

International Crimes Tribunal-1

Old High Court Building, Dhaka, Bangladesh

ICT- BD [ICT-1] Case No. 05 of 2016

Present:

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

Chief Prosecutor

vs.

(1) Md. Liakat Ali [absconded], and
(2) Aminul Islam alias Rajab Ali alias K.M. Aminul
Haque alias Md. Aminul Haque Talukder
[absconded]

Order No. 07

Date: 01.11.2016

Mr. Rana Das Gupta, Prosecutor

..... For the prosecution

Mr. Gazi M.H. Tamim, Advocate

..... For both the absconding accused persons 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. Both the accused persons have been absconding and they are being defended by Mr. Gazi M.H. Tamim as State defence counsel, appointed by this Tribunal at the cost of the State.

At the out set, it is to be noted that the 'formal charge' was submitted by the prosecution before this Tribunal against 02(two) accused persons and this Tribunal on 18.05.2016 took cognizance of offences against both the accused persons and then the case came to the stage of charge hearing matter and on 29.09.2016 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 different localities under Lakhai, Astogram and Nasirnagar Police Stations of the then Habiganj, Kishoreganj and Brahmanbaria Sub-Division respectively. 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 under Lakhai, Astogram and Nasirnagar Police Stations of the then Habiganj, Kishoreganj and Brahmanbaria Sub-Division respectively 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 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 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 genocide and crimes against humanity occurred in different places under Lakhai, Astogram and Nasirnagar Police Stations of the then Habiganj, Kishoreganj and Brahmanbaria Sub-Division respectively 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) Md. Liakat Ali [absconded]

Accused Md. Liakat Ali son of late Md. Khelu Miah alias Khelu Miah and late Rezia Khatun of Village Morakori, Police Station Lakhai, District Habiganj was born on 01.01.1954. He passed S.S.C Examination in 1969 from Fandauk High School under Nasirnagar Police Station, District Brahmanbaria. As his mother died in his early age, he was brought up at his maternal uncle Babru Miah alias Babu Miah's residence situated at Fandauk Village under Nasirnagar Police Station, District Brahmanbaria. He was a supporter of Convention Muslim League prior to 1971. Prosecution alleges that during the war of liberation in 1971, accused Md. Liakat Ali being the Razakar commander of Fandauk Union committed the offences of genocide and crimes against humanity in different places under Lakhai, Astogram and Nasirnagar

Police Stations of the then Habiganj, Kishoreganj and Brahmanbaria Sub-Division respectively in close connivance with his associated Razakars, Al-Badars and Pakistani occupation army.

(ii) Accused Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder [absconded]

Accused Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder son of late Abdul Gani Munshi alias Abdul Gani Talukder alias K.H.M.A. Gani of Village Alinagar, Police Station Astogram, District Kishoreganj was born on 18. 10. 1953 [according to Pupils' Admission Register of Astogram High School]. But according to the Tabulation Sheet for the S.S.C Examination, 1969 his date of birth is 09.10.1954. He passed the S.S.C Examination in 1969 from Astogram High School under Kishoreganj District. Thereafter, he was admitted at class XI in Haji Hasmat Ali College, Bhairab in 1970 and became the president of Islami Chhatra Sangha [ICS] of Bhairab. Prosecution alleges that in 1971 during the war of liberation he formed Al-Badar Bahini at Astogram of the then Kishoreganj Sub-Division [now district] with his close associates to actively participate, assist and collaborate with the Pakistani occupation army and he became the commander of that Bahini and he committed the offences of genocide and crimes against humanity in different places under Lakhai, Astogram and Nasirnagar Police Stations of the then Habiganj, Kishoreganj and Brahmanbaria Sub-Division respectively in close connivance with his associated Al-Badars, Razakars and Pakistani occupation army.

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 18.05.2016 took cognizance of offences against both the accused persons as mentioned above. Both the accused persons have been absconding and they neither could have been arrested nor did they surrender.

On 18.05.2016 this Tribunal took cognizance of offences, perpetration of which has been unveiled in course of investigation and on 21.06.2016 ordered publication of notice in two daily newspapers as required under Rule 31 of the International Crimes (Tribunal-1) Rules of Procedure, 2010 against both the absconding accused persons 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 'The Daily Shokaler Khobor' and 'The Daily New Age' dated 23.06.2016 the absconding accused persons did not make them surrendered, and as such, this Tribunal ordered for holding trial *in absentia* against them and appointed Mr. Gazi M.H. Tamim, Advocate to defend both the absconding accused persons as State defence counsel. On 29.09.2016 this Tribunal-1 heard the charge framing matter and fixed today i.e. 01.11.2016 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 Lakhai, Astogram and Nasirnagar Police Stations of the then Habiganj, Kishoreganj and Brahmanbaria Sub-Division respectively by the local Razakars and Al-Badars 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 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. Rana Das Gupta, the learned prosecutor made his submission, drawing our attention to the documents and statement of witnesses collected during investigation. He submitted that both the accused persons belonged to local Razakar and Al-Badar Bahinis. They along with their accomplices

belonging to infamous Razakar and Al-Badar Bahinis and Pakistani occupation army had systematically and deliberately carried out atrocious activities directing pro-liberation civilians around the localities under Lakhai, Astogram and Nasirnagar Police Stations of the then Habiganj, Kishoreganj and Brahmanbaria Sub-Division respectively. Role of both 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 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 and had complicity in the commission thereof.

The learned prosecutor went on to submit that the accused persons were the members of local infamous Razakar and Al-Badar Bahinis, auxiliary force of Pakistani occupation army and in 1971 the Razakar and Al-Badar Bahinis were formed intending to collaborate with the Pakistani 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. Gazi M.H. Tamim, the learned State defence counsel for the accused persons has filed a joint application seeking discharge of both the absconding accused persons. Mr. Gazi M.H. Tamim placing the discharge application

conversely submitted that the accused persons did not belong to Razakar or Al-Badar Bahini. None of the 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. Prosecution has not given any explanation for bringing delayed prosecution against the accused persons. Delayed prosecution also makes accused persons' alleged involvement with the commission of offences doubtful. Therefore, the 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 Lakhai, Astogram and Nasirnagar Police Stations of the then Habiganj, Kishoreganj and Brahmanbaria Sub-Division respectively.

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. Both the accused persons have been absconding and proceeding is going on in their *absentia* in compliance with legal requirements as contemplated in the Act of 1973 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 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 and Al-Badar Bahinis accompanied the group of Razakars and Al-Badars 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 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.

The learned State defence counsel 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 counsel 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 and Al-Badar 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 crimes against humanity and other inhumane acts, and as such, the application seeking discharge of the accused persons as mentioned earlier does not deserve consideration, and therefore, the same is 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 the absconding accused (1) Md. Liakat Ali, and (2) Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder 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. Liakat Ali son of late Md. Khelu Miah alias Khelu Miah and late Rezia Khatun of Village Morakori, Police Station Lakhai, District Habiganj, and (2) Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder son of late Abdul Gani Munshi alias Abdul Gani Talukder alias K.H.M. A. Gani of Village Alinagar, Police Station Astogram, District Kishoreganj as follows:

Charge No. 01

[Genocide, abduction, confinement , torture and plundering committed at village Krishnapur under Lakhai Police Station]

That on 18.09.1971 at about 05.00 A.M you accused Md. Liakat Ali , commander of the then Razakar Bahini of Fandauk Union under Nasirnagar Police Station of the then Brahmanbaria Sub-Division [now district] and accused Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder, the then Al-Badar commander [previously Razakar] of Astogram Police Station of the then Kishoreganj Sub-Division [now district] along with 50/60 Razakars, Al-Badars and 20/25 Pakistani occupation army men by riding 2[two] boats and 3/4 speed boats from the Razakar camp of Astogram having gone to Krishnapur village under Lakhai Police Station of the then Habiganj Sub-Division [now district] attacked the same and started plundering houses. Then you the two accused persons and your said companions having abducted about 50/52 villagers from their houses took them away to the house of Nripen Roy son of late Nani Gopal Roy and

confined them there and at about 01.00 P.M all the detained persons were lined up in rows and then you the two accused persons along with Pakistani occupation army with intent to destroy, in whole or in part, the Hindu religious group killed 43 [fourty-three] detained victims by gun-shots including (1) Radhika Mohon Roy (2) Sunil Sarma (3) Anil Majhi (4) Kishori Mohan Roy (5) Nani Chakraborty (6) Sunil Chakraborty (7) Brajendra Lal Roy (8) Ishan Das (9) Dhirendra Roy (10) Bama Charan Roy (11) Sailesh Roy (12) Subhash Sutradhar, (13) Rebati Roy (14) Saba Ranjan Roy, and (15) Haricharan Roy out of said 50/52 detained victims. Besides, 08[eight] detained victims, namely (i) Haridas Roy (ii) Sukumar Sutradhar (iii) Banabehari Roy [now dead] (iv) Nabadwip Roy [now dead] (v) Krishna Kumar Roy [now dead](vi) Priyatosh Roy (vii) Biswanath Roy, and (viii) Bhusan Sutradhar [now dead] were injured. By committing those atrocities, you the accused persons and your said companions left the village at about 01.45 P.M. and then villagers floated the dead bodies in the nearby haor and river as there was no arrangement for cremation and treatment for the injured victims.

Thereby, you accused (1) Md. Liakat Ali and (2) Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder are hereby charged for participating, abetting, facilitating, contributing and complicity in the commission of offences of genocide and abduction, confinement, torture and plundering [other inhumane act] 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 Act of 1973.

Charge No. 02

[Genocide, torture and plundering committed at village Chandipur Krishnapur under Lakhai Police Station]

That after commission of genocide and crimes against humanity at Krishnapur village under Lakhai Police Station of the then Habiganj Sub-Division [now district] from 05.00 A.M. to 01.45 P.M. on 18.09.1971 as described in charge no. 01, you accused Md. Liakat Ali, commander of Razakar Bahini of Fandauk Union under Nasirnagar Police Station of the then Brahmanbaria Sub-Division [now district] and accused Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder, the then Al-Badar commander [previously Razakar] of Astogram Police Station of the then Kishoreganj Sub-Division [now district] along with other accompanying members of Razakar and Al-Badar Bahinis and Pakistani occupation army rushed towards Chandipur Krishnapur village, about 200/250 yards away from the house of Nripen Roy of Krishnapur village, under Police Station Lakhai of the then Habiganj Sub-Division [now district] and looted the houses of that village and then with intent to destroy, in whole or in part, the Hindu religious group killed 09[nine] Hindu people of which 05[five] victims namely, Chandra Kumar Roy, Joy Kumar Roy, Shanta Roy, Madan Roy and Dashu Suklabaidya, all of said Chandipur Krishnapur village were identified.

In conjunction with the same attack, you the accused persons and your said companions injured Sukomal Roy [now dead] and Sarada Roy [now dead]. Thereafter, the villagers floated the dead bodies in the nearby haor and river after 04.30/05.00 P.M. on that day as there was no arrangement for cremation, and arranged treatment of the injured victims.

Thereby, you accused (1) Md. Liakat Ali, and (2) Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder are hereby charged for participating, abetting, facilitating, contributing and complicity in the commission of offences of genocide, torture and plundering [other inhumane act] 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 Act of 1973.

Charge No. 03

[Genocide, abduction, confinement and torture committed at Gadainagar Krishnapur under Lakhai Police Station]

That after commission of genocide and crimes against humanity at Chandipur Krishnapur village under Lakhai Police Station of the then Habiganj Sub-Division [now district] from 02.00 P.M. to 02.45 P.M. on 18.09.1971 as narrated in charge no. 02, you accused Md. Liakat Ali, commander of Razakar Bahini of Fandauk Union under Nasirnagar Police Station of the then Brahmanbaria Sub-Division [now district] and accused Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder, the

then Al-Badar commander [previously Razakar] of Astogram Police Station of the then Kishoreganj Sub-Division [now district] along with other accompanying members of Razakar and Al-Badar Bahinis and Pakistani occupation army rushed towards Gadainagar Krishnapur village, an adjacent village of Chandipur Krishnapur, under Lakhai Police Station of the then Habiganj Sub-Division [now district] and having abducted 30/32 Hindu people from that village confined them in lines at the out-skirts of the house of Chittaranjan Das and with intent to destroy, in whole or in part, the Hindu religious group at about 03.00 P.M. killed all of them of which 06[six] victims namely, Jagadish Das, Piyari Das, Rasaraj Das, Joygobinda Das, Biswanath Das and Mahadeb Das, all of said Gadainagar Krishnapur village were identified. Besides, 06[six] other detained victims namely, Sunil Das, Bijit Roy [now dead], Umesh Das [now dead], Jyotindra Das[now dead], Dharendra Das [now dead] and Gyanendra Roy [now dead] were injured by bullet shots. Thereafter, the villagers floated the dead bodies in the nearby haor and river after 04.30 P. M. on that day as there was no arrangement for cremation and arranged treatment for the injured victims.

Thereby, you accused (1) Md. Liakat Ali, and (2) Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder are hereby charged for participating, abetting, facilitating, contributing and complicity in the commission of offences of genocide, abduction, confinement and torture 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 Act of 1973.

Charge No. 04

[Genocide, abduction, confinement and torture committed at Krishnapur, Chandipur Krishnapur and Gadainagar villages under Lakhai Police Station and at cremation ghat of Hindus of Paon village under Astogram Police Station]

That during the commission of genocide and crimes against humanity at Krishnapur, Chandipur Krishnapur and Gadainagar Krishnapur villages under Lakhai Police Station of the then Habiganj Sub-Division [now district] from 05.00 A.M. to 03.00 P.M. on 18.09.1971 as narrated in charge nos. 01, 02 and 03, you accused Md. Liakat Ali, commander of Razakar Bahini of Fandauk Union under Nasirnagar Police Station of the then Brahmanbaria Sub-Division [now district] and accused Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder, the then Al-Badar commander [previously Razakar] of Astogram Police Station of the then Kishoreganj Sub-Division [now district] along with other accompanying members of Razakar and Al-Badar Bahinis and Pakistani occupation army detained and confinement (1) Haridas Roy (2) Khitish Chandra Gope (3) Nitish Gope (4) Hiralal Gope (5) Promode Das (6) Sudarshan Das (7) Dinesh Biswas (8) Manoranjan Biswas (9) Narendra Gope, and (10) Joykumar Das, who took shelter in those villages in fleeing condition on boat and at first took them away to Kalidas Roy's ghat situated at Krishnapur village and thereafter took them away therefrom to the

cremation ghat of Hindus of Paon village, which was by the side of Dhaleswari river, under Astogram Police Station of the then Kishoreganj Sub-Division [now district] at 10.00 P.M. Thereafter, you the accused persons with intent to destroy, in whole or in part, the Hindu religious group shot fire towards all the 10[ten] detained victims and also stabbed them by bayonet and of them 08[eight] people died on the spot and the rest 02[two]victims namely, Narendra Gope [now dead] and Joykumar Das [now dead] being seriously injured were subsequently survived. After the departure of you the accused persons and your companions from the crime site, the villagers floated the dead bodies in the nearby Dhaleswari river after 10.00 P.M. on that day as there was no arrangement for cremation, and arranged treatment for the injured victims.

Thereby, you accused (1) Md. Liakat Ali, and (2) Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder are hereby charged for participating, abetting, facilitating, contributing and complicity in the commission of offences of genocide, abduction, confinement and torture 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 Act of 1973.

Charge No. 05

[Murder, abduction, confinement and torture committed at the premises of Post Office, Fandauk Community Hall situated at Fandauk bazaar and at Dutta Bari Canal, all under Nasirnagar Police Station]

That on any day of the first week of the Bengali month Bhadra of 1971 at about 10.00 A.M. you accused Md. Liakat Ali, commander of Razakar Bahini of Fandauk Union under Nasirnagar Police Station of the then Brahmanbaria Sub-Division [now district] and accused Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder, the then Al-Badar commander [previously Razakar] of Astogram Police Station of the then Kishoreganj Sub-Division [now district] in close collaboration with 10/12 armed Razakars and Al-Badars having abducted Rangu Miah son of late Lal Miah from his shop situated at the premises of post office building, Fandauk bazaar and Bacchu Miah from the front side of the said shop, who were supporters of Awami League and the war of liberation, took them away to Razakar camp situated at Fandauk Community Hall and confined and tortured them there. On the next day at about 10.00 A.M. you the accused persons and your companions along with the two victims rushed towards Nasirnagar Police Station by boats and after bringing the victims at a lonely place by the side of Dutta Bari Canal situated at the western side of Dakbungalow under Nasirnagar Police Station at about 12.00 P.M. you the accused persons killed detained victim Rangu Miah and threw his dead body in the canal. The other detained victim Bacchu Miah was taken to an unknown place situated at the Sadar of Nasirnagar Police Station and his relations in exchange of money by contracting with Soab Ali Chowdhury, the convenor of

Razakar Bahini of Nasirnagar Police Station however succeeded to let him off from their clutches.

Thereby, you accused (1) Md. Liakat Ali, and (2) Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder are hereby charged for participating, abetting, facilitating, contributing and complicity in the commission of offences of murder, 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 Act for which you the accused persons have incurred liability under section 4(1) of the Act.

Charge No. 06

[Murder, abduction, confinement and torture committed at 'mazar' situated at Savianagar bazaar and premises of Chowdhury Bari, both of village Savianagar under Astogram Police Station]

That on 07.11.1971 at about 11.00 A.M. you accused Md. Liakat Ali, commander of Razakar Bahini of Fandauk Union under Nasirnagar Police Station of the then Brahmanbaria Sub-Division [now district] and accused Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder, the then Al-Badar commander [previously Razakar] of Astogram Police Station of the then Kishoreganj Sub-Division [now district] along with about 100 [one hundred] armed Razakar and Al-Badar members and a group of Pakistani occupation army having gone to Savianagar bazaar under Police Station Astogram of the then Kishoreganj Sub-Division [now

district] killed Md. Dhanu Laskar alias Dhanu Fakir Khadem of a 'mazar' situated therein and Tarikul, a boy of 10/12 years, the supporters of the war of liberation.

In conjunction with the same attack, you the accused persons and your said companions attacked Chowdhury Bari situated at the western side of Savianagar bazaar at about 12.00 P.M. and then you the accused persons shot fire to Iliyas Khan alias Darbesh Khan, Arju Bhuiyan, Tara Bhuiyan, Khorsheduddin Chowdhury, Md. Habibur Rahman Chowdhury alias Habi Chowdhury and Minu Chowdhury, all of said Chowdhury Bari who died on the spot sustaining bullet hit injuries except victim Minu Chowdhury who luckily survived sustaining bullet hit injury. Thereafter, you the accused persons accompanying with your accomplices having abducted Ramizuddin Chowdhury from the premises of Chowdhury Bari took him away to Khan Bari of Savianagar village at about 12.20 P.M. wherefrom the said victim however saved his life by fleeing away while you the accused persons and your accomplices were killing Monir Khan of said Khan Bari. Thereafter the dead bodies of the victims were buried by the villagers at the family graveyard which was situated at the eastern side of Chowdhury Bari on the night of that day.

Thereby, you accused (1) Md. Liakat Ali, and (2) Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder are hereby charged for participating, abetting, facilitating, contributing and complicity in the commission of offences of murder, 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 Act of 1973.

Charge No. 07

[Extermination and plundering committed at Khan Bari of village Savianagar under Astogram Police Station]

That on 07.11.1971, after the commission of crimes against humanity at Chowdhury Bari of village Savianagar under Astogram Police Station of the then Kishoreganj Sub-Division [now district] from 11.00 A.M. to 12.20 P.M. as narrated in charge no. 06, you accused Md. Liakat Ali, commander of Razakar Bahini of Fandauk Union under Nasirnagar Police Station of the then Brahmanbaria Sub-Division [now district] and accused Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder, the then Al-Badar commander [previously Razakar] of Astogram Police Station of the then Kishoreganj Sub-Division [now district] along with about 25/30 armed Razakar and Al-Badars and a group of Pakistani occupation army rushed to Khan Bari of village Savianagar under Astogram Police Station and having attacked the same Bari you the accused persons and your said companions killed (1) Md. Manir Khan (2) Md. Sahar Khan alias Safar Ali Khan (3) Md. Azizur Rahman Khan (4) Md. Fazlu Khan (5) Md. Chunnu Khan (6) Md. Nazir Khan (7) Md. Ayub Khan alias Ayub Ali Khan (8) Md. Iskander Khan (9)

Abdul Haque Khan (10) Md. Mortuz Khan alias Mortuz Ali Khan, all of said Khan Bari, and (11) Md. Isha Khan alias Mintu of the same village Savianagar.

In conjunction with the same attack, you the accused persons and your said companions plundered the belongings of the said Khan Bari and thereafter at about 01.30 P.M. left the place of occurrence. The dead bodies of the victims except victim Md. Isha Khan alias Mintu were buried at the family graveyard of Khan Bari by the villagers at night on the same day. The dead body of Md. Isha Khan alias Mintu was buried at the family graveyard of Chowdhury Bari.

Thereby, you accused (1) Md. Liakat Ali, and (2) Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder are hereby charged for participating, abetting, facilitating, contributing and complicity in the commission of offences of extermination and other inhumane act [plundering] 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 Act of 1973.

The charges so framed have been read over in English and explained in Bengali in open court.

Both the accused persons, namely 1) Md. Liakat Ali, and (2) Aminul Islam alias Rajab Ali alias K.M. Aminul Haque alias Md. Aminul Haque Talukder 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 04.12.2016 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 counsel is 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)