

International Crimes Tribunal-1

Old High Court Building, Dhaka, Bangladesh

ICT- BD [ICT-1] Case No. 03 of 2016

Present:

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

Chief Prosecutor

vs.

- (1) Abu Saleh Mohammad Abdul Aziz Miah @ Ghoramara Aziz [absconded]**
- (2) Md. Ruhul Amin @ Monju [absconded]**
- (3) Md. Abdul Latif [absconded]**
- (4) Abu Muslim Mohammad Ali [absconded]**
- (5) Md. Najmul Huda [absconded] , and**
- (6) Md. Abdur Rahim Miah (absconded)**

Order No. 06

Date: 28.06.2016

Mr. Syed Sayedul Haque, Prosecutor

..... For the prosecution

Mr. Gazi M.H. Tamim, Advocate

..... For all the 06[six] 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. All the 06[six] 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 06(six) accused persons and this

Tribunal on 24.03.2016 took cognizance of offences against all the accused persons and then the case came to the stage of charge hearing matter and on 16.06.2016 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 the then Gaibandha Sub-Division of District Rangpur. 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 the then Gaibandha Sub-Division 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 the then Gaibandha Sub-Division of District-Rangpur 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 Abu Saleh Md. Abdul Aziz Miah alias Ghoramara Aziz [absconded]

Accused Abu Saleh Md. Abdul Aziz Miah alias Ghoramara Aziz (65), son of late Banes Ali and late Bibijan of Village Chachia Mirganj, Police Station Sundarganj, District Gaibandha, at present Devid Companypara, Police Station and District Gaibandha was born on 01.03.1957 [as per National ID Card]. According to the report of the Superintendent of Police [SP], Gaibandha and local UP Chairman and Member he is about 65 years old. He passed M.A. examination in 1985 from Rajshahi University . He was a Member of the Central Committee of Bangladesh Jamaat-e-Islami and he was elected as a Member of Parliament from Gaibandha constituency for the sessions of 2001-2006. During the war of liberation in 1971 he was an active Member of Jamaat-e-Islami and he formed Peace Committee and Razakar Bahini and he led them in aiding Pakistani occupation army in the locality of the then Gaibandha Sub-Division, prosecution alleges. He committed offences

of genocide and crimes against humanity and other crimes in collaboration with Pakistani occupation army and Razakar Bahini in the locality of the then Gaibandha Sub-Division, prosecution further alleges.

(ii) Md. Ruhul Amin alias Monju [absconded]

Accused Md. Ruhul Amin alias Monju (61) son of late S.M.A. Jobbar and Mst. Jomila Khatun of Village Dharmapur, Matherhat, Police Station Sundarganj, District Gaibandha, at present Masterpara, PDB Lane, Police Station and District Gaibandha was born on 01.10.1954. He passed B.A. examination in 1973 from the Gaibandha Government College. He formed Peace Committee and Razakar Bahini and led them in aiding Pakistani occupation army in his locality in 1971. During the war of liberation in 1971 he committed the offences of genocide and crimes against humanity in collaboration with Pakistani occupation army and Razakar Bahini in the locality of the then Gaibandha Sub-Division, prosecution alleges.

(iii) Md. Abdul Latif (absconded)

Accused Md. Abdul Latif (61), son of late Foim Uddin Bepari and late Moyjan Begum of Village Pachgasi Santiram, Police Station Sundarganj, District Gaibandha was born on 01.03.1954. He passed Kamil examination. During the war of liberation in 1971, he was an active Member of Jamaat-e-Islami and a local leader of Sundarganj Upazilla, District Gaibandha, prosecution alleges.

(iv) Abu Muslim Mohammad Ali (absconded)

Accused Abu Muslim Mohammad Ali (59), son of late Dosim Uddin alias Solim Uddin and Maijan Begum of Village Santiram, presently Purbo Jhinia, Police Station Sundarganj, District Gaibandha was born on 01.03.1957. He passed Fazil examination. During the war of liberation in 1971, he was an active Member of Islami Chhatra Sangha and subsequently, he was an active Member of Jamaat-e-Islami, prosecution alleges.

(v) Md. Najmul Huda (absconded)

Accused Md. Najmul Huda (60), son of late Roich Uddin Sarker and late Jobeda Khatun of Village Santiram, Police Station Sundarganj, District Gaibandha, at present House No. 46, Kajipara Road, Khortoil Paschim Para, P.O. Sataish, Ward No. 51, Police Station Tongi, District Gazipur was born on 01.09.1955. He passed H.S.C. examination. During the war of liberation in 1971 he was an active Member of Jamaat-e-Islami and since 1995 he was an active Member of Bangladesh Nationalist Party [BNP] , prosecution alleges.

(vi) Md. Abdur Rahim Miah (absconded)

Accused Md. Abdur Rahim Miah (62), son of late Siddikur Rahman and late Amena Khatun alias Saleha Begum of Village Paschim Belka, Police Station Sundarganj, District Gaibandha, at present House No. 106, Baluadanga, Road No. 2, Police Station Kotwali, District Dinajpur was born on 01.01.1953. He passed M.A. examination from Rajshahi University in 1978. During the war of liberation in 1971 he actively participated in the anti-liberation activities with the Pakistani occupation army, prosecution alleges.

4. Brief Procedural History

The Chief Prosecutor submitted 'formal charge' against 06 [six] accused persons on having considered the investigation report and documents submitted therewith by the Investigating Agency. This Tribunal on 24.03.2016 took cognizance of offences against all the accused persons as mentioned above. All the accused persons have been absconding and they neither could have been arrested nor did they surrender.

On 24.03.2016 this Tribunal took cognizance of offences, perpetration of which has been unveiled in course of investigation and on 19.04.2016 ordered publication of notice in two daily newspapers as required under Rule 31 of the International Crimes (Tribunal-1) Rules of Procedure, 2010 against all 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 'Daily Janakantha' and 'The Daily Star' dated 21.04.2016 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 all the absconding accused persons as State defence counsel. On 16.06.2016 this Tribunal-1 heard the charge framing matter and fixed today i.e. 28.06.2016 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 the then Gaibandha Sub-Division by the local Razakars accompanied by the Pakistani occupation army, the Investigating Agency submitted its investigation report finding all 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 all 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, all the 06[six] 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. Syed Sayedul Haque, the learned prosecutor made his submission, drawing our attention to the documents and statement of witnesses collected during investigation. He submitted that all the 06[six] accused persons belonged to local 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 the then Gaibandha Sub-Division. 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 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 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 Bahini, an auxiliary force of Pakistani occupation army and in 1971 the Razakar Bahini was 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 all the 06[six] absconding accused persons. Mr. Gazi M.H. Tamim placing the discharge application conversely submitted that the accused persons did not belong to Razakar Bahini and the documents relied upon by the prosecution in this regard

are recently and locally prepared which are not sourced and authoritative. 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 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 the then Gaibandha Sub-Division.

All the 06[six] 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. All the 06[six] 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 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.

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 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 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) Abu Saleh Mohammad Abdul Aziz Miah alias Ghoramara Aziz, (2) Md. Ruhul Amin alias Monju, (3) Md. Abdul Latif, (4) Abu Muslim Mohammad Ali , (5) Md. Najmul Huda, and (6) Md. Abdur Rahim Miah 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. Shohrwardi, Member

Of the International Crimes Tribunal -1

Hereby charge you, accused (1) Abu Saleh Md. Abdul Aziz Miah alias Ghoramara Aziz, son of late Banes Ali and late Bibijan of Village Chachia Mirganj, Police Station Sundarganj, District Gaibandha, at present Devid Companypara, Police Station and District Gaibandha, (2) Md. Ruhul Amin alias Monju, son of late S.M.A. Jobbar and Mst. Jomila Khatun of Village Dharmapur, Matherhat, Police Station Sundarganj, District Gaibandha, at present Masterpara, PDB Lane, Police Station and District Gaibandha (3) Md. Abdul Latif , son of late Foim Uddin Bepari and late Moyjan Begum of Village Pachgasi Santiram, Police Station Sundarganj District Gaibandha (4) Abu Muslim Mohammad Ali, son of late Dosim Uddin alias Solim Uddin and Maijan Begum of Village Santiram, presently Purbo Jhinia, Police Station Sundarganj, District Gaibandha (5) Md. Najmul Huda, son of late Roich Uddin Sarker and late Jobeda Khatun of Village Santiram, Police Station Sundarganj, District Gaibandha, at present House No. 46, Kajipara Road, Khortoil Paschim Para, P.O. Sataish, Ward No. 51, Police Station Tongi, District Gazipur, and (6) Md. Abdur Rahim Miah, son of late Siddikur Rahman and late Amena Khatun alias Saleha Begum of Village Paschim Belka, Police Station Sundarganj, District Gaibandha, at present House No. 106, Baluadanga, Road No. 2, Police Station Kotwali, District Dinajpur as follows:

Charge No. 01

[Abduction, confinement , torture, murder and plundering at Village Malibari under Gaibandha Sadar Police Station]

That on 09 October, 1971 at about 8.00 / 8.30 A.M. a group of 25/30 Pakistani occupation army men accompanied by you Razakars accused (1) Abu Saleh Md. Abdul Aziz Miah alias Ghoramara Aziz, (2) Md. Ruhul Amin alias Monju, (3) Md. Abdul Latif, (4) Abu Muslim Mohammad Ali, (5) Md. Najmul Huda, and (6) Md. Abdur Rahim Miah along with other 14/15 Razakars having launched attack on Village Malibari under Gaibandha Sadar Police Station, District Gaibandha [previously Gaibandha Sadar Police Station of Gaibandha Sub-Division under District Rangpur] captured Ganesh Chandra Barman son of late Chandra Barman from his house and tortured him and then having tied him up by a rope with a tree near the house of Md. Mokbul Hossain set fire to his *lungi* which caused blister upon his body and then you the accused persons and your accomplices also tortured on his blister by a stick in presence of his wife, son and others. You the accused persons and your accomplices also plundered the houses of the persons of the said village by detaining them whenever they came forward to help him [Ganesh Chandra Barman] out.

Thereafter, you the accused persons started torturing the uncle of Md. Mokbul Hossain i.e. Mohammad Ali [now dead] and Md. Monsur Ali alias Amin by confining them altogether at the residence of Md. Mokbul Hossain and at about 10.00 A.M. you the accused persons took them all away to Dariapur bridge and killed Ganesh Chandra Barman by throwing him therefrom in an overturning manner by binding his hands and legs. After flinging Ganesh Chandra Barman, you the accused persons and your

accomplices lobbed pebbles and bricks so that he could not float on the river.

The dead body of Ganesh Chandra Barman could not be traced even.

Then you the accused persons and your accomplices released Md. Mokbul Hossain from the Dariapur bridge and after crossing the river by boat set Md. Monsur Ali alias Amin free and took away Mohammad Ali [now dead] to Kamarjani Pakistani occupation army camp from where he was released on the next day [10.10.1971] on recommendation of a Bihari [non-Bengali].

Thereby, you accused (1) (1) Abu Saleh Md. Abdul Aziz Miah alias Ghoramara Aziz, (2) Md. Ruhul Amin alias Monju, (3) Md. Abdul Latif, (4) Abu Muslim Mohammad Ali , (5) Md. Najmul Huda, and (6) Md. Abdur Rahim Miah are hereby charged for participating , abetting, facilitating, contributing and complicity in the commission of offences of abduction, confinement, torture, murder 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)(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

[Abduction, confinement , torture and murder of Boyz Uddin of Village Pasgasi Shantiram, Police Station Sundarganj, District Gaibandha]

That on 09 October, 1971 in the morning a non-combatant freedom-fighter Boyz Uddin son of late Alam Uddin of village Pasgasi Shantiram, Police Station Sundarganj, District Gaibandha went to Gaibandha for his

family urgency and in the afternoon when he was returning home at 4.00 P.M. you the Razakars accused (1) Abu Saleh Md. Abdul Aziz Miah alias Ghoramara Aziz (2) Md. Ruhul Amin alias Monju, (3) Md. Abdul Latif, (4) Abu Muslim Mohammad Ali , (5) Md. Najmul Huda, and (6) Md. Abdur Rahim Miah along with other Razakars captured him on the Matherhat bridge and took him away to the Razakar camp situated at Matherhat Government Primary School and tortured him whole night having kept him confined there.

On 10 October, 1971 in the morning you the accused persons and your accomplices were taking away detained Boyz Uddin to Sundarganj Pakistani occupation army camp situated at the C.O [Circle Officer] Office, and when you the accused persons and your accomplices along with Boyz Uddin reached Mojumder hut, you were attacked by the villagers and the persons who came to the hut and then you opened fire. As a result the attackers fled away and then you the accused persons and your accomplices took away Boyz Uddin to Sundarganj Pakistani occupation army camp.

Thereafter, you the accused persons in collaboration with the Pakistani occupation army men, after brutally torturing Boyz Uddin for 03[three] days in the Sundarganj Pakistani occupation army camp, on 13 October, 1971 in the afternoon killed him by gun shot on the bank of the river Tista nearby the said camp and buried his dead body with soil along with other dead bodies. Subsequently, a Bodhdhovumi was established on the east side of the Sundarganj Upazilla Office memorizing the prodigious sacrifice of the martyrs.

Thereby, you accused (1) Abu Saleh Md. Abdul Aziz Miah alias Ghoramara Aziz, (2) Md. Ruhul Amin alias Monju, (3) Md. Abdul Latif, (4) Abu Muslim Mohammad Ali, (5) Md. Najmul Huda, and (6) Md. Abdur Rahim Miah 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 Act for which you the accused persons have incurred liability under section 4(1) of the Act.

Charge No. 03

[Confinement, torture and murder of U.P. Chairmen and Members of different Union Parishads under Sundarganj Police Station]

That on 10 October, 1971, a group of Pakistani occupation army men accompanied by you Razakars accused (1) Abu Saleh Mohammad Abdul Aziz Miah alias Ghoramara Aziz, (2) Md. Ruhul Amin alias Monju, (3) Md. Abdul Latif, (4) Abu Muslim Mohammad Ali, (5) Md. Najmul Huda, and (6) Md. Abdur Rahim Miah, for the purpose of killing pro-liberation civilian people, went to the houses of (i) Abdul Jalil Sarkar, U.P. Member, No. 7 Ramjibon U.P (ii) Nabi Box Sarkar, U.P. Member, No. 9 Saporhati U.P. (iii) Afsar Ali Khan, U.P. Member, No. 9 Saporhati U.P. (iv) Bais Uddin Sarkar, U.P Member, No. 9 Saporhati U.P (v) Gias Uddin Sarkar, U.P Member, No. 9 Saporhati U.P (vi) Saimuddin Miah, Ex-Chairman, No. 10 Shantiram U.P (vii) Monsur Ali Sarkar, U.P Member, No. 10 Shantiram U.P (viii) Lutfur Rahman

Pramanik alias Badshah Miah, U.P Member , No. 10 Shantiram U.P (ix) Pocha Mamud Bepari, U.P Member, No. 10 Shantiram U.P (x) Toyes Uddin Ahmed, U.P Chairman, No. 13 Sripur U.P (xi) Akbar Ali Sarkar, U.P Member, No. 13 Sripur U.P (xii) Momtaz Ali Sarkar, U.P Member, No. 13 Sripur U.P, and (xiii) Muslim Ali Sarkar , U.P Member, No. 13 Sripur U.P, all are of Police Station Sundarganj of the then Sub-Divsiion Gaibandha and gave them threat telling that they all had to be present at the Sundarganj Pakistani occupation army camp at 10.00 A.M. on the next day [11.10.1971], otherwise their houses would be set on fire and family members would be killed. In fear of their own and family members, all the above mentioned 13[thirteen] U.P Chairmen and Members on the next day [11.10.1971] went to the Pakistani occupation army camp situated at Sundarganj C.O [Circle Officer] office [presently Upazilla Parishad]. Then you the accused persons wrongfully detaining two days in the said camp tortured them in order to obtain information of the freedom-fighters.

Thereafter, on recommendation of various persons Pakistani occupation army released another 3[three] captured persons, namely (1) Abdul Gafur Sarkar [now dead], U.P. Member, No. 6 Sarbanando U.P, (2) Abdul Aziz Moulovi [now dead], U.P Chairman, No. 10 Shantiram, and (3) Md. Soms Uddin Mondol [now dead], U.P Member, No. 13 Sripur U.P.

Thereafter, on 13 October, 1971 you the accused persons killed the above mentioned 13[thirteen] U.P Chairmen and Members by firing gun-shots on the bank of river Tista nearby the Pakistani occupation army camp and

buried their dead bodies with soil. Subsequently a memorial was constructed in the place of that occurrence.

Thereby, you accused (1) Abu Saleh Mohammad Abdul Aziz Miah alias Ghoramara Aziz, (2) Md. Ruhul Amin alias Monju, (3) Md. Abdul Latif, (4) Abu Muslim Mohammad Ali , (5) Md. Najmul Huda, and (6) Md. Abdur Rahim Miah are hereby charged for participating, abetting , facilitating, contributing and complicity in the commission of offences of 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 Act for which you the accused persons have incurred liability under section 4(1) of the Act.

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

All the 06[six] accused persons, namely (1) Abu Saleh Mohammad Abdul Aziz Miah alias Ghoramara Aziz, (2) Md. Ruhul Amin alias Monju, (3) Md. Abdul Latif, (4) Abu Muslim Mohammad Ali, (5) Md. Najmul Huda, and (6) Md. Abdur Rahim Miah 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 02.08.2016 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 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)