

International Crimes Tribunal-1

Old High Court Building, Dhaka, Bangladesh

ICT- BD [ICT-1] Case No. 07 of 2016

Present:

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

Chief Prosecutor

vs.

- (1) Md. Abdur Rahman**
- (2) Sheikh Md. Abdul Majid alias Majit Maulana [absconded]**
- (3) Md. Abdul Khalek Talukder [absconded]**
- (4) Md. Kabir Khan [absconded]**
- (5) Abdus Salam Beg [absconded], and**
- (6) Md. Nuruddin alias Raddin (absconded)**

Order No. 09

Date: 19.04.2017

Mr. Md. Muklesur Rahman Badal, Prosecutor
..... For the prosecution

Mr. Gazi M.H. Tamim, Advocate

..... For accused Md. Abdur Rahman as engaged counsel and for absconding accused Sheikh Md. Abdul Majid alias Majit Maulana, Md. Abdul Khalek Talukder, Md. Kabir Khan, Abdus Salam Beg, and Md. Nuruddin alias Raddin 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 total 06[six] accused persons except accused Md. Abdur Rahman, 05[five] other accused persons have been absconding and they are being defended by Mr. Gazi M.H. Tamim, Advocate as State defence counsel, appointed by this Tribunal at the cost of the State and

accused Md. Abdur Rahman, now in jail custody, is being defended also by Mr. Gazi M.H. Tamim as his engaged counsel. .

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 12.06.2016 took cognizance of offences against all the accused persons and then the case came to the stage of charge hearing matter and on 08.12.2016 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 Purbodhala Police Station of the then Netrokona Sub-Division. 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 crimes against humanity as narrated in the formal charge allegedly occurred in different places under Purbodhola Police Station of the then Netrokona 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 crimes against humanity occurred in different places under Purbodhala Police Station of the then Netrokona Sub-Division 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. Abdur Rahman

Accused Md. Abdur Rahman, son of late Hossain Ahmad alias Hossain Maulavi and late Asia Khatun alias Ambia Khatun of Village Barha [Ganakpara], Police Station Purbodhala, District Netrokona was born on 05.03.1947 [as per National ID Card]. He studied upto Class III in Baraha Gonokpara Eftadeya Madrasa. He was involved in the politics of Muslim League. During the war of liberation in 1971, he joined the local Razakar Bahini of Purbodhala Police Station to actively oppose the liberation war and he committed the offences of murder, rape, looting, arson, etc. in collaboration

with the Pakistani occupation army, prosecution alleges. After the change of political situation in 1975 he became active in the Bangladesh National Party [BNP].

(ii) Sheikh Md. Abdul Majid alias Majit Maulana [absconded]

Accused Sheikh Md. Abdul Majid alias Majit Maulana, son of late Miraj Ali and late Liazer Maa of Village Purbo Maudam, Police Station Purbodhala, District Netrokona was born on 01.01.1949 [as per National ID Card]. He passed Alim Examination from Lalbagh Kharizi Madrasa. Prior to 1971, he was connected with the politics of Nezam-e-Islami party. In 1971, during the war of liberation he joined local Thana Peace Committee and was also a potential member of local Razakar Bahini and actively collaborated with the Pakistani occupation army in commission of crimes, prosecution alleges. Presently, he is a supporter of Jamaat-e-Islami [JEI].

(iii) Md. Abdul Khalek Talukder (absconded)

Accused Md. Abdul Khalek Talukder, son of late Rustom Ali Talukder and late Sundarunesa of Village Kharchail, Police Station Purbodhala, District Netrokona was born on 03.08.1948 [as per National ID Card]. He passed S.S.C. Examination from Purbodhala Jagat Moni Pilot High School. He being a supporter of Muslim League played active role in the National Assembly Election held in 1970. In 1971, during the war of liberation he joined the Razakar Bahini of Purbodhala Thana and took active role to collaborate with the Pakistani occupation army in commission of all their heinous crimes,

prosecution alleges. After political change in 1975 he joined Bangladesh Nationalist Party [BNP] in 1981. Thereafter, since 1983 to 1990 he was an active supporter of Jatyo Party. In 1991, he joined Jamaat-e-Islami [JEI]. In 1996, he joined the Awami League and he became a member of Purbodhala Thana Awami League Committee.

(iv) Md. Kabir Khan (absconded)

Accused Md. Kabir Khan, son of late Sadar Khan and late Amena Khatun of Village Nayapar [Thana Road], Police Station Purbodhala, District Netrokona was born on 15.06.1945 [as per National ID Card]. Prior to 1971, he was involved in the politics of Muslim League. During the war of liberation in 1971 he joined the local Razakar Bahini and committed the offences of crimes against humanity against the pro-liberation unarmed Bengali civilians and he also collaborated with the Pakistani occupation army in their heinous crimes, prosecution alleges. Presently, he is a supporter of Bangladesh Nationalist Party [BNP].

(v) Abdus Salam Beg (absconded)

Accused Abdus Salam Beg, son of Akram Ali Beg and late Liazer Maa of Village Purbo Moudam, Police Station Purbodhala, District Netrokona was born on 02.04.1955 [as per National ID Card]. Prior to 1971 he was an active worker of Muslim League. In 1971, during the war of liberation he joined the local Razakar Bahini and collaborated with the Pakistani occupation army in

commission of heinous crimes, prosecution alleges. At present he is a supporter of Bangladesh Nationalist Party [BNP].

(vi) Md. Nuruddin alias Raddin (absconded)

Accused Md. Nuruddin alias Raddin, son of late Rajab Ali alias Lengra Abon and late Mewajan of Village Purbo Moudam, Police Station Purbodhala, District Netrakona was born on 05.02.1957 [as per National ID Card]. Prior to 1971, he was a supporter of Nezam-e-Islami party. During the war of liberation in 1971, he joined the local Razakar Bahini and actively collaborated with the Pakistani occupation army in the commission of crimes, prosecution alleges. Presently, he is a supporter of Bangladesh Nationalist Party [BNP].

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 12.06.2016 took cognizance of offences against all the 06[six] accused persons as mentioned above. Out of six accused persons, 05[five] accused persons have been absconding and they neither could have been arrested nor did they surrender.

On 12.06.2016 this Tribunal took cognizance of offences, perpetration of which has been unveiled in course of investigation and on 28.07.2016 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

05[five] 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 Janakantha' and 'The Dhaka Tribune' dated 29.07.2016 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 05[five] absconding accused persons as State defence counsel. On 08.12.2016 this Tribunal-1 heard the charge framing matter and fixed today i.e. 24.01.2017 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 Purbodhala Police Station of the then Netrakona Sub-Division by the local Razakars and sometimes local Razakars accompanied by the Pakistani occupation army, the Investigating Agency submitted its investigation report before the Chief Prosecutor finding all the accused persons *prima facie* responsible for the atrocities.

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, facilitated, abetted, aided and had complicity in the commission of the alleged offences 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. Md. Moklesur Rahman Badal, 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 sometimes accompanied by the Pakistani occupation army had systematically and deliberately carried out atrocious activities directing pro-liberation civilians around the localities under Purbodhala Police Station of the then Netrakona 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 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, Advocate for accused Md. Abdur Rahman as his engaged counsel and for other 05[five] absconding accused persons as State defence counsel has filed an application seeking discharge of accused Md. Abdur Rahman, now in detention, and another application for discharge of 05[five] other absconding accused persons. Mr. Gazi M.H. Tamim placing the discharge applications 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 Purbodhala Police Station of the then Netrakona 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 crimes against humanity as narrated in the formal charge. Out of total 06[six] accused persons, 05[five] 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 wartime situation directing civilians in

systematic manner. The undeniable context prevailing in 1971 in the territory of Bangladesh is itself sufficient to the unerring inference of a 'widespread and systematic attack' on Bangladeshi self-determined population. Therefore, the offences committed under this context and in violation of customary international law during 1971 independence war, patently demonstrate that those were of course consequence of part of a 'widespread' or 'systematic' attack directed against the unarmed civilian population. Under section 19(1) of the Act of 1973, the Tribunal can take judicial notice of the above context that must prompt a person of common prudence that the offences of crimes against humanity as mentioned in section 3(2)(a) of the Act of 1973 were inevitably the effect of part of widespread or systematic attack.

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

It is now settled that the 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 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 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 applications seeking discharge of the accused persons as mentioned earlier do not deserve consideration, and therefore, the same are hereby rejected.

Accordingly, now we proceed to read out the charges framed. On perusal of the formal charge, statement of witnesses along with other documents submitted by the prosecution we are of the view that there are sufficient and substantial materials and grounds before the Tribunal to frame charges against accused (1) Md. Abdur Rahman, (2) Sheikh Md. Abdul Majid alias Majit Maulana [absconded], (3) Md. Abdul Khalek Talukder [absconded] (4) Md. Kabir Khan [absconded], (5) Abdus Salam Beg[absconded], and (6) Md. Nuruddin alias Raddin [absconded] for the offences allegedly committed during the war of liberation in 1971 as specified under section 3(2)(a)(g)(h) of the Act of 1973 for which they are alleged to be criminally liable under section 4(1) of the said Act. The charges are thus framed against them in the following manner:

Charges

We,

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

Of the International Crimes Tribunal -1

Hereby charge you, accused (1) Md. Abdur Rahman, son of late Hossain Ahmad alias Hossain Maulavi and late Asia Khatun alias Ambia Khatun of Village Barha [Ganakpara], Police Station Purbodhala, District Netrokona (2) Sheikh Md. Abdul Majid alias Majit Maulana, son of late Miraj Ali and late Liazer Maa of Village Purbo Maudam, Police Station Purbodhala, District Netrokona (3) Md. Abdul Khalek Talukder, son of late Rustom Ali Talukder and late Sundarunesa of Village Kharchail, Police Station Purbodhala, District Netrokona (4) Md. Kabir Khan, son of late Sadar Khan and late Amena Khatun of Village Nayapar [Thana Road], Police Station Purbodhala, District Netrokona (5) Abdus Salam Beg, son of Akram Ali Beg and late Liazer Maa of Village Purbo Moudam, Police Station Purbodhala, District Netrokona, and (6) Md. Nuruddin alias Raddin, son of late Rajab Ali alias Lengra Abon and late Mewajan of Village Purbo Moudam, Police Station Purbodhala, District Netrakona as follows:

Charge No.01

[Offences of abduction, looting and murder of Dr. Hem Sundar Bagchi, Haridas Singh and Megnath]

That on 01-05-1971 at about 11.00 A.M. you accused Razakars (1) Md. Abdur Rahman (2) Sheikh Md. Abdul Majid alias Majit Maulana (3) Md. Abdul Khalek Talukdar, and (4) Md. Kabir Khan along with other 15/20 Razakars and a group of Pakistani occupation army having attacked the house of Dr. Hem Sundar Bagchi of villlage Rajpara under Purbodhala Police Station of the then Netrakona Sub-Division abducted his male domestic aid Megnath

and took him away to the bank of a pond and shot him to death there. Then you the accused persons and your said accomplices also detained Dr. Hem Sundar Bagchi from his house along with his relative Haridas Singh of village Ghagra and killed them there, and then looted the households from the said house and left the crime site. Then the villagers buried the dead bodies of Dr. Hem Sundar Bagchi and Haridas Singh at the lemon garden of western side of that house and Megnath under a 'Bakul Tree', near the bank of the said pond.

Thereby, you accused (1) Md. Abdur Rahman (2) Sheikh Md. Abdul Majid alias Majit Maulana (3) Md. Abdul Khalek Talukdar, and (4) Md. Kabir Khan are hereby charged for participating, abetting, facilitating, contributing and complicity in the commission of offences of murder, abduction and other inhumane act [looting] as crimes against humanity as part of systematic attack directed against unarmed civilians as enumerated in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) of the said Act for which you the accused persons have incurred liability under section 4(1) of the said Act.

Charge No.02

[Abduction, confinement and torture of Abdul Gani Sarker alias Charu Miah of village Barha under Purbodhala Police Station]

That on 25-07-1971 at about 12.00 A.M. Abdul Gani Sarker alias Charu Miah son of late Moizuddin Sarker of village Barha under Police Station Purbodhala of the then Netrakona Sub-Division was going to Purbodhala bazaar and when he reached local rail line situated at the western side of his

house, you accused Razakars (1) Md. Abdur Rahman (2) Sheikh Md. Abdul Majid alias Majit Maulana, and (3) Md. Abdul Khalek Talukdar along with other 15/20 armed Razakars detained him and tortured him. Then you the accused persons and your cohort Razakars having abducted Abdul Gani Sarker alias Charu Miah took him away to the local Jariabazar Razakar camp where he was subjected to severe torture. Two days later on he got released from the said Razakar camp by the intervention of the then local Chairman Shafi Muslem Uddin. Due to torture the victim Abdul Gani Sarker alias Charu Miah became dumb and he died in 2005.

Thereby, you accused (1) Md. Abdur Rahman (2) Sheikh Md. Abdul Majid alias Majit Maulana, and (3) Md. Abdul Khalek Talukder are hereby charged for participating, abetting, facilitating, contributing and complicity in the commission of offences of abduction, confinement and torture as crimes against humanity as part of systematic attack directed against unarmed civilians as enumerated in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) of the said Act for which you the accused persons have incurred liability under section 4(1) of the said Act.

Charge No.03

[Offences of abduction, confinement, torture, looting, arson and murder of Abdul Khalek Talukder of village Barha under Purbodhala Police Station]

That on 21.08.1971 at about 01.00 P.M. you accused Razakars (1) Md. Abdur Rahman (2) Sheikh Md. Abdul Majid alias Majit Maulana, and (3) Md. Abdul Khalek Talukder along with other 15/20 armed Razakars attacked the

house of freedom-fighter Abdul Kadir Talukder son of late Ansor Uddin Talukder of village Barha under Police Station Purbodhala of the then Netrakona Sub-Division to capture him, and having looted the households set the house on fire. On being failed to collect any information about freedom-fighter Abdul Kadir Talukder, you the accused persons and your cohort Razakars abducted Abdul Khalek Talukder, brother of said freedom-fighter Abdul Kadir Talukder and took him away to Jariabazar Razakar camp under Purbodhala Police Station and having kept confined tortured him there.

Thereafter, on the following night of 21.08.1971 you the accused persons and your cohort Razakars took the victim Abdul Khalek Talukder at the place in front of Jariabazar China CLY Project where he was shot to death and then his dead body was thrown into the river Kangsha. The dead body of the victim could not be recovered.

Thereby, you accused (1) Md. Abdur Rahman (2) Sheikh Md. Abdul Majid alias Majit Maulana, and (3) Md. Abdul Khalek Talukder are hereby charged for participating, abetting, facilitating, contributing and complicity in the commission of offences of abduction, confinement, torture, murder and other inhumane acts [looting and arson] as crimes against humanity as part of systematic attack directed against unarmed civilians as enumerated in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) of the said Act for which you the accused persons have incurred liability under section 4(1) of the said Act.

Charge No. 04

[Offences of abduction, confinement, torture and murder of Mohir Uddin of village Barha under Purbodhala Police Station]

That on being informed about the arrival of Abdul Mannan alias Dudu Miah, an organizer of freedom-fighters, at his house at village Barha under Police Station Purbodhala of the then Netrakona Sub-Division to meet with his father Mohir Uddin on the following night of 27.08.1971, you the accused Razakars (1) Md. Abdur Rahman (2) Sheikh Md. Abdul Majid alias Majit Maulana (3) Md. Abdul Khalek Talukder (4) Abdus Salam Beg, and (5) Md. Nuruddin alias Raddin along with other 15/20 armed Razakars besieging his house started searching and being failed to find out Abdul Mannan alias Dudu Miah detained his father Mohir Uddin and tortured him there to extract information about the whereabouts of his said son. But on failure to get any information about his son you the accused persons and your cohort Razakars Mohir Uddin took him away on forcible capture to the Razakar camp set up in Jariabazar dakbungalow where he was kept confined for 3[three] days.

Thereafter, on the following night of 30.08.1971 you the accused persons and your cohort Razakars having taken the victim Mohir Uddin away to the Jariabazar China Clay Project under Purbodhala Police Station shot him to death there and threw his dead body in the Kangsha river. Later his dead body could not be traced.

Thereby, you accused (1) Md. Abdur Rahman (2) Sheikh Md. Abdul Majid alias Majit Maulana (3) Md. Abdul Khalek Talukder (4) Abdus Salam

Beg, and (5) Md. Nuruddin alias Raddin are hereby charged for participating, abetting, facilitating, contributing and complicity in the commission of offences of abduction, confinement, torture and murder as crimes against humanity as part of systematic attack directed against unarmed civilians as enumerated in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) of the said Act for which you the accused persons have incurred liability under section 4(1) of the said Act.

Charge No. 05

[Offences of abduction, confinement, torture and murder committed between 12 to 16 November, 1971 at different places of Purbodhala Police Station]

That on 12.11.1971 at 12.00 A.M. while Abdur Razzak [now dead] son of late Ismail Hossain and Abdul Motaleb [now dead] son of late Abdul Aziz, both of Village Purbo Moudam under Police Station Purbodhala, District Netrakona [previously sub-division] were cultivating their land at village Moudam, you accused Razakars (1) Sheikh Md. Abdul Majid alias Majit Maulana (2) Md. Nuruddin alias Raddin (3) Abdus Salam Beg, and (4) Md. Abdur Rahman accompanied by 8/10 other armed Razakars having detained them from the field with two ploughing cows took them away to the camp of Pakistani occupation army set up at Purbodhala Thana Bhaban and kept them confined there, and in the evening you the accused persons and your accomplice Razakars set them free, keeping those cows with them.

Thereafter, on the following day [13.11.1971] at about 03.00 P.M. while Md. Joymat Ali [now dead] son of late Asmat Talukder of Village Purbo

Moudam under Police Station Purbodhala, District Netrakona [previously sub-division] went to Razakar camp set up at Purbodhala Station bazaar to bring those cows back, you accused Razakars (1) Sheikh Md. Abdul Majid alias Majit Maulana (2) Md. Abdul Khalek Talukder (3) Md. Kabir Khan (4) Md. Abdur Rahman (5) Abdus Salam Beg, and (6) Md. Nuruddin alias Raddin along with other 10/12 armed Razakars having detained took him to C.O. Office army camp and Razakar camp situated at Purbodhala Thana camp where he was kept confined and tortured for 3[three] days.

Thereafter, on 16.11.1971 at about 10.00 A.M. you the above mentioned six accused persons along with other Razakars having gone to Moudam village under Purbodhala Police Station detained Lalchand [now dead] son of late Nur Hossain from his house and then took him away to the Razakar camp at Purbodhala Thana and kept him confined there. On the same day at about 04.00 P.M. you the above mentioned six accused persons and your accomplices having detained Fazar Ali son of late Ibrahim Haji of village Sagir and Md. Imad Ali son of late Doulet Sheikh of village Padurkanda, both under Purbodhala Police Station from Mongolbaria bazaar and Mithai Mohal respectively took them away to the Razakar camp situated at Purbodhala Thana Bhaban and kept them confined there. Thereafter, at late night you the six accused persons and your accomplices having taken away the victims Md. Joymat Ali, Lalchand, Fazar Ali and Md. Imad Ali, who were supporters of the liberation war, to under the Trimohini bridge shot them there and of them victims Fazar Ali and Md. Imad Ali died on the spot sustaining bullet hit injury

and the two other victims Md. Joymat Ali and Lalchand sustaining bullet hit injury however escaped jumping into the Lawari river. Thereafter, local doctor gave them medical treatment and after 7[seven] days these two victims returned to their houses. The dead body of the victim Fazar Ali could not be traced even.

Thereby, you accused (1) Sheikh Md. Abdul Majid alias Majit Maulana (2) Md. Abdul Khalek Talukder (3) Md. Kabir Khan (4) Md. Abdur Rahman (5) Abdus Salam Beg, and (6) Md. Nuruddin alias Raddin are hereby charged for participating, abetting, facilitating and complicity in the commission of offences of abduction, confinement, torture and murder as crimes against humanity as part of systematic attack directed against unarmed civilians as enumerated in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) of the said Act for which you the accused persons have incurred liability under section 4(1) of the said Act.

Charge No.06

[Offences of abduction, confinement, torture, looting, vendalization and murder of Haji Siraj Mondol alias Chandu Haji of village Purbo Moudam under Purbodhala Police Station]

That on 20.11.1971 while Haji Siraj Mondol alias Chandu Haji son of late Nazir Ali Mondol of village Purbo Moudam under Purbodhala Police Station of the then Netrakona Sub-Division had been catching fish with his son Sahed in the Rameswar canal, on that day at about 05.00 P.M. you accused Razakars (1) Md. Abdur Rahman (2) Sheikh Md. Abdul Majid alias Majit Maulana (3) Md. Abdul Khalek Talukder (4) Md. Kabir Khan (5) Abdus Salam

Beg, and (6) Md. Nuruddin alias Raddin along with other 10/15 armed Razakars suddenly attacked him [Haji Siraj Mondol alias Chandu Haji] and detained him and then having gone to his house looted his households and then vandalized his house and then the victim was taken away to the Razakar camp set up at Purbodhala Thana where he was kept confined and subjected to torture.

Thereafter, on the next day [21.08.1971] in the morning you the accused persons having taken the victim Haji Siraj Mondol alias Chandu Haji away from the said Razakar camp to the underneath of Purbodhala railway bridge killed him there by gun shot and threw his dead body in the Dholai river. Subsequently, his relatives could not trace his dead body.

Thereafter, on 23.11.1971 Md. Abul Hashim and Md. Kachhum Ali, son and nephew respectively of the victim Haji Siraj Mondol alias Chandu Haji went to Purbodhala bazaar, and on that day at about 03.00 P.M. you the accused persons and your cohort Razakars abducted them from nearby Purbodhala railway station Jame Mosque and took them away to Purbodhala Thana Razakar camp where they were kept confined and tortured by you and due to torture victim Md. Abul Hashim became deaf. Next day the relatives of the victims however managed to get the victims released from the Razakar camp in exchange of money.

Thereby, you accused (1) Md. Abdur Rahman (2) Sheikh Md. Abdul Majid alias Majit Maulana (3) Md. Abdul Khalek Talukder (4) Md. Kabir Khan (5) Abdus Salam Beg, and (6) Md. Nuruddin alias Raddin are hereby

charged for participating, abetting, facilitating, contributing and complicity in the commission of offences of abduction, confinement, torture, murder and other inhumane acts [looting and vandalization] as crimes against humanity as part of systematic attack directed against unarmed civilians as enumerated in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) of the said Act for which you the accused persons have incurred liability under section 4(1) of the said Act.

Charge No. 07

[Offence of rape committed upon Jamila Khatun alias Nayeber Maa of village Purbobudi under Purbodhala Police Station]

That on 25.11.1971 at about 03.00 P.M. you accused (1) Md. Abdur Rahman (2) Sheikh Md. Abdul Majid alias Majit Maulana (3) Md. Abdul Khalek, and (4) Md. Kabir Khan and your neighbour Ason Ali [now dead] along with a group of Pakistani occupation army men went to the house of Jamila Khatun alias Nayeber Maa of village Purbobudi under Purbodhala Police Station of the then Netrakona Sub-Division and then 3[three] Pakistani occupation army men forcibly raped her in her house, and at one stage she lost her sense. Thereafter, victim Jamila Khatun alias Nayeber Maa went under treatment secretly and she remained sick for a long time. In fear of social ostracism she with her two kids went to her father's house at village Kakoirgora.

Thereby, you accused (1) Md. Abdur Rahman (2) Sheikh Md. Abdul Majid alias Majit Maulana (3) Md. Abdul Khalek, and (4) Md. Kabir Khan are

hereby charged for participating, abetting, facilitating, aiding, contributing and complicity in the commission of offence of rape as crime 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 is punishable under section 20(2) of the said Act for which you the accused persons have incurred liability under section 4(1) of the said Act.

You accused Md. Abdur Rahman has heard and understood the aforesaid charges which have been read over in open court in your presence.

Question: Do you plead guilty or not ?

Answer:

The charges so framed have been read over in English and explained in Bengali to accused Md. Abdur Rahman, present on dock, to which he pleaded not guilty and claimed to be tried.

Other 05[five] accused persons, namely (1) Sheikh Md. Abdul Majid alias Majit Maulana (2) Md. Abdul Khalek Talukder (3) Md. Kabir Khan (4) Abdus Salam Beg, and (5) Md. Nuruddin alias Raddin 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 12.06.2017 be fixed for opening statement and examination of prosecution witnesses. The trial shall be continuing on every working day until further order. Prosecution is directed to submit copy of all the documents it relies upon, for the purpose of furnishing the same with the defence, if

meanwhile the same are not supplied to the defence. At the same time the defence 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)