and (4) Shahnewaj are hereby charged for participating, abetting, facilitating, contributing and complicity in committing ‘**abduction**’, ‘**confinement**’, ‘**torture**’, ‘**looting**’, ‘**arson**’ 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.02

[Event no.02 as narrated at page 26-29 of the formal charge]

[Offences of ‘looting’ and ‘arson’]

That on 11 September, 1971 at about 10/11 A.M a group formed of 10/12 Pakistani occupation army and 50/60 Razakars being accompanied by you the accused (1) Mohammad Khalilur Rahman, (2) Md. Azizur Rahman, (3) Ashok Ali and (4) Shahnewaj launched attack at the house of Haji Jiban Mia the father of Abdul Matin, a freedom-fighter of village-Anandapur under Police Staiton-Kalna of District[now] Netrokona to get them captured. But finding them not available the gang looted households and destroyed their house and that of Manju Mia the brother of Haji Jiban Mia and burnt down the same.

In conjunction with the attack the gang accompanied by you the accused persons attacked the house of Abdul Jabbar Mandal [now dead] and Abdul Gafur[now dead], a freedom fighter of village Noagaon under Police Station-Durgapur of District[now] Netrokona at about 11:30 A.M when they carried out looting of households and destroyed the houses by setting fire.

Therefore, you the accused (1) Mohammad Khalilur Rahman, (2) Md. Azizur Rahman, (3) Ashok Ali and (4) Shahnewaj are hereby charged for participating, abetting, facilitating, contributing and complicity in committing **‘looting’** and **‘arson’** 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

[Event no.03 as narrated at page 29-33 of the formal charge]

[Offences of ‘looting’, ‘arson’, ‘abduction’, ‘confinement’, ‘murder’ and ‘genocide’]

That on 26 October, 1971 in between 10 A.M to 08 P.M a gang formed of 15/16 Pakistani occupation army and 50/60 Razakars being accompanied by you the accused (1) Mohammad Khalilur Rahman, (2) Md. Azizur Rahman, (3) Ashok Ali and (4) Shahnewaj by launching attack at the house of Ahmed Ali of village-Baraenuid under Police Station-Durgapur of District [now] Netrokona]forcibly captured Ahmed Ali and his younger son Abdul Hamid and then the gang taking the two detainees with them, by launching attack at about 11:00 A.M forcibly detained Moslimuddin from his house at village Anandapur under Police Station- Kalmakanda.

In conjunction with the attack the gang being accompanied by you the accused persons by launching attack forcibly captured Muktal Hossain Talukder of village Choto Krishnapur under Police Station-Kalmakanda and then also detained Abdul Hamid Talukder, Abdul Wahed Talukder and Maheruddin Fakir and Abdus Sattar. Then the gang headed towards Nazirpur taking the 07 detainees with them when Abdul Sattar, a neighbour of detainee Muktal Hossain was forced to carry the ammunition box and on the way at a place of Fulpur Madrasa 02 detainees Abdul Hamid and Abdus Sattar got release, on request of a teacher of the Madrasa. The 06 detainees were then at about 08 P.M taken on the bank of the river Bakla at the eastern side of Nazirpur Bazar where you the accused persons and the army men gunned

them down to death. On the following day the dead bodies were buried by the locals at Kashban near the bank of the river Bakla.

The victims belonged to Awami League, a pro-liberation political party and the gang targeted them to wipe out, by launching attack with intent to destroy a 'political group', either whole or in part.

Therefore, you the accused (1) Mohammad Khalilur Rahman, (2) Md. Azizur Rahman, (3) Ashok Ali and (4) Shahnewaj are hereby charged for participating, abetting, facilitating, contributing and complicity in committing the offence of '**genocide**' as enumerated in section 3(2)(c)(i)(g)(h) of the Act of 1973 or in the alternative in committing the offences of '**looting**', '**arson**', '**abduction**', '**confinement**' 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

[Event no. 04 as narrated at page 33-37 of the formal charge]

[Offences of '**abduction**', '**confinement**', '**torture**', '**looting**', '**arson**', '**murder**' and '**genocide**]

That on 29 October, 1971 at about 04 P.M a gang formed of 10/12 Pakistani occupation army, 40/50 Razakars being accompanied by you the accused (1) Mohammad Khalilur Rahman, (2) Md. Azizur Rahman,(3) Ashok Ali and (4) Md. Shahnewaj by launching attack at villages Noagaon and Nilakhali under Police Station- Durgapur of District [now] Netrokona forcibly captured **Faziluddin, Abdul Kadir @ Raza Mia**, his son **Abul Hossain, Chamiruddin**, his son **Sarafat Ali and Mamruj Ali**, all were workers and supporters of Awami League, a political party. In conjunction with the attack the gang looted the households and burnt down the houses of detainees. The attack continued till 06 P.M and it was with intent to destroy a 'political group', either whole or in part.

The gang then headed towards the army sub-camp set up at Nazirpur under Police Station Kalmakanda taking the six [06] detained civilians with them and on the way, at about 08 P.M the gang of attackers made the detainees stood in a line on the bank of the river Katakali and shot gun fire to them that resulted in killing of five [05] detainees and one detainee Abul Hossain got escaped by jumping into the river. The dead bodies were then carried in front of the army sub-camp intending to terrorize the civilians. Later on, the locals buried the dead bodies on the bank of the river Bakla, adjacent east to Nazirpur Bazar.

Therefore, you the accused (1) Mohammad Khalilur Rahman, (2) Md. Azizur Rahman,(3) Ashok Ali and (4) Md. Shahnewaj are hereby charged for actively participating, facilitating, abetting and substantially contributing to the commission of the offences of '**genocide**' as the attack was directed against a 'political group with intent to destroy it, either whole or in part, as enumerated in section 3(2)(c)(g)(h) read with section 4(1) of the International Crimes (Tribunals) Act, 1973 or in the alternative to the commission of offences of '**abduction**', '**confinement**', '**torture**', '**looting**' '**arson**' 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.5

[Event no.05 as narrated at page 37-43 of the formal charge]

[Offences of 'abduction', 'confinement', 'torture', 'looting', 'rape', 'murder' and 'genocide']

That on 17 November, 1971 at about 9/10 A.M a gang formed of 70/75 Razakars and Al-Badars, 15/20 Pakistani Occupation Army and you the accused (1) Mohammad Khalilur Rahman, (2) Md. Azizur Rahman, (3) Ashok Ali and (4) Md. Shahnewaj by launching attack the house of Amud Ali Sarkar (now dead) at Telipara of village-Baniapara unlawfully detained Jamaluddin Rabbani and looted household. Thereafter the gang attacked the house of Arfan Ali and raped his wife Hazera Khatun. The gang then shot Pakurjan, the wife of Sukur Mahmud to death when she resisted the attempt to commit rape upon her.

In conjunction with the attack the gang then taking the detained Jamaluddin Rabbani with them arrived near Chandigar Union Council at about 11.30 A.M

where the gang met with another group of Al-Badars and Razakars keeping an unknown teen aged girl detained with them.

The gang then started heading towards Durgapur and on arrival at Madhya Bazar about 12.30 A.M it got Newaz Ali Fakir alias Kalimuddin of village-Telachi and Imam Hussain alias Hossain of village-Meladahar detained, on forcible capture.

The above 4(four) detained civilians along with the six[06] detained civilians Abdul Latif alias Lati Mia and Sirajul Islam alias Renu Mia of village-Kakrakanda and Akbar Hossain Talukder, Makbul Hossain, Abdul Jabbar and Shahjahan Mia of village-Sreeramkhila, forcibly captured from their houses in conjunction with the attack were then taken to Durgapur Birisiri Pakistani Army Camp at about 6 P.M where they were subjected to torture in captivity by you the accused persons and your accomplices.

The detained unknown teen aged girl was tortured to death in captivity at the army camp. On the following day, nine 9(nine) detainees were taken to the bank of the river Someswari, 50 yards west to the Pakistani Army Camp, where eight [08] were gunned down to death and their dead bodies were thrown into the river. One detainee Jamaluddin Rabbani managed to escape by crossing the river, prior to gun shot.

The civilians so killed on forcible capture were the followers of Awami League, a political party. The gang being accompanied by you the accused persons targeted them, with intent to destroy a 'political group', either whole or in part and the attack eventually resulted in brutal killing.

Therefore, you the accused (1) Mohammad Khalilur Rahman, (2) Md. Azizur Rahman,(3) Ashok Ali and (4) Md. Shahnewaj are hereby charged for actively participating, facilitating, abetting and substantially contributing to the commission of the offences of '**genocide**' as the attack was directed against a 'political group' with intent to destroy it, either whole or in part, as enumerated in section 3(2)(c)(g)(h) read with section 4(1) of the International Crimes (Tribunals) Act, 1973 or in the alternative to the commission of offences of '**abduction**', '**confinement**', '**torture**', '**rape**', '**looting 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.

32. Thus, you 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.

33. You accused Md. Azizur Rahman, Ashok Ali and Md. Shahnewaj 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:

34. The charges so framed have been read over and explained to the accused Md. Azizur Rahman, Ashok Ali and Md. Shahnewaj to which they pleaded not guilty and claimed to be tried according to law. Accused Mohammad Khalilur Rahman remained absconded and as such the charges framed against him could not be explained to him.

35. Let 18.04.2018 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 the learned 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

Judge Md. Abu Ahmed Jamadar, Member

