

International Crimes Tribunal-1

Old High Court Building, Dhaka, Bangladesh

ICT-BD [ICT-1] Case No. 04 of 2016

Present:

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

Chief Prosecutor

vs.

(1) Md. Reaz Uddin Fakir, and
(2) Md. Waz Uddin [absconded]

Order No. 08

Date: 11.12.2016

Mr. Hrishikesh Saha, Prosecutor
..... For the prosecution

Mr. Md. Muzahedul Islam, Advocate
..... For accused Md. Reaz Uddin Fakir

Mr. Gazi M.H. Tamim, Advocate
.....For accused Md. Waz Uddin as State defence
counsel.

[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 2[two) accused persons one accused Md. Reaz Uddin Fakir, in custody, is being defended by his engaged counsel Mr. Muzahedul Islam and another accused Md. Waz Uddin, who has been absconding, is being defended by Mr. Gazi M.H. Tamim, Advocate as State defence counsel, appointed by this Tribunal at the cost of the State. The hearing on charge framing matter took place in presence of accused Md. Reaz Uddin Fakir who has been brought today before this Tribunal from prison.

At the out set, it is to be noted that the 'formal charge' was submitted by the prosecution before this Tribunal against 2(two) accused persons and this

Tribunal on 29.03.2016 took cognizance of offences against both the accused persons and then the case came to the stage of charge hearing matter and on 22.11.2016 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 Fulbaria Police Station, District Mymensingh. 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 offences of genocide and crimes against humanity as narrated in the formal charge allegedly occurred in different places of Fulbaria Police Station of District Mymensingh 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 Bengali 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 Bengali 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, politicians and military officers and 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 Jamaat- 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 Bengali 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 Bengali intellectuals and unarmed civilian population of Bangladesh.

Incontrovertibly the way to self-determination for the Bengali nation was strenuous, swabbed with enormous blood, strive and sacrifices. In the present-day world history, conceivably no nation paid as extremely as the Bengali

nation did for its self-determination. The events alleged in the formal charge constituting the offences of genocide and crimes against humanity occurred in different places under Fulbaria Police Station of District Mymensingh 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. Reaz Uddin Fakir

Accused Md. Reaz Uddin Fakir [65], son of late Nayeb Ali Fakir and late Bibijan of Village Bhalukjan [Purbo Para, Ward No. 6], Police Station Fulbaria, District Mymensingh was born on 21.01.1949[as per National Identification Card]. He passed the S.S.C Examination in 1966 from Fulbaria Pilot High School. He also passed H.S.C Examination in 1968 from Muktagacha College. He was involved in the politics of Jamaat-e-Islami [JEI]. During the war of liberation in 1971, he became a member of Islami Chhatra Sangha [ICS] and was involved in the commission of crimes against humanity and genocide to foil the liberation war as a potential member of local Al-Badar Bahini, prosecution alleges.

(ii) Accused Md. Waz Uddin[absconded]

Accused Md. Waz Uddin[70], son of late Joynal Abedin and late Hayton Nesa of Village Bidyananda [Madhyapara], Police Station Fulbaria, District Mymensingh was born on 10.08.1945 [as per National Identification Card]. He studied upto Class-V. He was a supporter of Jamaat-e-Islami [JEI]. During the

war of liberation in 1971, he was a member of local Razajar Bahini and directly took part against the war of liberation involving himself in the commission of crimes against humanity and genocide in the locality of Fulbaria Thana, prosecution alleges.

4. Brief Procedural History

The Chief Prosecutor submitted 'formal charge' against 02 [two] accused persons on having considered the investigation report and documents submitted therewith by the Investigating Agency. This Tribunal on 29.03.2016 took cognizance of offences against both the accused persons as mentioned above. Out of the two accused persons one accused Md. Reaz Uddin Fakir has been in detention and another accused Md. Waz Uddin neither could have been arrested nor did he surrender.

On 29.03.2016 this Tribunal took cognizance of offences, perpetration of which has been unveiled in course of investigation and on 16.05.2016 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 absconding accused Md. Waz Uddin as the execution of warrant of arrest issued against him earlier was found unserved.

Accordingly, despite publication of the notice in two daily newspapers namely 'The Daily Independent' and 'The Daily Ittefaq' dated 17.05.2016 and 18.05.2016 respectively the absconding accused Md. Waz Uddin did not make him surrendered, and as such, this Tribunal ordered for holding trial *in absentia*

against him and appointed Mr. Gazi M.H. Tamim, Advocate to defend the absconding accused person as State defence counsel. This Tribunal fixed 22.11.2016 for hearing the charge framing matter and on the date fixed this Tribunal-1 heard the charge framing matter and fixed today i.e. 11.12.2016 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 Fulbaria Police Station, District Mymensingh by the local Al-Badars and Razakars and sometimes they being accompanied by the Pakistani occupation army, the Investigating Agency submitted its investigation report finding both the accused persons *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 both the accused persons 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 facilitated or abetted or contributed or aided or had complicity in 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, both the 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. Hrishikesh Saha, the learned prosecutor made his submission, drawing our attention to the documents and statement of witnesses collected during investigation. He submitted that accused Md. Reaz Uddin Fakir was the local Al-Badar commander and accused Md. Waz Uddin was a local Razakar during the war of liberation in 1971. They along with their accomplices belonging to infamous Razakar Bahini and sometimes with the Pakistani occupation army had systematically and deliberately carried out atrocious activities directing pro-liberation civilians around the localities under Fulbaria Police Station, District Mymensingh. Role of the accused persons in accomplishing the alleged crimes in 1971 during the war of liberation was culpable and in furtherance of common plan and design of the Pakistani occupation army. The events of attacks as demonstrated in the formal charge involve genocide and killing of unarmed pro-liberation civilians and other crimes against humanity and both the accused persons actively participated, abetted, aided, facilitated, contributed and had complicity in the commission thereof.

The learned prosecutor went on to submit that the accused persons were the members of local infamous armed Al-Badar and Razakar Bahinis, auxiliary forces of Pakistani occupation army and in 1971 those Bahinis were formed intending to collaborate with the Pakistani occupation army in carrying out

horrific atrocious activities in furtherance of common plan and design of annihilating the pro-liberation Bengali civilians and freedom fighters. The accused persons need to be indicted for the offences they had committed in the context of war of liberation in 1971 in the territory of Bangladesh.

6. Submission advanced by the defence side

Mr. Md. Muzahedul Islam, the learned counsel appearing on behalf of accused Md. Reaz Uddin Fakir by filing an application seeking discharge of the accused submitted that accused Md. Reaz Uddin Fakir is quite innocent and he was not involved with any offences as mentioned in the formal charge submitted by the prosecution and he was not a member of local Al-Badar Bahini.

Mr. Md. Muzahedul Islam, the learned defence counsel further submitted that the allegations set up in the formal charge do not disclose or state specificity of general particulars and the required elements to constitute the offences as enumerated in section 3(2) of the Act of 1973. The formal charge is based on vague and unspecified allegations and it does not disclose the mode of participation of the accused Md. Reaz Uddin Fakir with the alleged unlawful acts. This accused is quite innocent and he has been falsely implicated in this case, and as such, he is liable to be discharged.

Mr. Gazi M.H. Tamim for absconding accused Md. Waz Uddin as State defence counsel by filing a separate application seeking discharge of the accused person also submitted that this accused is quite innocent and he was

never a Razakar and he was not involved with the criminal acts as mentioned in the formal charge submitted by the prosecution.

Mr. Gazi M.H. Tamim further submitted that unexplained inordinate delay of more than four decades occurred in prosecuting the accused persons impairs the truthfulness of the arraignment brought and it reflects political motive too. Such inordinate delay of more than 40 years should have been explained in the formal charge submitted under section 9(1) of the Act of 1973 which is the foundation of the case. He has been falsely implicated in this case, and as such, he is liable to be discharged.

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, aided, contributed and had complicity in 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 Fulbaria Police Station, District Mymensingh.

Both the accused persons have been proposed by the prosecution to be indicted for the alleged events of attacks constituting the offences of genocide and crimes against humanity as narrated in the formal charge. Out of two accused persons one accused Md. Waz Uddin has been absconding and proceeding is going on in his *absentia* 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 liberation 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 genocide and crimes against humanity as mentioned in section 3(2)(a) (c) 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 Al-Badar and Razakar Bahinis accompanied the group of Razakars and sometimes Pakistani occupation army which had committed the offences of genocide and crimes against humanity, in conjunction with the attack. *Prima facie* the formal charge, statement of witnesses and documents submitted demonstrate the 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 offences of genocide and crimes against humanity are considered as 'group crime' and these are 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.

We are not with the submission extended by the learned State defence counsel Mr. Gazi M.H. Tamim 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 Al-Badar and Razakar Bahinis. 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 genocide and crimes against humanity, and as such, the submission made by the learned defence counsels seeking discharge of the

accused persons does not deserve consideration, and therefore, the applications seeking discharge of the accused persons 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. Reaz Uddin Fakir, and (2) Md. Waz Uddin[absconded] for the offences allegedly committed during the war of liberation in 1971 as specified under section 3(2)(a)(c)(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. Reaz Uddin Fakir, son of late Nayeb Ali Fakir and late Bibijan of Village Bhalukjan [Purbo Para, Ward No. 6], Police Station Fulbaria, District Mymensingh, and (2) Md. Waz Uddin [absconded], son of late Joynal Abedin and late Hayton Nesa of Village Bidyananda [Madhyapara], Police Station Fulbaria, District Mymensingh as follows:

Charge No. 01

[Abduction, confinement, torture and murder of Abdul Mazid, Shahidullah Master, Jamshed Ali and unknown two others]

That on 22.08.1971 at about 10.00 A.M. under the leadership of Razakar Amzad Ali [now dead] you accused Al-Badar commander Md. Reaz Uddin Fakir and accused Razakar Md. Waz Uddin along with other 10/15 armed Razakars having abducted Abdul Mazid, resident of Ward No. 2 of Fulbaria Sadar, from near the house of Kuddus Shikder took him away to the Razakar camp and confined and tortured him there.

In conjunction with the same attack, you the accused persons and your cohort Razakars on the same day [22.08.1971] at about 01.00 P.M. having abducted Shahidullah Master of village Kalaipar and Jamshed Ali of village Chak Lauripara and few others from the area of Fulbaria Sadar auto-rickshaw stand took them away to the Razakar camp and confined and tortured them there.

Thereafter, on 25.08.1971 at about 10.00 A.M. you the accused persons and your cohort Razakars having taken away the confined victims, namely Abdul Mazid, Shahidullah Master, Jamshed Ali and unknown two others blindfolded from the Razakar camp to the bank of the river Bana near Eid-gah of village Rangamatia shot them all to death there in presence of many villagers and threw their dead bodies into the river.

Thereby, you accused (1) Md. Reaz Uddin Fakir, and (2) Md. Waz Uddin are hereby charged for participating, abetting, facilitating, contributing 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 enumerated in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) of the said Act for which you the accused persons have incurred liability under section 4(1) of the said Act.

Charge No. 02

[Abduction, confinement, torture and murder of Surendra Chandra Barman and Habibur Rahman Talukder, and abduction, confinement, rape and murder of Joygunnesa alias Jonu Bibi]

That on 27.08.1971 at about 10.00 A.M. you accused Razakar Md. Waz Uddin along with your cohort Razakars having abducted Surendra Chandra Barman from the house of Hossain Ali Kobiraj, the then Chairman of Kaladaha Union, took him away to the Razakar camp set up in the Bidyananda Fazil Madrasa where he was subjected to torture in confinement. Then you the accused and your cohort Razakars took him away to the Bhalukjan bridge for slaughtering when he jumped into the river. But you accused Md. Waz Uddin and your cohort Razakars pulled the victim Surendra Chandra Barman up and beastly chopped him to death and threw his dead body in the river.

In conjunction with the same attack, you accused Md. Waz Uddin along with your cohort Razakars on the same day [27.08.1971] at noon having abducted Habibur Rahman Talukder of Betbari village from Bidyananda village kept confined him and tortured in the Bidyananda Razakar camp, and thereafter taking him away to an unknown place killed him.

In conjunction with the same attack, you accused Md. Waz Uddin along with your cohort Razakars on the same day [27.08.1971] having abducted Joygunnesa alias Jonu Bibi, wife of Hachhen Ali, from the Shibrampur village kept her confined in the Bidyananda Razakar camp and raped her in turn for two days and then having taken her away to the bank of river Kheeru shot her to death and threw her dead body in the river.

Thereby, you accused Md. Waz Uddin is hereby charged for participating, abetting, facilitating, contributing and complicity in the commission of offences of abduction, confinement, torture, rape and murder as crimes against humanity as part of systematic attack directed against unarmed civilians as enumerated in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) of the said Act for which you the accused has incurred liability under section 4(1) of the said Act.

Charge No. 03

[Genocide and crimes against humanity committed at village Rishipara under Fulbaria Police Station]

That on 05.11.1971 at about 10.00 A.M. you accused Al-Badar commander Md. Reaz Uddin Fakir and accused Razakar Md. Waz Uddin along with 25/30 Razakars and another group of Pakistani occupation army jointly having besieged Rishipara village under Fulbaria Police Station of District Mymensingh abducted Basanti Rishi, wife of Mahinder Rishi [another victim], Gita Rani Rishi, wife of Khoka Rishi and Nirmala Rishi, wife of Fatik Rishi

and handed over them to Pakistani occupation army men who then forcibly raped them confining in the nearby jute field.

In conjunction with the same attack, you the accused persons and your cohort Razakars on the same day [05.11.1971] having abducted (i) Ganen Rishi (ii) Refat Rishi (iii) Gogon Rishi (iv) Kalu Rishi (v) Mongala Rishi (vi) Dinesh Rishi (vii) Umesh Rishi, and (viii) Mahinder Rishi [husband of raped victim Basanti Rishi] took them away by torturing to the bank of the river near Bhalukjan bridge and then with intent to destroy, in whole or in part, the Hindu religious group shot them all to death there and threw their dead bodies in the river.

Thereby, you accused (1) Md. Reaz Uddin Fakir, and (2) Md. Waz Uddin are hereby charged for participating, abetting, facilitating, contributing and complicity in the commission of offences of genocide and abduction, confinement, torture and rape as crimes against humanity as part of systematic attack directed against unarmed civilians as enumerated in section 3(2)(a)(c)(g)(h) of the Act of 1973 which are punishable under section 20(2) of the said Act for which you the accused persons have incurred liability under section 4(1) of the said Act.

Charge No. 04

[Extermination, abduction, confinement and torture committed at Achhim bazaar, Bashdi and Bhalukjan under Fulbaria Police Station]

That on 13.11.1971 at about 12.00/01.00 P.M. you accused Al-Badar commander Md. Reaz Uddin Fakir and accused Razakar Md. Waz Uddin along with other 30/40 armed Razakars entered Achhim bazaar under Fulbaria Police Station of District Mymensingh by firing indiscriminate shots and then the villagers having been frightened began to run hither and thither. Then you the accused persons and your cohort armed Razakars killed many innocent unarmed villagers and having confined many others tortured them, and after having tortured 13[thirteen] innocent unarmed villagers took them away to Bhalukjan bridge under Fulbaria Police Station and slaughtered them all to death there and threw their dead bodies in the Akhalia river. At the time of said incident you the accused persons and your cohort armed Razakars killed at least 43 [forty three] unarmed civilians including (i) Ismail Hossain Master (ii) Achhim Uddin Mullah (iii) Momtaz Ali (iv) Tayob Ali (v) Yeasin Ali (vi) Dulal Miah (vii) Abdul Karim (viii) Abdul Kader (ix) Habibur Rahman Talukder (x) Abdul Malek (xi) Jobed Ali (xii) Abdul Rashid alias Nosu (xiii) Pagu Miah (xiv) Nousher Ali (xv) Sekander Ali (xvi) Panchab Ali (xvii) Hari Mohan Dey (vxiii) Abinash Chandra Dey (xix) Baloram Karmakar (xx) Sabed Ali (xxi) Aroz Ullah (xxii) Banu Miah, and (xxiii) Ramesh Chandra Dey. Subsequently, a monument was built at the place of incident inscribing the names of the martyrs for cause of their great sacrifice.

Thereby, you accused (1) Md. Reaz Uddin Fakir, and (2) Md. Waz Uddin are hereby charged for participating, abetting, facilitation, contributing and complicity in the commission of offences of extermination, abduction,

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

Charge No. 05

[Murder, abduction and torture committed at Bhalukjan village and Bhalukjan bridge under Fulbaria Police Station]

That on 21.11.1971 at about 09.00 P.M. you accused Al-Badar commander Md. Reaz Uddin Fakir and accused Razakar Md. Waz Uddin along with other 15/16 armed Razakars having attacked Bhalukjan village under Fulbaria Police Station of District Mymensingh abducted Altaf Ali Mondol, Taleb Ali Mondol, Sekander Ali Mondol and Lal Mahmud Mondol, all sons of late Man Ullah Sarkar from their house and tortured them. Thereafter, you the accused persons and your cohort armed Razakars having taken with the four abducted brothers proceeded towards Bhalukjan bridge, and on the way you the accused persons set Lal Mahmud Mondol free and killed other 3 (three) brothers near Bhalukjan bridge and threw their dead bodies on the bank of the Akhalia river.

Thereby, you accused (1) Md. Reaz Uddin Fakir, and (2) Md. Waz Uddin are hereby charged for participating, abetting, facilitating, contributing and complicity in the commission of offences of murder, abduction and torture

as crimes against humanity as part of systematic attack directed against unarmed civilians as enumerated in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) of the said Act for which you the accused persons have incurred liability under section 4 (1) of the said Act.

You accused (1) Md. Reaz Uddin Fakir, present on dock, has heard and understood the aforesaid charges which have been read over 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. Reaz Uddin Fakir, present on dock, to which he pleaded not guilty and claimed to be tried.

Another accused Md. Waz Uddin has been in absconsion, and as such, he could not be asked whether he pleads guilty or not, after reading over the charges framed against him in open court.

Let 31.01.2017 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)