

International Crimes Tribunal-1

Old High Court Building, Dhaka, Bangladesh

ICT- BD [ICT-1] Case No. 04 of 2015

Present:

Justice Anwarul Haque, Chairman
Justice Md. Shahinur Islam, Member
Justice Md. Shohrowardi, Member

Chief Prosecutor

vs.

(1) Md. Sakhawat Hossain (2) Md. Billal Hossain Biswas (3) Md. Lutfor Morol (4) Md. Ibrahim Hossain alias Ghungur Ibrahim [absconded] (5) Sheikh Mohammad Mujibur Rahman alias Mujibur Rahman [absconded] (6) Md. A. Aziz Sardar [absconded] (7) Abdul Aziz Sardar [absconded] (8) Kazi Ohidul Islam alias Kazi Ohidus Salam [absconded] and (9) Md. Abdul Khaleque Morol [absconded].

Order No. 10

Date: 23.12.2015

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

..... For the prosecution

Mr. Abdus Sattar Palwan, defence counsel

.....For accused Md. Sakhawat Hossain and Md. Billal Hossain Biswas.

Mr. Abdus Sukur Khan, State defence counsel

..... For accused Md. Lutfor Morol (in custody) and absconded accused Md. Ibrahim Hossain alias Ghungur Ibrahim, Sheikh Mohammad Mujibur Rahman alias Mujibur Rahman and Md. A. Aziz Sardar son of late Ful Miah Sardar.

Mr. Qutub Uddin Ahmed, State defence counsel

..... For absconded accused Abdul Aziz Sardar son of late Ahmmad Sardar, Kazi Ohidul Islam alias Kazi Ohidus Salam and Md. Abdul Khaleque Morol.

[Decision on charge framing matter]

Today is fixed for passing decision on charge framing matter, and as such, the record is taken up for order. Out of nine accused persons six accused persons have been remaining absconded , and of them accused Md. Ibrahim

Hossain alias Ghungur Ibrahim, Sheikh Mohammad Mujibur Rahman alias Mujibur Rahman and Md. A. Aziz Sardar son of late Ful Miah Sardar including accused Lutfor Morol, now in custody, are being defended by Mr. Abdus Sukur Khan, and other three absconding accused Abdul Aziz Sardar son of late Ahmmad Sardar, Kazi Ohidul Islam alias Kazi Ohidus Salam and Md. Abdul Khaleque Morol are being defended by Mr. Qutub Uddin Ahmed, as State defence counsels, appointed by the Tribunal. The hearing on charge framing matter took place in presence of accused Md. Sakhawat Hossain, Md. Billal Hossain Biswas and Md. Lutfor Morol who have been brought today before this Tribunal from prison and of them accused Md. Sakhawat Hossain and Md. Billal Hossain Biswas are being defended by their engaged counsel Mr. Abdus Sattar Palwan.

At the out set, it is to be noted that the 'formal charge' was submitted by the prosecution before the Tribunal against 12(twelve) accused persons and of them this Tribunal on 08.09.2015 discharged three accused persons namely, Md. Akram Hossain, Ojihar Morol alias Ojiwar Morol and Moshiar Rahman and took cognizance of offences against above mentioned 9[nine]accused persons and then the case came to the stage of charge hearing matter and on 17.11.2015 and 22.11.2015 charge framing matter was heard.

The case involves the criminal acts forming part of systematic attack constituting the offences as enumerated in the International Crimes (Tribunals) Act, 1973 [Act No. XIX of 1973] perpetrated in 1971 during the war of liberation of Bangladesh. The accused persons are alleged to have committed many such offences in the localities under Kashobpur Police Station, District-Jessore. We deem it expedient to provide a brief context of the case, succinct

arguments put forward by the prosecution and defence before this Tribunal, before we render decision on charge framing matter.

1. Introductory words

This International Crimes Tribunal-1 (hereinafter referred to as the “Tribunal”) has been set up under the International Crimes (Tribunals) Act enacted in 1973 (hereinafter referred to as the “Act”) by Bangladesh Parliament. The Act which is meant for the detention, prosecution and punishment of persons for genocide, crimes against humanity, war crimes and other crimes under international law is *ex-post facto* legislation. It is to be noted that the ICTY, ICTR and SCSL the Adhoc Tribunals backed by the United Nations (UN) have been constituted under their respective retrospective Statutes. Only the International Criminal Court [ICC] is founded on prospective Statute [Rome Statute]. The 1973 Act of Bangladesh has the merit and means of ensuring the standard of safeguards recognized universally to be provided to the person accused of crimes against humanity, genocide, war crimes and other crimes under international law.

2. Brief Historical Background

The dreadful systematic events constituting the crimes against humanity as narrated in the formal charge allegedly occurred in different places of Keshobpur Police Station, District-Jessore were part of horrific atrocious activities carried out in 1971 during the war of liberation directing the unarmed pro-liberation civilians in furtherance of common plan and design of Pakistani occupation army.

The undisputed history says that atrocious and dreadful crimes were committed during the nine-month-long war of liberation in 1971, which

resulted in the birth of Bangladesh, an independent State and the motherland of the Bengali nation. Some three million people were killed, nearly a quarter million women were raped and over 10 million people were forced to deport to India to escape from brutal persecution at home, during the nine-month battle and struggle of Bangalee nation.

The history goes on to portray that in the general election of 1970, the Awami League under the leadership of Bangabandhu Sheikh Mujibur Rahman became the majority party of Pakistan. But defying the democratic norms Pakistan government did not care to respect this overwhelming majority. As a result, movement started in the territory of this part of Pakistan and Bangabandhu Sheikh Mujibur Rahman in his historic speech of 7th March, 1971, called on the Bangalee nation to struggle for independence if people's verdict was not respected. In the early hour of 26th March, following the onslaught of "Operation Search Light" by the Pakistani Military on 25th March, Bangabandhu declared Bangladesh independent immediately before he was arrested by the Pakistani authorities.

The 'operation' was designed to disarm and liquidate Bengali policemen, soldiers and military officers, to arrest and kill nationalist Bengali politicians, soldiers and military officers, to arrest and kill and round up professionals, intellectuals, civilians belonging to Hindu community and students. Afterwards, actions in concert with its local collaborators belonging to Razakar, Al-Badar and the key pro-Pakistani political organisations Jamat-E-Islami (JEI) and Nejam-E-Islami were intended to stamp out the Bengali national liberation movement and to mash the national feelings and aspirations of the Bangalee nation.

The Pakistan government and the military formed Peace Committee as an 'associate organization' and number of auxiliary forces such as the Razakar, the Al-Badar, the Al-Shams, etc, essentially to act as a collaborating team with the Pakistani occupation army in identifying and eliminating all those who were perceived to be pro-liberation, individuals belonging to minority religious groups especially the Hindus, political groups belonging to Awami League and Bangalee intellectuals and unarmed civilian population of Bangladesh.

Incontrovertibly the way to self-determination for the Bangalee nation was strenuous, swabbed with enormous blood, strive and sacrifices. In the present-day world history, conceivably no nation paid as extremely as the Bangalee nation did for its self-determination. The events alleged in the formal charge constituting the offences of crimes against humanity occurred in different places under Keshobpur Police Station, District-Jessore mirror a partial scenario of totality of horrendous activities accomplished in violation of customary international law with the culpable facilitation and assistance provided by the local collaborators.

3. Brief account of the accused persons

(i) Accused Md. Sakhawat Hossain

Accused Md. Sakhawat Hossain [61] son of late Omar Ali and late Anowara Begum of village Hijoldanga, Police Station Keshobpur, District-Jessore was born on 01.03.1954. He passed Alim Examination in 1967 and Fazil Examination in 1969. He got his Kamil degree from Alia Madrasha, Khulna in 1971, but that examination was cancelled. Thereafter, he again got his Kamil degree in 1972. He also obtained M.A. degree in 1976 from the department of Islamic Studies of the University of Dhaka. In 1966, he joined Islami Chhatra Sangha [ICS], the student wing of Jamaat-e-Islami [JEI], prosecution alleges. After independence of Bangladesh he joined the Motijheel

Ideal School as an Assistant Teacher. Subsequently, he resigned from that school and joined Accountant General [A.G] Office in 1981. He became the 'Rukan' of Jamaat-e-Islami in 1986, prosecution alleges. He was elected as a Member of Parliament in 1991. Thereafter, he joined the Bangladesh Nationalist Party [BNP]. He was also elected as a Member of Parliament in 1996. In 2008 he joined the Jatio Party [JP] and since then he has been holding the post as ' Presidium Member' of the JP till now.

(ii) Md. Billal Hossain Biswas

Accused Md. Billal Hossain Biswas [75] son of late Yakub Ali Biswas alias Akabbar alias Akbor and late Rupban Bibi of village Nehalpur, Police Station Keshobpur, District-Jessore was born on 10.05.1940. He joined the Razakar Bahini during the war of liberation in 1971, prosecution alleges.

(iii) Md. Lutfor Morol

Accused Md. Lutfor Morol [69] son of late Joynal Morol and late Mokarjan of village Porchokra, Police Station Keshobpur, District-Jessore was a Member of local Razakar Bahini and an accomplice of accused Md. Sakhawat Hossain, prosecution alleges.

(iv) Md. Ibrahim Hossain alias Ghungur Ibrahim [absconded]

Accused Md. Ibrahim Hossain alias Ghungur Ibrahim [60]] son of late Yakub Ali Biswas alias Akabbar alias Akbor and late Rupban Bibi of village Nehalpur, at present Boga, Police Station Keshobpur, District-Jessore was a member of local Razakar Bahini and an accomplice of accused Md. Sakhawat Hossain, prosecution alleges.

(v) Sheikh Mohammad Mujibur Rahman alias Mujibur Rahman [absconded]

Accused Sheikh Mohammad Mujibur Rahman alias Mujibur Rahman [61] son of Sheikh Mohammad Afazulla alias Effaztulla and late Pachibibi of village Sheikhpara , Police Station Keshobpur, District-Jessore was a member of local Razakar Bahini and an accomplice of accused Md. Sakhawat Hossain, prosecution alleges.

(vi) Md. A. Aziz Sardar [absconded]

Accused Md. A. Aziz Sardar [65] son of late Ful Miah Sardar and late Nurjahan Begum of village Mominpur, Police Station Keshobpur, District-Jessore was a member of local Razakar Bahini and an accomplice of accused Md. Sakhawat Hossain, prosecution alleges.

(vii) Abdul Aziz Sardar [absconded]

Accused Abdul Aziz Sardar [66] son of late Ahmmad Sardar and late Sakina of village Boga, Police Station Keshobpur, District-Jessore was a member of local Razakar Bahini and an accomplice of accused Md. Sakhawat Hossain, prosecution alleges.

(viii) Kazi Ohidul Islam alias Kazi Ohidus Salam [absconded]

Accused Kazi Ohidul Islam alias Kazi Ohidus Salam[61] son of late Kazi Motiassalam alias Motiar Salam and late Hosneara Begum of village Sheikhpara, Police Station Keshobpur, District-Jessore was a member of local Razakar Bahini and an accomplice of accused Md. Sakhawat Hossain, prosecution alleges.

(ix) Md. Abdul Khaleque Morol [absconded]

Accused Md. Abdul Khaleque Morol [68] son of late Hachan Ali Morol and late Rebeya Begum of village Altapoul [72 No. Altapoul], Police Station Keshobpur, District-Jessore was a member of local Razakar Bahini and an accomplice of accused Md. Sakhawat Hossain, prosecution alleges.

4. Brief Procedural History

The Chief Prosecutor submitted 'formal charge' against 12 [twelve] accused persons on having considered the investigation report and documents submitted therewith by the Investigating Agency. Out of twelve accused persons this Tribunal on 08.09.2015 discharged three accused persons namely, Md. Akram Hossain, Ojihar Morol alias Ojiwar Morol and Moshiar Rahman

and took cognizance of offences against rest 9[nine] accused persons as mentioned above. Out of said nine accused persons only accused Md. Sakhawat Hossain, Md. Billal Hossain Biswas and Md. Lutfor Morol have been in detention. The other six accused persons neither could have been arrested nor did they surrender.

On 08.09.2015 this Tribunal took cognizance of offences, perpetration of which has been unveiled in course of investigation and on 30.09.2015 ordered publication of notice in two daily newspapers as required under Rule 31 of the International Crimes (Tribunal-1) Rules of Procedure, 2010 against the six absconded accused (1) Md. Ibrahim Hossain alias Ghungur Ibrahim (2) Sheikh Mohammad Mujibur Rahman alias Mujibur Rahman (3) Md. A. Aziz Sardar (4) Abdul Aziz Sardar (5) Kazi Ohidul Islam alias Kazi Ohidus Salam and (6) Md. Abdul Khaleque Morol as the execution of warrant of arrest issued against them earlier was found unserved.

Accordingly, despite publication of the notice in two daily newspapers namely ' Daily Janakantha' and the ' Daily Sun' dated 05.10.2015 the six absconded accused persons did not make them surrendered, and as such, this Tribunal ordered for holding trial *in absentia* against them and appointed Mr. Abdus Sukur Khan, Advocate to defend accused Md. Ibrahim Hossain alias Ghungur Ibrahim, Sheikh Mohammad Mujibur Rahman alias Mujibur Rahman and Md. A. Aziz Sardar son of late Ful Miah Sardar including accused Md. Lutfor Morol who is in jail custody and Mr. Qutub Uddin Ahmed, Advocate to defend accused Abdul Aziz Sardar son of late Ahmmad Sardar, Kazi Ohidul Islam alias Kazi Ohidus Salam and Md. Abdul Khaleque Morol, as State defence counsels. This Tribunal also ordered the prosecution for furnishing

documents it relies upon to the State defence counsels and fixed 17.11.2015 for hearing the charge framing matter. On 17.11.2015 and 22.11.2015 this Tribunal-1 heard the charge framing matter and fixed today i.e. 23.12.2015 for decision on it.

The record goes to show that on holding investigation on some atrocious events allegedly committed in 1971 during the war of liberation in systematic manner directing unarmed civilians in different places under Keshobpur Police Station, District-Jessore by the armed gang of local Razakars, the Investigating Agency submitted its investigation report finding all the above mentioned nine accused persons, including three other accused persons who have been discharged by this Tribunal, *prima facie* responsible for the atrocities before the Chief Prosecutor.

The Chief Prosecutor considering the nature, pattern of the alleged atrocious events and culpable participation and involvement of the nine accused persons, including above mentioned three accused persons who have been discharged by this Tribunal, preferred to submit a single 'formal charge' with a view to prosecute them jointly.

It appears that the 'formal charge' submitted discloses that the accused persons allegedly participated or contributed or facilitated or abetted to the commission of the alleged offences in the course of the same transaction and they appear to have allegedly acted in furtherance of common plan and design to the accomplishment of such offences, and therefore, all the above mentioned nine accused persons may be jointly prosecuted as permissible under Rule 36 of the Rules of Procedure, 2010 of this Tribunal-1.

5. Submission advanced by the Prosecutor

Mr. Zead-Al-Malum, the learned prosecutor, assisted by Ms. Rezia Sultana, submitted that the formal charge relates to five events of 'attack'. The first one involves abduction, confinement, torture and rape of victim Ashura Khatun [now dead] of village Boga under Police Station Keshobpur, District-Jessore. The accused persons being the members of local Razakar Bahini along with other Razakars having forcibly abducted Ashura Khatun, who was a 'source' of local freedom-fighters, from her house kept her confined in Chingra Razakar Camp. During confinement period she was physically tortured and raped by accused Md. Sakhawat Hossain. The second event, as narrated in the formal charge relates to abduction, confinement, torture, murder and other inhumane acts committed at village Chingra under Police Station Keshobpur, District-Jessore. All the accused persons were directly involved with the commission of those atrocities. The learned prosecutor further submits that the third event of attack involves the offences of abduction, confinement and torture as crimes against humanity. On the order of you accused Md. Sakhawat Hossain, accused Sheikh Mohammad Mujibur Rahman alias Mujibur Rahman, Md. Ibrahim alias Ghungur Ibrahim, Md. Abdul Khaleque Morol along with other 10/12 Razakars having abducted Md. Nuruddin Morol of village Chingra kept him confined in Chingra Razakar Camp and tortured him there. The fourth event of attack involves the criminal acts of abductin, confinement, torture and murder of A. Malek Sardar of village Hijoldanga. The fifth event of attack involves the offences of abduction, confinement , torture and other inhumane acts [arson and plundering] as crimes against humanity. As narrated in the formal charge, the accused persons participated, aided, abetted, facilitated and

had complicity in the commission of those offences as crimes against humanity.

Mr. Zead-Al-Malum, the learned prosecutor further submitted that the accused persons were the active members of Razakar force which was set up to collaborate with the Pakistani occupation army in 1971, during war of liberation. The formal charge along with the documents and statement of witnesses shall go to show that the accused persons physically participated, abetted and substantially contributed to the commission of the criminal acts constituting the offences of crimes against humanity as they were part of the group of perpetrators. The documents and statement of witnesses will show that the accused persons had 'complicity' in committing crimes against humanity, by aiding.

The learned prosecutor finally insisted on framing of charges on collective consideration of the formal charge, statement of witnesses and documents which manifestly indicate that there are sufficient grounds of presuming that the accused persons were criminally culpable for the commission of offences as mentioned in section 3(2) of the Act of 1973.

6. Submission advanced by the defence side

Mr. Abdus Sukur Khan, the learned State defence counsel for absconding accused Md. Ibrahim Hossain alias Ghungur Ibrahim, Sheikh Mohammad Mujibur Rahman alias Mujibur Rahman and Md. A. Aziz Sardar son of late Ful Miah Sardar including accused Md. Lutfor Morol, who is in jail custody, has filed an application seeking discharge of these four accused persons. Mr. Qutub Uddin Ahmed, another learned State defence counsel for

absconding accused Abdul Aziz Sardar son of late Ahmmad Sardar, Kazi Ohidul Islam alias Kazi Ohidus Salam and Md. Abdul Khaleque Morol has filed three separate applications seeking discharge of these three accused persons. Both the learned State defence counsels having placed those discharge applications made submissions relating to charge framing matter. The submissions of the learned State defence counsels are almost same and similar.

The learned State defence counsels seeking discharge of the above mentioned 7[seven] accused persons conversely submitted that the accused persons did not belong to Razakar Bahini and the document relied upon by the prosecution in this regard is a recently and locally prepared list which is not sourced and authoritative. None of the seven accused persons had involvement with the commission of alleged offences in any manner. They could have been prosecuted under the Collaborators Order 1972 if really they had complicity in committing any such alleged offences. But there has been nothing to show that they were so prosecuted on the allegation of their involvement with the commission of any of alleged offences. Delayed prosecution also makes accused persons' alleged involvement with the commission of offences doubtful. Therefore, the accused persons are liable to be discharged.

Mr. Abdus Sattar Palwan, the learned counsel for accused Md. Sakhawat Hossain and Md. Billal Hossain Biswas submitted that these two accused persons are quite innocent and they were not involved with any offences as mentioned in the formal charge submitted by the prosecution. They have been falsely implicated in this case, and as such, they are liable to be discharged. It may be mentioned here that no application for discharge has been filed on behalf of these two accused persons.

7. Deliberation and decision with reasoning

We have meticulously gone through the formal charge, statement of witnesses and the documents submitted. It appears that the prosecution by submitting formal charge alleges that the accused persons participated, facilitated, abetted and substantially contributed to the commission of crimes as enumerated in the Act of 1973, by their acts and conducts forming a part of systematic attack directing civilian population in 1971 during the war of liberation in the localities under Police Station Keshobpur, District-Jessore.

In all nine accused persons have been proposed by the prosecution to be indicted for the alleged events of attacks constituting the offences of crimes against humanity as narrated in the formal charge. Out of nine accused persons six have been absconding and proceeding is going on in their *abesntia* in compliance with legal requirements as contemplated in the Act and the ROP, 2010.

The allegations brought do not constitute isolated crimes. Those are alleged to have been committed in war time situation directing civilians in systematic manner. The undeniable context prevailing in 1971 in the territory of Bangladesh is itself sufficient to the unerring inference of a 'widespread and systematic attack' on Bangladeshi self-determined population. Therefore, the offences committed under this context and in violation of customary international law during 1971 independence war, patently demonstrate that those were of course consequence of part of a 'widespread' or 'systematic' attack directed against the unarmed civilian population. Under section 19(1) of the Act of 1973, the Tribunal can take judicial notice of the above context that must prompt a person of common prudence that the offences of crimes

against humanity as mentioned in section 3(2)(a) of the Act of 1973 were inevitably the effect of part of widespread or systematic attack.

Prosecution, at this stage, alleges that the accused persons belonging to local Razakar Bahini accompanied the group of armed Razakars which had committed the offences of crimes against humanity, in conjunction with the attack. *Prima facie* the formal charge, statement of witnesses and documents submitted demonstrate accused persons' culpable complicity, act and conduct with the perpetration of offences alleged. But however, culpability and role of them or any of them can be well adjudicated only on holding trial. And till then they shall be presumed innocent.

It is now settled that the offence of crimes against humanity is considered as 'group crime' and it is not perpetrated by a single individual. But however, an individual may participate to the actual commission of the principal crime by his act or conduct, before or midst or after the crime committed. In this regard, the Tribunal notes that in adjudicating culpability of the person accused of offences, context and situations prevailing at the relevant time i.e the period of war of liberation in 1971[March 25 to December 16, 1971] together with his acts, conducts, attitude and association of any organization, if any, are to be considered. It may be well resolved on evaluation of evidence to be presented during trial.

The learned State defence counsels submitted that the accused persons are liable to be discharged as they could have been prosecuted under the Collaborators Order, 1972 if really had they any complicity or involvement with the commission of alleged offences in any manner. But we are not inclined to agree with the argument that merely for the reason that since the

accused persons were not brought to justice under the Collaborators Order, 1972 now they are immune from being prosecuted under the Act of 1973.

We are not with the submission extended by the learned State defence counsels on point of delay in prosecuting the accused persons. As regards delay in prosecuting the suspect offenders we reiterate that the victims of systematic and organised diabolical atrocities committed in 1971 within the territory of Bangladesh in violation of customary international law need justice to heal. State has an obligation to remedy serious human rights violations. Bangladesh recognizes Article 8 of the Universal Declaration of Human Rights [UDHR] and Article 2(3) of the International Covenant of Civil and Political Rights [ICCPR] which ensure the right to an effective remedy for the violation of human rights. And in providing effective remedy to the victims and their families, delay itself cannot stand as a bar in prosecuting an individual offender under the Act of 1973.

At this stage, it cannot be determined conclusively whether the accused persons belonged to local Razakar Bahini. It is a question of fact that can be effectively resolved only on trial and considering the totality of evidence to be provided by the prosecution. Besides, it would be relevant to reiterate that the Act of 1973 is meant to prosecute and punish not only the armed forces and the perpetrators who belonged to 'auxiliary forces', but also to prosecute and punish an 'individual' or member of 'group of individuals' who committed the offences enumerated in the Act of 1973. It is quite manifested from section 3(1) of the Act of 1973 that even any person (individual or member of group of individuals), if he is *prima facie* found individually criminally responsible for

the offence(s), can be brought to justice under the Act of 1973. Already it has been well resolved.

It is settled that mere framing charge does not prove one's guilt. The accused persons shall be presumed innocent until they are found guilty of the offences alleged. However, now, we are convinced, on going through the statement of witnesses and materials on record, to *prima facie* conclude that there have been sufficient grounds of proceeding.

At this stage, the formal charge and the statement of witnesses *prima facie* demonstrate that the accused persons enthusiastically sided with the policy and plan of the Pakistani occupation army and had allegedly carried out horrific activities of crimes against humanity and other inhumane acts, and as such, the applications seeking discharge of 7[seven] accused persons as mentioned earlier do not deserve consideration, and therefore, the same are hereby rejected.

Accordingly, now we proceed to read out the charges framed. On perusal of the formal charge, statement of witnesses along with other documents submitted by the prosecution we are of the view that there are sufficient and substantial materials and grounds before the Tribunal to frame charges against accused (1) Md. Sakhawat Hossain (2) Md. Billal Hossain Biswas (3) Md. Lutfor Morol (4) Ibrahim Hossain @ Ghungur Ibrahim [absconded] (5) Sheikh Mohammad Mujibur Rahman @ Mujibur Rahman [absconded] (6) Md. A. Aziz Sardar [absconded] (7) Abdul Aziz Sardar [absconded] (8) Kazi Ohidul Islam alias Kazi Ohidus Salam [absconded] and (9) Md. Abdul Khaleque Morol [absconded] for the offences allegedly committed during the war of liberation in 1971 as specified under section

3(2)(a)(g)(h) of the Act of 1973 for which they are alleged to be criminally liable under section 4(1) of the said Act. The charges are thus framed against them in the following manner:

Charges

We,

**Justice Anwarul Haque, Chairman
Justice Md. Shahinur Islam, Member
Justice Md. Shohrowardi, Member**

Of the International Crimes Tribunal -1

Hereby charge you, accused (1) Md. Sakhawat Hossain son of late Omar Ali and late Anowara Begum of village Hijoldanga, Police Station Keshobpur, District-Jessore (2) Md. Billal Hossain Biswas son of late Yukub Ali Biswas alias Akabbar alias Akbor and late Rupban Bibi of village Nehalpur, Police Station Keshobpur, District-Jessore (3) Md. Lutfor Morol son of late Joynal Morol and late Mokarjan of village Porchokra, Police Station Keshobpur, District-Jessore (4) Md. Ibrahim Hossain alias Ghungur Ibrahim [absconded] son of late Yakub Ali Biswas alias Akabbar alias Akbor and late Rupban Bibi of village Nehalpur, at present Boga, Police Station Keshobpur, District-Jessore (5) Sheikh Mohammad Mujibur Rahman alias Mujibur Rahman [absconded] son of late Sheikh Mohammad Afazulla alias Effaztulla and late Pachibibi of village Sheikhpara, Police Station Keshobpur, District-Jessore (6) Md. A. Aziz Sardar [absconded] son of late Ful Miah Sardar and late Nurjahan Begum of village Mominpur, Police Station Keshobpur, District-Jessore (7) Abdul Aziz Sardar [absconded] son of late Ahmmad Sardar and late Sakina of village Boga, Police Station Keshobpur, District-Jessore (8) Kazi Ohidul Islam alias Kazi Ohidus Salam [absconded] son of late Kazi Motiassalam alias Motiar Salam and late Hosneara Begum of village

Sheikhpara, Police Station Keshobpur, District-Jessore, and (9) Md. Abdul Khaleque Morol [absconded] son of late Hachan Ali Morol and late Rebeya Begum of village Altapoul [72 No. Altapoul], Police Station Keshobpur, District-Jessore as follows:-

Charge No. 01

[Abduction, confinement , torture and rape of Ashura Khatun (now dead) of village Boga, Police Station Keshobpur, District Jessore].

That on 27 Bangla month Ashwin [1378 BS] in 1971 at about 9.00/9.30 A.M., as per order of you accused Md. Sakhawat Hossain, you accused Md. Ibrahim Hossain alias Ghungur Ibrahim, Abdul Aziz Sardar son of late Ahmmad Sardar and Md. A. Aziz Sardar son of late Ful Miah Sardar along with other 10/12 Razakars having forcibly abducted Ashura Khatun [now dead] wife of Md. Rashidul Haq and daughter of late Abdul Latif Morol of village Boga, Police Station Keshobpur, District -Jesore, who was a 'source' of local freedom-fighters, from her house kept her confined in Chingra Razakar Camp. During confinement period she was physically tortured and raped by you accused Md. Sakhawat Hossain. Three days after her confinement in the said Razakar Camp, one Shariatulla [now dead] , maternal grandfather of said victim Ashura Khatun, with the help of Jonab Ali [now dead] and Rafiuddin Sardar [now dead] of same locality managed to get her released from the Chingra Razakar Camp having requested you accused Md. Sakhawat Hossain.

Thereby you accused (1) Md. Sakhawat Hossain (2) Md. Ibrahim Hossain alias Ghungur Ibrahim (3) Abdul Aziz Sardar son of late Ahmmad Sardar, and (4) Md. A. Aziz Sardar son of late Ful Miah Sardar are hereby charged for participating, aiding, abetting , facilitating and complicity in the

commission of offences of abduction, confinement, torture and rape as crimes against humanity as part of systematic attack directed against unarmed civilians as specified in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) read with section 3(1) of the Act for which you said accused persons have incurred liability under section 4(1) of the Act.

Charge No. 02

[Abduction, confinement, torture, murder and other inhumane acts at village Chingra, Police Station Keshobpur, District-Jessore]

That in 1971 one day in the mid of Bangla month Sraban [1378 BS] at about 10.00 A.M. in the Gadi Ghar [business office] of Muslim League leader Munshi Salimuddin of Chingra Bazar, you accused Md. Sakhawat Hossain along with other 25/30 Razakars convened a meeting where you accused Md. Sakhawat Hossain delivered a inciting speech before the people present in that meeting uttering that the supporters and activists of Awami League and people of Joy Bangla and supporters of the liberation war were ' Kafer and Monafek' and they had to be killed after finding them out.

Thereafter, in the mid of Bangla month Bhadra [1378 BS] in 1971 you accused Md. Shakhawat Hossain, Md. Ibrahim Hossain alias Ghungur Ibrahim, Md. Billal Hossain Biswas, Sheikh Mohammad Mujibur Rahman alias Mujibur Rahman, Md. A. Aziz Sardar son of late Ful Miah Sardar, Abdul Aziz Sardar son of late Ahmmad Sardar, Kazi Ohidul Islam alias Kazi Ohidus Salam, Md. Lutfor Morol, Md. Abdul Khaleque Morol and other 8/9 unknown Razakars raided the house of freedom-fighter Chandtulla Gazi [martyr] to apprehend him, but at that time he was not present in his house. Then you the above mentioned accused persons and your other accomplice Razakars having

plundered set fire to two dwelling houses of said Chandtulla Gazi. At that moment the wife of Chandtulla Gazi having taken her one and a half year old son Atiar, who was crying in her lap, touched the legs of you accused Md. Sakhawat Hossain and requested you not to plunder and set their houses on fire. But you accused Md. Sakhawat Hossain kicked her along with her baby son Atiar, and as a result they were thrown down on a wooden cot and Atiar was seriously injured that resulted in his death after 17 days.

Subsequently, on 28 Bangla month Ashwin [1378 BS] in 1971 at about 11.00/11.30 A.M. you the above mentioned nine accused persons and other 10/15 unknown Razakars again raided the house of said Chandtulla Gazi [martyr] and then he luckily escaped from the house and went into hid inside a bush to the northern side of his house. But you the above mentioned accused persons along with your accomplice Razakars having brought Chandtulla Gazi out from the that bush confined him in Chingra Razakar Camp for four days and in captivity he was mercilessly tortured physically and on 1 Bangla month Kartik in 1971 at about 6.00 A.M. he was killed by rifle shot of you accused Md. Sakhawat Hossain on the bank of Kopotakkho river and his dead body was left there.

Thereby you accused (1) Md. Sakhawat Hossain (2) Md. Ibrahim alias Ghungur Ibrahim (3) Md. Billal Hossain Biswas (4) Sheikh Mohammad Mujibur Rahman alias Mujibur Rahman (5) Md. A. Aziz Sardar son of late Ful Miah Sardar (6) Abdul Aziz Sardar son of late Ahmmad Sardar (7) Kazi Ohidul Islam alias Kazi Ohidus Salam, (8) Md. Lutfor Morol, and (9) Md. Abdul Khaleque Morol are hereby charged for participating, aiding, abetting, facilitating, incitement and complicity in the commission of offences of

abduction, confinement , torture, murder and other inhumane acts [plundering, arson, etc.]as crimes against humanity as part of systematic attack directed against unarmed civilians as specified in section 3(2)(a)(g)(h)(f) of the Act of 1973 which are punishable under section 20(2) read with section 3(1) of the Act for which you the above mentioned nine accused persons have incurred liability under section 4(1) of the Act.

Charge No. 3

[Abduction, confinement and torture of Md. Nuruddin Morol of village Chingra under Police Station Keshobpur, District-Jessore]

That on 25 Bangla month Ashwin in 1971 [1378 BS] at night being unarmed freedom-fighter Md. Nuruddin Morol came to see his parents in their house situated at village Chingra under Police Station Keshobpur, District-Jessore, and being secretly informed about his coming home by source, you accused Md. Sakhawat Hossain directed your companion Razakars to apprehend Md. Nuruddin Morol, and being so directed you accused Sheikh Mohammad Mujibur Rahman alias Mujibur Rahman, Md. Ibrahim alias Ghungur Ibrahim, Md. Abdul Khaleque Morol and other 10/12 Razakars of Chingra Razakar Camp and also you accused Md. Sakhawat Hossain having abducted said Md. Nuruddin Morol confined him in Chingra Razakar Camp where he was mercilessly tortured for four days. Thereafter, from Chingra Razakar Camp Md. Nuruddin Morol was sent to Keshobpur Sadar Razakar Camp Headquarter on 1 Bangla month Kartik in 1971 and subsequently by giving bond he was released therefrom.

Thereby you accused (1) Md. Sakhawat Hossain (2) Sheikh Mohammad Mujibur Rahman alias Mujibur Rahman (3) Md. Ibrahim alias Ghungur Ibrahim, and (4) Md. Abdul Khaleque Morol are hereby charged for participating, aiding, abetting, facilitating and complicity in the commission of offences of abduction, confinement and torture as crimes against humanity as part of systematic attack directed against unarmed civilians as specified in section 3(2) (a)(g)(h) of the Act of 1973 which are punishable under section 20(2) read with section 3(1) of the Act for which you the said accused persons have incurred liability under section 4(1) of the Act.

Charge No. 04

[Abduction, confinement , torture and murder of A. Malek Sardar of village Hijoldanga under Police Station Keshobpur, District-Jessore]

That at the end of Bangla month Ashwin, 1971 [1378 BS] the Razakars of Chingra Razakar Camp having abducted A. Malek Sardar, a source of freedom-fighters, of village Chingra under Police Station Keshobpur, District-Jessore confined him in Chingra Razakar Camp and tortured him mercilessly there. Thereafter, on 28 Bangla month Ashwin, 1971 at about 8.00/ 8.30 A.M. you accused Md. Sakhawat Hossain, Md. Ibrahim Hossain alias Ghungur Ibrahim, Md. A. Aziz Sardar son of late Ful Miah Sardar, Abdul Aziz Sardar son of late Ahmmad Sardar and Md. Abdul Khaleque Morol along with other 6/7 Razakars brought said A. Malek Sardar from Chingra Razakar Camp to Chingra Bazar Ferry [Kheya Ghat] and then you accused Md. Sakhawat Hossain himself killed him by gun-shot there and the dead body of A. Malek Sardar was thrown down on the bank of Kapatakkha river.

Thereby you accused (1) Md. Sakhawat Hossain (2) Md. Ibrahim Hossain alias Ghungur Ibrahim (3) Md. A. Aziz Sardar son of late Ful Miah Sardar (4) Abdul Aziz Sardar son of late Ahmmad Sardar, and (5) Md. Abdul Khaleque Morol are hereby charged for participating, aiding, abetting, facilitating and complicity in the commission of offences of abduction, confinement, torture and murder as crimes against humanity as part of systematic attack directed against unarmed civilians as specified in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) read with section 3(1) of the Act for which you the said accused persons have incurred liability under section 4(1) of the Act.

Charge No. 05

[Abduction, confinement, torture and other inhumane acts (arson and plundering) committed at village Mohadebpur under Police Station Keshobpur, District-Jessore]

That one day in first part of Bangla month Ashwin in 1971 [1378 BS] at about 6.00 A.M. freedom-fighter Meron Sheikh of village Mohadebpur under Police Station Keshobpur, District-Jessore being unarmed came to his house to meet his parents . You accused Md. Sakhawat Hossain having got that message from secret source ordered your companion Razakars of Chingra Razakar Camp to abduct him, and accordingly 30/40 Razakars of that Camp entered into Mohadebpur village from western side of the village and started plundering and setting fire to the houses of freedom-fighters, supporters of liberation war and voters of boat symbol one after another and they burnt about 20/22 houses . At one stage at about 10.00/11.00 A.M. 10/12 Razakars raided the house of said Meron Sheikh and tried to apprehend him, but he ran away

from back side of the house through open field, and when Razakars ran after him he stood up raising his two hands. At that stage you accused Md. Abdul Khaleque Morol shot him with your rifle in hand, and as such , he sustained serious injuries on his fingers of his left hand, and then the Razakars having abducted injured Meron Sheikh brought him to Chingra Razakar Camp. Thereafter, in presence and direction of you accused Md. Sakhawat Hossain, you accused Md. Ibrahim Hossain alias Ghungur Ibrahim, Md. A . Aziz Sardar son of late Ful Miah Sardar, Abdul Aziz Sardar son of late Ahmmad Sardar, Md. Lutfor Morol and Md. Abdul Khaleque Morol tortured Meron Sheikh mercilessly, and in the evening he [Meron Sheikh] was thrown in the Kapotakkha river thinking that he died.

Thereby you accused (1) Md. Sakhawat Hossain (2) Md. Ibrahim Hossain alias Ghungur Ibrahim (3)Md. A. Aziz Sardar son of late Ful Miah Sardar (4) Abdul Aziz Sardar son of late Ahmmad Sardar (5) Md. Lutfor Morol, and (6) Md. Abdul Khaleque Morol are hereby charged for participating, aiding, abetting, facilitating and complicity in the commission of offences of abduction, confinement , torture and other inhumane acts [arson and plundering] as crimes against humanity as part of systematic attack directed against unarmed civilians as specified in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) read with section 3(1) of the Act for which you the said accused persons have incurred liability under section 4(1) of the Act.

Thus, you the nine accused persons have been indicted as above for committing the offences under section 3(2)(a)(g)(h)(f) of the International Crimes (Tribunals) Act, 1973, punishable under section 20(2) read with section

3(1) of the Act of 1973 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.

You accused Md. Sakhawat Hossain, Md. Billal Hossain Biswas and Md. Lutfor Morol have heard and understood the aforesaid charges which have been read in open court in your presence.

Question: Do you plead guilty or not?

Answer:

The charges so framed have been read over in English and explained in Bengali to accused Md. Sakhawat Hossain, Md. Billal Hossain Biswas and Lutfor Morol present on dock, to which they pleaded not guilty and claimed to be tried.

The six other accused **Md. Ibrahim Hossain alias Ghungur Ibrahim, Sheikh Mohammad Mujibur Rahman alias Mujibur Rahman, Md. A. Aziz Sardar son of late Ful Miah Sardar, Abdul Aziz Sardar son of late Ahmmad Sardar, Kazi Ohidul Islam alias Kazi Ohidus Salam and Md. Abdul Khaleque Morol** have been in absconsion, and as such, they could not be asked whether they plead guilty or not, after reading over the charges framed against them in open court.

Let **31.01.2016** be fixed for opening statement and examination of prosecution witnesses. The trial shall be continuing on every working day until further order. 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

defence counsels are directed to submit list of witnesses along with documents, if any, which the defence intends to rely upon, as required under section 9(5) of the Act of 1973 on or before the date fixed.

(Justice Anwarul Haque, Chairman)

(Justice Md. Shahinur Islam, Member)

(Justice Md. Shohrowardi, Member)