

International Crimes Tribunal-1

Old High Court Building, Dhaka, Bangladesh

ICT- BD [ICT-1] Case No. 05 of 2015

Present:

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

Chief Prosecutor

vs.

- (1) Md. Amir Ahmed alias Razakar Amir Ali**
- (2) Abul Kalam alias A.K.M. Monsur [absconded]**
- (3) Md. Yusuf [died during trial]**
- (4) Md. Joynal Abedin, and**
- (5) Md. Abdul Quddus**

Order No. 14

Date: 20.06.2016

Mr. Zahid Imam, Prosecutor

..... For the prosecution

Mr. M. Masud Rana, Advocate

..... For accused Md. Amir Ahmed alias Razakar Amir Ali

Mr. Muhammad Tarikul Islam, Advocate

..... For accused Md. Abdul Quddus.

Mr. Gazi M.H. Tamim, Advocate

..... For accused Md. Joynal Abedin as his engaged counsel and for absconding accused Abul Kalam alias A.K.M. Monsur 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 5[five) accused persons four accused persons, in custody, were being defended by their learned engaged counsels and of them accused Md. Yusuf during trial of this case died on 19.05.2016 in Dhaka Medical College Hospital. Another accused Abul Kalam alias A.K.M. Monsur, 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. Amir Ahmed alias Razakar Amir Ali, Md. Joynal Abedin and Md. Abdul Quddus who have 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 05(five) accused persons and this Tribunal on 14.10.2015 took cognizance of offences against all the 05[five] accused persons and then the case came to the stage of charge hearing matter and on 31.05.2016 charge framing matter was heard. Before hearing charge framing matter accused Md. Yusuf died on 19.05.2016.

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 Sudharam Police Station, District Noakhali. 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 Sudharam Police Station of District Noakhali 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 Sudharam Police Station of District Noakhali 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. Amir Ahmed alias Razakar Amir Ali

Accused Md. Amir Ahmed alias Razakar Amir Ali [70], son of late Mozaffar Ahmed Chaprashi and late Rahela Khatun of Village Uttar Fakirpur, Police Station Sudharam, District Noakhali, at present House No. 11, Road No. 4, Ward No. 4, Flat No. 5 [first floor], Uttar Fakirpur, Police Station Sudharam, District Noakhali was born on 18.07.1945. He studied upto Class VI in the Pourakallan High School, Maizdi, Noakhali. In 1971, he was an active worker of Muslim League and now he is involved with the politics of Bangladesh Nationalist Party [BNP]. In 1971, during the war of liberation he participated in the anti-liberation activities and for collaborating with Pakistani occupation army he joined Razakar Bahini and committed the offences of genocide, murder, plundering, arson and other crimes against humanity, prosecution alleges.

(ii) Abul Kalam alias A.K.M. Monsur[absconded]

Accused Abul Kalam alias A.K.M. Monsur [67], son of Haji Aftabuddin Ahmed and late Rokaiya Begum of Village Nandanpur, Police Station Sudharam, District Noakhali, at present (1) 150/A, Bazaar Road, Savar Uttarpara [own house], (2) C72/3, Mazidpur, Afsar Garden, Birulia Road [own

house], and (3) B/1, Savar Bazaar Bus Stand, Monsur Ali Super Market [own business centre], Police Station Savar, District Dhaka, was born on 01.01.1948. He passed B.A. examination from Noakhali College. In 1971, he was an active leader of Muslim League. Thereafter, he joined the Bangladesh Nationalist Party [BNP] and became an active leader of that political party and now he is the Joint Secretary of the central committee of Zia Parishad and the Convener of Zia Parishad of Dhaka District. In 1971, during the war of liberation he joined armed Razakar Bahini to collaborate with the Pakistani occupation army and as the Razakar commander he set up Razakar camp within the campus of PTI, Noakhali and he himself and under his leadership a group of 50/60 armed Razakars in collaboration with the Pakistani occupation army committed the offences of genocide, murder, plundering, arson and other crimes against humanity in the locality of Sudharam Police Station, District Noakhali, prosecution alleges. After the independence of Bangladesh he fled away from his locality and took shelter at Savar, Dhaka, prosecution also alleges.

(iii) Md. Yusuf

Accused Md. Yusuf [now dead], son of late Md. Korban Ali and Sufia Khatun of Village Ramharitaluk, Police Station Sudharam, District Noakhali was born on 01.01.1956. He passed Kamil examination from Khalifarhat Madrasha, District Noakhali. During the war of liberation in 1971 he was a leader of Islami Chhatra Sangha [ICS], the then a wing of Jamaat-e-Islami, and joined the local armed Razakar Bahini to collaborate with the Pakistani occupation army and actively took part in different anti-liberation activities and committed the offences of genocide, murder, plundering, arson and other

crimes against humanity in his locality, prosecution alleges. After the liberation of Bangladesh he was involved with the politics of Jamaat-e-Islami. During trial of this case he died on 19.05.2016 in Dhaka Medical College Hospital and accordingly the proceedings so far relate to this accused stood abated by the Tribunal's order dated 31.05.2016.

(iv) Md. Joynal Abedin

Accused Md. Joynal Abedin [73], son of late Sekander Miah and late Safia Khatun of Village Sayeedpur [Natun Dewan Bari], Police Station Sudharam, District Noakhali was born on 01.01.1942 . He studied upto Class X. In 1971, during the war of liberation he joined the local armed Razakar Bahini to collaborate with the Pakistani occupation army and actively participated in the anti-liberation activities and he also committed the offences of genocide, murder, plundering , arson and other crimes against humanity in the locality of Sudharam Police Station, District Noakhali, prosecution alleges.

(v) Md. Abdul Quddus

Accused Md. Abdul Quddus [84], son of late Abdus Salam and late Hayetunnesa of Village Lakhminarayanpur, Police Station Sudharam, District Noakhali, at present (i) House No. 106, Azimpur [Shah Saheb Bari, first floor, opposite of Azimpur graveyard], and (ii) House No. 26, Sheikh Saheb Bazaar Mandir Goli [second floor], Police Station Lalbag, D.M.P, Dhaka was born on 15.10.1931. He studied upto class VII. During the war of liberation in 1971, he was an active leader of Muslim League and actively participated in the anti-liberation activities, and he joined the local armed Razakar Bahini to collaborate with the Pakistani occupation army and he committed the offences

of genocide, murder, plundering, arson and other crimes against humanity, prosecution alleges.

4. Brief Procedural History

The Chief Prosecutor submitted 'formal charge' against 05 five] accused persons on having considered the investigation report and documents submitted therewith by the Investigating Agency. This Tribunal on 14.10.2015 took cognizance of offences against all the 05[five] accused persons as mentioned above. Out of the five accused persons three accused persons have been in detention, one accused Abul Kalam alias A.K.M. Monsur neither could have been arrested nor did he surrender and the other accused Md. Yusuf died on 19.05.2016.

On 14.10.2015 this Tribunal took cognizance of offences, perpetration of which has been unveiled in course of investigation and on 18. 01.2016 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 Abul Kalam alias A.K.M. Monsur 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 Vorer Kagoj' dated 20.01.2016 and 21.01.2016 respectively the absconding accused Abul Kalam alias A.K.M. Monsur 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 31.05.2016 for hearing the charge framing matter and on the date fixed this Tribunal-1 heard the charge framing matter and fixed today

i.e. 20.06.2016 for decision on it. Before hearing charge framing matter accused Md. Yusuf died on 19.05.2016 in Dhaka Medical College Hospital.

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 Sudharam Police Station, District Noakhali by the local Razakars accompanied by the Pakistani occupation army, the Investigating Agency submitted its investigation report finding all the 05[five] accused persons including accused Md. Yusuf [now dead] *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 all the 05[five] 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, all 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. Zahid Imam, the learned prosecutor made his submission, drawing our attention to the documents and statement of witnesses collected during investigation. He submitted that all the accused persons belonged to local

armed Razakar Bahini. They along with their accomplices belonging to infamous Razakar Bahini and Pakistani occupation army had systematically and deliberately carried out atrocious activities directing pro-liberation civilians around the localities under Sudharam Police Station, District Noakhali. Role of all 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 all 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 Razakar Bahini, an auxiliary force of Pakistani occupation army and in 1971 the Razakar Bahini was 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. M. Masud Rana, the learned counsel appearing on behalf of accused Md. Amir Ahmed alias Razakar Amir Ali by filing an application seeking discharge of the accused submitted that accused Md. Amir Ahmed alias Razakar Amir Ali 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 Razakar Bahini. He has been falsely implicated in this case, and as such, he is liable to be discharged.

Mr. Muhammad Tarikul Islam defending accused Md. Abdul Quddus by filing an application seeking discharge of the accused 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. Abdul Quddus 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 accused Joynal Abedin as his engaged counsel and for absconding accused Abul Kalam alias A.K.M. Monsur as State defence counsel by filing two separate applications seeking discharge of two accused persons also submitted that these two accused persons are quite innocent and they were 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.

It was also submitted by Mr. Gazi M.H. Tamim that the accusation brought against these two accused persons is barred by the doctrine of double jeopardy as they were prosecuted and tried under the Collaborators Order, 1972, and as such, these two accused persons are 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 Sudharam Police Station, District Noakhali.

All 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 five accused persons one accused Abul Kalam alias A.K.M. Monsur 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. Another accused Md. Yusuf died on 19.05.2016, after taking cognizance of offences.

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 Razakar Bahini accompanied the group of Razakars and 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 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.

Mr. Gazi M.H. Tamim, the learned counsel submitted that the accusation brought against accused Md. Joynal Abedin and absconding accused Abul Kalam alias A.K.M. Monsur, whom he has been defending, is barred by the doctrine of double jeopardy as they were prosecuted and tried under the Collaborator Order, 1972.

In order to resolve this legal aspect we indispensably need to appraise the evidence, documentary and oral, and it is possible only at trial stage. To render a correct finding in this regard we are to see whether the accused persons were or any of them was prosecuted and tried for the 'selfsame offence' and it can be effectively adjudicated only at trial stage, and not at this stage. If, in course of trial, it is found that these two accused persons were earlier prosecuted and tried for the 'selfsame offence' or for the 'selfsame criminal acts' though under a different legislation these accused persons shall be entitled to get the benefit of the doctrine of double jeopardy.

We are not with the submission extended by the learned 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 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 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. Amir Ahmed alias Razakar Amir Ali (2) Abul Kalam alias A.K.M. Monsur [absconded] (3) Md. Joynal Abedin, and (4) Md. Abdul Quddus 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. Amir Ahmed alias Razakar Amir Ali, son of late Mozaffar Ahmed Chaprashy and late Rahela Khatun of Village Uttar Fakirpur, Police Station Sudharam, District Noakhali, at present House No. 11, Road No. 4, Ward No. 4, Flat No. 5 [first floor], Uttar Fakirpur, Police Station Sudharam, District Noakhali, (2) Abul Kalam alias A.K.M. Monsur, son of Haji Aftabuddin Ahmed and late Rokaiya Begum of Village Nandanpur, Police Station Sudharam, District Noakhali, at present (i) 150/A, Bagaar Road, Savar Uttarpara [own house], (ii) C72/3, Mazidpur, Afsar Garden, Birulia Road [own house], and (iii) B/1, Savar Bazaar Bus Stand, Monsur Ali Super Market

[own business centre], Police Station Savar, District Dhaka, (3) Md. Joynal Abedin, son of late Sekander Miah and late Safia Khatun of Village Sayeedpur [Natun Dewan Bari], Police Station Sudharam, District Noakhali, and (4) Md. Abdul Quddus, son of late Abdus Salam and late Hayetunnesa of Village Lakhminarayanpur, Police Station Sudharam, District Noakhali, at present (i) House No. 106, Azimpur [Shah Saheb Bari, first floor, opposite of Azimpur graveyard], and (ii) House No. 26, Sheikh Saheb Bazaar Mandir Goli [second floor], Police Station Lalbag, D.M.P, Dhaka as follows:

Charge No. 01

[Offences of extermination, confinement, torture and other inhumane acts committed at villages Sreepur and Sonapur under Police Station Sudharam, District Noakhali]

That on 15 June, 1971 at about 02.00 P.M. a group of 20/25 armed Razakars including you Razakars accused (1) Md. Amir Ahmed alias Razakar Amir Ali (2) Abul Kalam alias A.K.M. Monsur [absconded] (3) Md. Joynal Abedin, (4) Md. Abdul Quddus and accused Md. Yusuf [died during trial] accompanied by 70/75 Pakistani occupation army men being divided into 03[three] groups simultaneously launched attack on villages Sreepur and Sonapur under Police Station Sudharam, District Noakhali and having captured more than one hundred unarmed civilians from those villages, of them 41 [forty one] people as named in the formal charge submitted by the prosecution were inhabitants of those villages and the other people were unknown, tortured them inhumanely and thereafter shot them all to death, and you the accused persons and your accomplices also having plundered the houses of those villages set them on fire.

Thereby, you accused (1) Md. Amir Ahmed alias Razakar Amir Ali (2) Abul Kalam alias A.K.M. Monsur [absconded] (3) Md. Joynal Abedin, and (4) Md. Abdul Quddus are hereby charged for participating, abetting, facilitating, contributing and complicity in committing large scale killing of unarmed civilians constituting the offence of extermination, confinement, torture and other inhumane acts [plundering 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. 02

[Offences of murder, abduction, confinement, torture and other inhumane acts committed at villages Paschim Karimpur and Debipur under Police Station Sudharam, District Noakhali]

That on 13 September, 1971 at about 05.30 A.M. [at the time of fajar prayer] a group of 15/20 armed Razakars under the leadership of you accused Razakars (1) Md. Amir Ahmed alias Razakar Amir Ali, (2) Abul Kalam alias A.K.M. Monsur, and (3) Md. Joynal Abedin accompanied by 8/10 Pakistani occupation army men besieged the house of freedom-fighter Ali Ahmed at village Paschim Karimpur under Police Station Sudharam, District Noakhali and having detained unarmed freedom-fighter Ali Ahmed from his house tortured him. At that time while the wife of freedom-fighter Ali Ahmed tried to resist you the accused Razakars and your accomplices you accused Md. Joynal Abedin hit on her shoulder with rifle that resulted in grievous injury.

Thereafter, you the Razakars accused persons and your accomplices having taken away detained unarmed freedom-fighter Ali Ahmed with you proceeded towards west when unarmed freedom-fighters Noor Nabi, Abul Kalam alias Kala and Abdul Halim had been staying in a nearby house. Then you the accused Razakars and your accomplices having captured unarmed freedom-fighter Abul Kalam alias Kala tortured him when other two freedom-fighters Noor Nabi and Md. Abdul Halim tried to flee away towards north to save their lives. But you the accused Razakars and your accomplices having seen them running chased them and started firing shots to kill them and consequently unarmed freedom-fighter Md. Abdul Halim sustained bullet hit injury on his head, but another unarmed freedom-fighter Noor Nabi luckily managed to escape.

In conjunction with the same attack, you the accused persons and your accomplice other Razakars and Pakistani occupation army men by torturing detained unarmed freedom-fighters Ali Ahmed and Abul Kalam alias Kala took them away to the wooden bridge of Sottor Khal [canal] situated at a place which was half kilometre far from their house and shot Ali Ahmed to death there and threw his dead body in the Khal [canal], and torturing another unarmed freedom-fighter Abul Kalam alias Kala went away towards west and thereafter you the accused persons and your accomplices having killed Abul Kalam alias Kala concealed his dead body, and as such, his dead body could not be traced out even today.

In conjunction with the same attack you the accused persons and your accomplice other Razakars and Pakistani occupation army men having gone to village Debipur under Sudharam Police Station tried to capture freedom-

fighter Abdul Malek but it was in vain. Then you the accused persons and your accomplices having plundered the house of freedom-fighter Abdul Malek set it on fire.

Thereby, you accused (1) Md. Amir Ahmed alias Razakar Amir Ali (2) Abul Kalam alias A.K.M. Monsur, and (3) Md. Joynal Abedin are hereby charged for participating, abetting, facilitating, contributing and complicity in the commission of offences of murder, abduction, confinement, torture and other inhumane acts [plundering 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

[Offences of murder, abduction, confinement, torture and other inhumane acts committed at villages Ramhoritaluk, Debipur and Uttar Chakla under Police Station Sudharam, District Noakhali]

That on 13 September, 1971 at about 06.00 A.M. a group of 50/60 armed Razakars including you accused Razakars (1) Md. Amir Ahmed alias Razakar Amir Ali, and (2) Abul Kalam alias A.K.M. Monsur and another accused (3) Md. Yusuf [died during trial] accompanied by 150/200 Pakistani occupation army men simultaneously besieged the villages Ramhoritaluk, Debipur and Uttar Chakla and thereafter launched attack on the unarmed pro-liberation people of those villages and having captured about 300 [three hundred] unarmed pro-liberation people from those villages including 114 inhabitants of Ramhoritaluk village, 59 inhabitants of Debipur village and 38 inhabitants of

Uttar Chakla village totalling 211 [two hundred and eleven] people [the names of them are mentioned in the formal charge submitted by the prosecution] took them away to Ramhoritaluk School/Union Board Office and tortured keeping them detained there. At the time of said attack you the Razakars accused persons and your accomplices also having plundered the houses of those villages set fire to most of those houses.

Thereafter, in conjunction with the same attack you the two Razakars accused persons along with another Razakar accused Md. Yusuf [died during trial] with the help of your accomplice other Razakars and Pakistani occupation army men took away 09[nine] detainees out of said detained about three hundred unarmed pro-liberation people, namely (1) Momin Ullah son of late Haji Fateh Ali (2) Nuruddin and (3)Shahabuddin, both sons of late Aminullah Miah (4) Serajul Haque son of late Raza Miah (5) Henju Miah son of late Haris Miah (6) Shafiqullah son of late Anarullah (7) Zulfikar Ali son of late Ishaque (8) Anarullah alias Ana son of late Shamsul Haque all of village Ramhoritaluk, and (9) Ramjan Ali son of late Ahammad Ullah of village Uttar Chakla, Police Station Sudharam, District Noakhali, a little bit far towards south and then made them stood in a queue there and shot them all to death and left their dead bodies there. Thereafter, you the Razakars and the Pakistani occupation army men told all other detained unarmed pro-liberation people that if they chanted the slogan 'Pakistan Zindabad' , all of them would be set free , and then the detainees had to chant the slogan to save their lives. Thereafter, at about 11.00 A.M. you the Razakars two accused persons and your accomplice other Razakars and Pakistani occupation army left the crime site, on releasing the detainees.

Thereby, you accused (1) Md. Amir Ahmed alias Razakar Amir Ali and (2) Abul Kalam alias A.K.M. Monsur are hereby charged for participating, abetting, facilitating, contributing and complicity in the commission of offences of murder, abduction , confinement, torture and other inhumane acts [plundering 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.

You accused (1) Md. Amir Ahmed alias Razakar Amir Ali, (2) Md. Joyanal Abedin, and (3) Md. Abdul Quddus, present on dock, 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 (1) Md. Amir Ahmed alias Razakar Amir Ali, (2) Md. Joyanal Abedin ,and (3) Md. Abdul Quddus, present on dock, to which they pleaded not guilty and claimed to be tried.

Another accused (4) Abul Kalam alias A.K.M. Monsur 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 07.08.2016 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)