

**International Crimes Tribunal-1**  
**Old High Court Building, Dhaka, Bangladesh.**

**ICT-BD [ICT-1] Case No.04 of 2017**

**Present:**

**Justice Md. Shahinur Islam, Chairman**

**Justice Amir Hossain, Member**

**Judge Md. Abu Ahmed Jamadar, Member**

**Order No.07**

**15 May, 2018**

**The Chief Prosecutor**

**Vs**

**(1) Md. Abdul Aziz alias Habul ,**

**(2) Md. Abdul Mannan alias Monai and**

**(3) Md. Abdul Matin**

**Mr. Mokhlesur Rahman Badal, Prosecutor: For the prosecution**

**Mr. Abdus Sattar Palwan, Advocate: For accused (1) Md. Abdul Aziz alias Habul and (2) Md. Abdul Matin [absconding]**

**Mr. M. Sarwar Hossain, Advocate : For accused (3) Md. Abdul Mannan alias Monai**

## [Decision on framing charges]

Two accused (1) Md. Abdul Aziz alias Habul and (2) Md. Abdul Mannan alias Monai are present before this Tribunal as have been produced from prison. Another accused (3) Md. Abdul Matin has been absconding. On closure of hearing on charge framing matter and discharge applications on 20.03.2018 today the record is taken up for order on indictment matter.

Before we pass the order, we consider it indispensable to summarize a brief portrayal of the settled historical context of the case and succinct argument advanced by both the prosecution and the defence, in course of hearing.

### **I. Formation of the Tribunal**

1. This International Crimes Tribunal-1 (hereinafter referred to as the “Tribunal”) has been constituted under the International Crimes (Tribunals) Act enacted in 1973 (hereinafter referred to as the “Act”) by the sovereign Parliament of Bangladesh intending to provide provisions for the detention, prosecution and punishment of member of armed force[ Pakistani occupation army], individual or group of individuals or member or members of auxiliary force as defined in the Act responsible for the offences of genocide, crimes against humanity, war crimes as enumerated in sub section (2) of section 3 of the Act perpetrated in the territory of Bangladesh in 1971 during the war of liberation. The preamble of the Act reflects this core objective. However, the government established ‘Tribunal’ (Tribunal-1) on 25th of March 2010.

### **II. Brief Historical Context**

2. In all the earlier cases, already disposed of, the Tribunal considered it indispensable to portray the settled historical context that imbued the Bengali nation to start struggling for self-determination and long cherished independence of the motherland—Bangladesh. Bangabandhu Sheikh Mujibur Rahman the Father of the Nation in his historic speech of 7th March, 1971, called on the people of Bangladesh to strive for independence.

3. We reiterate that long 46 years after the nation achieved its independence the historic March 7 speech of Bangabandhu Sheikh Mujibur Rahman, the

Father of the Nation has been recognized as a world documentary heritage by the UNESCO which is indeed the stamp of immense pride for the nation. This recognition shall prevent distortion of the history and the 7 March glowing speech of Bangabandhu calling on the freedom-loving Bangalees indispensably activated and stimulated the entire nation, excepting a few pro-Pakistan people to get equipped for the war of liberation.

4. On 26th March, following the onslaught of “Operation Search Light” by the Pakistani Military on 25th March, Bangabandhu declared independence of Bangladesh immediately before he was arrested by the Pakistani authorities.

5. It is now the settled history that in the War of Liberation that ensued in 1971 under the leadership of Bangabandhu the Father of the Nation, all people of the then East Pakistan wholeheartedly supported and participated in the call to free Bangladesh but a small number of Bangalee, Biharis, other pro-Pakistanis, as well as members of a number of different religion-based political parties including JEI joined and/or collaborated with the Pakistani occupation army to actively resist the birth of independent Bangladesh and most of them committed and facilitated the commission of appalling atrocities in the territory of Bangladesh, directing non-combatant pro-liberation civilians. As a result, 3 millions (thirty lacs) people were killed, more than 2,00,000 (two lacs) women were subjected to sexual violence, about 10 million (one crore) people were forced to deport to India as refugees and million others were internally displaced. The nation also experienced unprecedented and devastating destruction of properties all over Bangladesh, in violation of laws of war and fundamental rights of protected civilians.

6. The Pakistan government and the occupation armed force created number of auxiliary forces such as the Razakars, the Al-Badar, the Al-Shams, the Peace Committee etc. essentially to collaborate with it in identifying and facilitating to wipe out all those who were perceived to be sympathized with the liberation of Bangladesh, individuals belonging to Hindu religious groups, individuals belonging to Awami League and other pro-independence

political parties, Bangalee intellectuals , non-combatant freedom-fighters and unarmed civilian population of Bangladesh.

7. In the case in hand, the arraignments as have been pressed by the prosecution, by submitting formal charge involve the deliberate brutal atrocious attacks allegedly carried out directing civilian population of the localities under Police Station-Baralekha of District [now]-Moulavibazar in 1971 to which the accused persons, in exercise of their affiliation with locally formed Razakar Bahini, allegedly participated actively.

### **III. Brief account of the Accused Persons**

8. Before we render our decision on charge framing matter let us have a look what has been stated in the formal charge about the identity the accused persons had in 1971.

#### ***(i) Md. Abdul Aziz alias Habul***

Accused Md. Abdul Aziz alias Habul (64), son of late Mirzan Ali and late Latifa Khatun @ Latai Bibi, of village-Pakhiala House no. 131, Ward no.07, Baralekha Pourashava, Police Station-Baralekha, District-Moulavibazar (Previously Sub-Division) was born on 30.09.1952 (as per NID). He passed S.S.C from P.C High School, Baralekha, Moulavibazar in 1970 and H.S.C from Tejgaon College, Dhaka in 1973. Accused Md. Abdul Aziz alias Habul was an active supporter of Pakistan during the war of liberation of Bangladesh. In 1971, accused Md. Abdul Aziz alias Habul and his full brother Abdul Matin firstly went to India and both of them received training of freedom-fighters in India at the first phase of the liberation war. Thereafter, both of them fled away from the training camp of the freedom-fighters and surrendered to the Pakistani Occupation Army camp under Police Station-Baralekha of District-Moulavibazar and subsequently joined in the Razakar Bahini and got involved with the commission of atrocious activities during the liberation war, prosecution avers.

#### ***(ii) Md. Abdul Matin[absconding]***

Accused Md. Abdul Matin (63), son of late Mirzan Ali and late Latifa Khatun alias Latai Bibi, of village-Pakhiala, House no.131, Ward no.07, Baralekha Pourashava, Police Station-Baralekha, District-Moulavibazar, at present:

village-Sonapur(Juad villa), Road-Kalenga, Police Station-Moulavibazar Sadar, District- Moulavibazar (previously Sub-Division) was born on 30.12.1953. Accused Md. Abdul Matin studied up to Class VIII at P.C High School, Baralekha, Moulavibazar and he was an active supporter of Pakistan during the war of liberation of Bangladesh. He was also affiliated with Jamat-e-Islami [JEI] as its active worker. In 1971, accused Md. Abdul Matin and Abdul Aziz alias Habul [another accused], the two full brothers went to India where they received training of freedom-fighter at the first phase of the liberation war. Thereafter, both of them fled away from the training camp of the freedom fighters and surrendered to the Pakistani Occupation Army camp under Police Station-Baralekha of District Moulavibazar and subsequently joined in the Razakar Bahini and got involved with the commission of atrocious activities during the liberation war, prosecution alleges.

***(iii) Md. Abdul Mannan alias Monai***

Accused Md. Abdul Mannan alias Monai (64), son of late Yeasin Ali and late Nekjan Bibi of village-Muraul (Taradaram), Police Station-Baralekha, District-Moulavibazar (previously Sub-Division) was born on 01.07.1952 (as per NID). He passed *Dakhil* in 1963 from Sujaul Madrasa at Baralekha, *Alim* in 1967 from Baralekha Gungkul Senior Madrasa and *Fazil* in 1970 from Chandpur Karimabad Senior Madrasa and also appeared in *Kamil* examination in 1972 from Comilla *Alia* Madrasa. In 1971, accused Md. Abdul Mannan alias Monai was a member of Islami Chatra Sangha (ICS) the student wing of JEI and was involved in the commission of crimes alleged as a potential member of locally formed Razakar Bahini.

#### **IV. Procedural History**

**9.** The Investigation Agency of the Tribunal constituted under the Act of 1973 started investigation pursuant to complaint register's serial no. 39 dated 16.10.2014, in respect of commission of offences enumerated in section 3(2) of the Act of 1973 allegedly perpetrated in 1971 during the war of liberation around the localities under police station-Baralekha of District[now]-Moulavibazar .

10. During investigation, on prayer of the IO through the prosecution the Tribunal on 01.03.2016 ordered issuance of warrant of arrest [WA] against the three suspected accused persons. In execution of WA issued the law enforcement agency causing arrest on 02.03.2016 produced accused Md. Abdul Aziz alias Habul and Md. Abdul Mannan alias Monai before the Tribunal when they were sent to prison. The other accused Md. Abdul Matin could not be arrested.

11. On application of the Investigation Officer moved by the prosecution Tribunal permitted to interrogate the accused Md. Abdul Aziz alias Habul and Md. Abdul Mannan alias Monai and they were interrogated accordingly on 03.04.2016 and 04.04.2016 respectively.

12. The Investigation Officer [IO] submitted report together with documents and materials collected and statement of witnesses on 28.11.2016 before the Chief Prosecutor, wrapping up of investigation.

13. The Chief Prosecutor, on the basis of the report and documents submitted therewith by the Investigation Agency, after completion of investigation, submitted the 'Formal Charge' on 05.02.2017 under section 9(1) of the Act of 1973 before this Tribunal alleging that accused persons were engaged in committing the offences as enumerated in section 3(2) of the Act of 1973 during the period of War of Liberation in 1971 around the localities under Police Station-Baralekha of District[now]-Moulavibazar.

14. The Tribunal, under Rule 29(1) of the Rules of Procedure, took cognizance of offences as mentioned in section 3(2) (a)(g)(h) of the Act of 1973, by application its judicial mind to the Formal Charge, materials and documents submitted therewith.

15. The law enforcement agency could not secure arrest of one accused Md. Abdul Matin as he remained absconded and there was no immediate prospect of causing his arrest. After having the report in execution of warrant of arrest issued against him the Tribunal, for the purpose of holding proceeding in

*absentia* against him, ordered publication of notice in two national daily news papers as required by law. But this accused did not turn up despite such notification published in two national daily news papers and as such treating him absconding the Tribunal ordered for hearing the charge framing matter by appointing Mr. Abdus Sattar Palwan as the state defence counsel, at the cost of Government, to defend the absconding accused Md. Abdul Matin.

16. Then on 20.03.2018 hearing on charge framing matter took place when both sides placed their respective submission, drawing attention to the formal charge and documents submitted therewith. The Tribunal also heard the applications seeking discharge.

## **V. Submission by the Prosecutor**

**17. Mr. Mokhlesur Rahman Badal** the learned prosecutor drawing attention to the events of attacks narrated in formal charge and documents in relation to those submitted that the accused persons belonging to locally formed Razakar Bahini carried out atrocious activities around the locality under police station-Baralekha of District [now]-Moulavibazar, in collaboration with the Pakistani occupation army in 1971, during the war of liberation. The accused Md Abdul Aziz alias Habul and his full brother, another accused Md. Abdul Matin [absconding] received training of freedom-fighters in India, at the initial phase of the war of liberation, true. But they, on receiving such training came back and joined in local Razakar Bahini, surrendering to the Pakistani occupation army. The mere fact that they received training of freedom-fighters cannot readily exonerate them, the learned prosecutor added. Their complicity and involvement with the offences alleged as found *prima facie* on wrapping up investigation may be well determined only in trial.

18. The learned prosecutor further submitted that the materials collected during investigation demonstrate *prima facie* involvement of the accused persons with the events constituted the offences of crimes against humanity, as narrated in the formal charge.

## **VI. Submission by the Defence Counsels**

19. On contrary, the learned defence counsel Mr. Abdus Sattar Palwan chiefly submitted that the accused Md. Abdul Aziz alias Habul and Md. Abdul Matin did not belong to Razakar Bahini, rather they were freedom-fighters as admittedly they received training of freedom-fighters in India. Besides, the papers submitted together with the discharge application show that they were freedom-fighters and were involved in the war of liberation in 1971. In support of this contention the learned defence counsel drew attention to some papers. The accused persons have been implicated in this case out of rivalry and falsely and thus the accused persons deserve discharge, the learned defence counsel added.

20. Mr. M. Sarwar Hossain, the learned counsel defending the accused Md. Abdul Mannan alias Monai submitted that this accused was not a Razakar; that many of Razakars as have been shown in the alleged list of Razakars have not been recommended for prosecution; that pick and choose happened in prosecuting the Razakars and that there has been no material to connect this accused with the offences alleged.

## **VII. Deliberations and Decision**

21. At the outset we reiterate that at this stage neither the guilt nor the innocence can be adjudicated decisively. However, the accused persons shall be treated innocent, till they are found guilty. Their culpability, if any, can only be well determined at trial, not at this stage.

22. On *prima facie* examination of the record, we are convinced that the proposed arraignments deserve to be considered and resolved which may only be done at trial, on presentation of evidence. At this stage, we are to just concentrate our attention to the allegations and facts of attacks disclosed in the Formal Charge as well as the statement of witnesses and documents submitted therewith.

23. We have cautiously gone through the formal charge, statement of witnesses and the documents submitted therewith. It appears that the formal charge and the statement of witnesses *prima facie* disclose participation, substantial contribution and abetment of the accused persons in accomplishing the alleged offences as enumerated in section 3(2) of the Act of 1973.

24. Prosecution avers that the two accused persons were the potential members of locally formed Razakar Bahini despite the fact that they received training of freedom-fighters in India, at the initial phase of the war of liberation and accused Md. Abdul Mannan @ Monai too was affiliated with the locally formed Razakar Bahini.

25. Conversely, the defence argument is that the two accused were freedom-fighters and remained engaged in the war of liberation and they did not participate in committing any of offences alleged after getting enrolled in locally formed Razakar Bahini. In support of this submission defence adduced some papers.

26. The above crucial issue can be well resolved at trial only. The papers adduced by the defence being extraneous cannot be taken into consideration at this stage. The defence shall have opportunity of submitting all those papers, if charges are framed. Thus, we refrain from rendering definite finding on this issue, at this stage.

27. Now, at this stage, we are to merely see the *prima facie* complicity and participation of the accused persons with the commission of alleged offence and of course, treating the accused persons innocent till they are found guilty for the alleged offences with which they have been indicted.

**28.** Rule 36 of the ROP provides provision of trying the persons accused of offences at one trial as they allegedly committed the same offences being the associates of the group of attackers, allegedly in exercise of their membership

in locally formed Razakar Bahini. Thus, trying them jointly is lawfully approved.

29. It cannot be said that non-prosecution of other offenders, if happens, cannot create bar in prosecuting an accused for the offence alleged, if it is *prima facie* found that he had complicity and participation therewith. Thus, we are not agreed with the submission advanced in this regard by Mr. Sarwar Hossain, the learned counsel defending the accused Md. Abdul Mannan @ Monai.

30. Defence submitted that the accused persons were not involved with the offences alleged as the evidence collected during investigation does not indicate it. This submission does not have merit. At this stage this matter which is necessary to determine liability of the accused persons cannot be decided.

31. In view of the discussion as made above and considering the submissions advanced by both sides, we have found *prima facie* the nexus of the accused persons with the commission of the alleged offences, mostly from the particulars of facts narrated in the Formal Charge.

32. Thus, we are of the view that there are sufficient and substantial materials before this Tribunal to presume *prima facie* that accused persons were involved with the commission of offences during the War of Liberation in 1971 as specified under section 3(2) of the Act for which they now need to stand trial.

33. Now, we proceed to read out the charges framed. We are of the view that there are sufficient and substantial materials before this Tribunal to frame charges against accused (1) Md. Abdul Aziz alias Habul, (2) Md. Abdul Mannan alias Monai and (3) Md. Abdul Matin [absconding] **for** the offences allegedly committed during the War of Liberation in 1971 as specified under section 3(2) of the Act of 1973 for which they are alleged to be criminally liable under sections 4(1) of the Act of 1973. The charges are thus framed against them in the following manner.

## Charges

We,

**Justice Md. Shahinur Islam, Chairman**

**Justice Amir Hossain, Member**

**Judge Abu Ahmed Jamadar, Member**

### **Of the International Crimes Tribunal -1**

Do hereby charge you the accused (1) Md. Abdul Aziz alias Habul, son of late Mirzan Ali and late Latifa Khatun @ Latai Bibi, of village-Pakhiala House no. 131, Ward no.07, Baralekha Pourashava, Police Station-Baralekha, District-Moulavibazar (Previously Sub-Division), (2) Md. Abdul Matin[absconded] son of late Mirzan Ali and late Latifa Khatun alias Latai Bibi, of village-Pakhiala, House no.131, Ward no.07, Baralekha Pourashava, Police Station-Baralekha, District-Moulavibazar, at present: village-Sonapur(Juad villa), Road-Kalenga, Police Station-Moulavibazar Sadar, District- Moulavibazar (previously Sub-Division) AND (3) Md. Abdul Mannan @ Monai [**absconding**] son of late Yeasin Ali and late Nekjan Bibi of village-Muraul (Taradaram), Police Station-Baralekha, District-Moulavibazar (previously Sub-Division) as follows:

#### **Charge No. 01 : 01 accused indicted**

**[Offences of ‘Abduction’; ‘Confinement’; ‘Torture’; ‘Plunder’; ‘Murder’, ‘Deportation’ and ‘other Inhumane Acts’]**

That on 19 May 1971, at about 12.30 P.M. a group of 25/30 armed Razakars and Pakistani Occupation Army men being accompanied by you the **accused Md. Abdul Mannan alias Monai** and Razakar Commander Azizur Rahman (Now dead) by launching attack at village Gholsa under Police Station-Baralekha of District[now]-Moulavibazar besieged the houses of unarmed civilians and forcibly captured old man Gopi Mohan Das, Nagendra Kumar Das, Harendra Lal Das and his younger brother Sree Nibas Das and Mati Lal Das and caused torture to them, looted the households.

Thereafter, you the accused and your accomplices took away Harendra Lal Das alias Hari Das, Mati Lal Das, Sree Nibas Das and Nagendra Kumar Das at gun point, on forcible capture to the Razakar camp set up at Baralekha C.O

Office. However, Gopi Mohan Das managed to escape from the grip of Razakars tactfully. The four other detainees were subjected to inhuman torture in protracted captivity [19 May to 21 May, 1971] at the Razakar camp by you and your cohort Razakars.

On 22 May, 1971 at about 10.00 P.M Razakar Commander Azizur Rahman (now dead) and you the accused Md. Abdul Mannan alias Monai along with other armed Razakars and Pakistani occupation army men took away the four detainees to the Juri Bazar killing site under Baralekha Police Station by vehicle from the Baralekha C.O Office Razakar camp and you the accused and your accomplices conjointly injured the said detainees severely by sharp cutting weapons and abandoned them into a hole, guessing dead. Of four detainees, (1) Harendra Lal Das alias Hari Das, (2) Mati Lal Das and (3) Nagendra Kumar Das died at the said killing spot and another detainee (4) Sree Nibas Das luckily survived and took shelter in an abandoned shop near the railway signal on the bank of the river Juri and after sunset, he started moving towards his house and reached there at late night and on 24 May, 1971, Sree Nibas Das received treatment in Karimganj hospital of India and his family inmates, being frightened and deported to India where they took shelter in the refugee camp.

Therefore, you the accused **Md. Abdul Mannan alias Monai** is hereby charged for actively participating, abetting, facilitating, contributing and also for complicity in the commission of offences of **‘abduction’; ‘confinement’; ‘torture’; ‘plunder’; ‘murder’, ‘deportation’ and ‘other inhumane acts’** as crimes against humanity as enumerated in section 3(2)(a)(g)(h) read with section 4(1) of the International Crimes (Tribunals) Act, 1973 which are punishable under section 20(2) of the Act.

**Charge No. 02: 02 accused indicted**

**[Offences of ‘Abduction’; ‘Confinement’; ‘Torture’; ‘Rape’ and ‘other Inhumane Acts’]**

That on any day in the last part of October, 1971, at about 2.00 P.M a group formed of 25/30 armed Razakars and Pakistani Occupation Army men being accompanied by you the accused (1) Md. Abdul Aziz alias Habul , (2) Md.

Abdul Matin (absconded), your accomplices Razakar Monir Ali (now dead) by launching attack at the house of the freedom-fighter Wahid Miah at the village B.O.C Kechharigool under Police Station-Baralekha of District-Moulavibazar could not find there any freedom-fighter and then you the accused and your accomplices attacked the house of another freedom-fighter Abul Quasem and forcibly captured his brother-in-law Siddique Ali (now dead) and tortured him and dragged Safia Khatun, sister of freedom-fighter Abul Quasem, out of her house, injured her son Kajol Miah and daughter Rina by charging bayonet.

You the accused Md. Abdul Aziz alias Habul, Md. Abdul Matin (absconded) and your accomplices took away Safia Khatun and Abdul Khaleque forcibly to Keramatnagar Tea Garden army camp where they were kept in confinement in the same room. At a phase of the event Major Azam and other Pakistani occupation army men committed rape upon Safia Khatun detained in the said camp and you the accused persons also ravished Safia Khatun in presence of detainee Abdul Khaleque. As a result of recurrent sexual ravishment victim Safia Khatun became ill and she was then shifted sent to Baralekha C.O Office army camp for treatment. Afterwards the victim Abdul Khaleque got release, on intervention of his relatives.

On 6 December, 1971 Pakistani occupation army fled away keeping Safia Khatun abandoned in the bunker near the C.O office camp under Baralekha Police Station and the Freedom Fighter Commander Moin and some freedom-fighters rescued Safia Khatun from the bunker in an uncovered condition.

Therefore, you the accused **(1) Md. Abdul Aziz alias Habul , (2) Md. Abdul Matin (absconded)** are hereby charged for actively participating, abetting, facilitating, contributing and also for complicity in the commission of offences of **‘abduction’; ‘confinement’; ‘torture’; ‘rape’ and ‘other Inhumane Acts’** as crimes against humanity as enumerated in section

3(2)(a)(g)(h) read with section 4(1) of the International Crimes (Tribunals) Act, 1973 which are punishable under section 20(2) of the Act.

**Charge No. 03 : 02 accused indicted**

**[Offences of ‘Abduction’; ‘Confinement’; ‘Torture’; ‘Plunder’ and ‘other Inhumane Acts’]**

That on 13 November 1971, at about 9.00 P.M a group formed of 20/25 armed Razakars and Pakistani Occupation Army being accompanied by you the accused (1) **Md. Abdul Aziz alias Habul**, (2) **Md. Abdul Matin (absconded)**, your accomplices Razakar Monir Ali (now dead) by launching attack at the house of the freedom-fighter Moin Commander at the village-Pakhiala under Police Station- Baralekha of District-Moulavibazar forcibly captured his father old man Basir Uddin (now dead), Uncle Nesar Ali (now dead) and nephew Haris Ali (now dead), as Moin Commander could not be found . You the accused persons and your accomplices then caused bloody injury by beating them with rifle and plundered the house and then took the detainees away to the C.O office Razakar camp where they were subjected to inhuman torture in captivity in the name of extracting information about freedom-fighter Moin Commander. On 6 December 1971, Baralekha got freed from Pakistani occupation army and the victims got freed.

Therefore, you the accused (1) **Md. Abdul Aziz alias Habul** and (2) **Md. Abdul Matin (absconded)** are hereby charged for actively participating, abetting, facilitating, contributing and also for complicity in the commission of offences of ‘**abduction**’; ‘**confinement**’; ‘**torture**’; ‘**plunder**’ and ‘**other inhumane acts**’ as crimes against humanity as enumerated in section 3(2)(a)(g)(h) read with section 4(1) of the International Crimes (Tribunals) Act, 1973 which are punishable under section 20(2) of the Act.

**Charge No. 04: 03 accused indicted**

**[Offences of ‘Abduction’; ‘Confinement’; ‘Arson’; ‘Torture’; ‘Plunder’ and ‘other Inhumane Acts’]**

That on 14 November 1971, at about 12.00 noon a group formed of 35/40 armed Razakars and Pakistani Occupation Army being accompanied by you the accused (1) **Md. Abdul Aziz alias Habul**, (2) **Md. Abdul Matin**

**(absconded) (3) Md. Abdul Mannan alias Monai** and Razakar Monir Ali (now dead) by launching attack at the house of freedom-fighter Mostakin Commander at the village-Hinainagar under Police Station- Baralekha of District- Moulavibazar plundered valuables conflagrated to houses as Mostakin Commander could not be found there. Thereafter, you the accused and your accomplices forcibly captured Motsin Ali by attacking his house, looted valuables and set the house on fire.

You the accused persons and your accomplices then took the detainee Motsin Ali to the Baralekha C.O Office Razakar camp and kept him in captivity where he was subjected to torture for securing his brother freedom-fighter Commander Mostakin Ali's surrender before the Razakar camp . During captivity at the camp, you the accused persons and your accomplices made the detainee Motsin Ali hanged with a tree of the camp and tortured him brutally for seven days that resulted in fracturing his legs. The victim however eventually got release in exchange of money.

Therefore, you the accused (1) Md. Abdul Aziz alias Habul, (2) Md. Abdul Matin (absconded) and (3) Md. Abdul Mannan alias Monai are hereby charged for actively participating, abetting, facilitating, contributing and also for complicity in the commission of offences of **'abduction'; 'confinement'; 'arson'; 'torture'; 'plunder' and 'other inhumane acts'** as crimes against humanity as enumerated in section 3(2)(a)(g)(h) read with section 4(1) of the International Crimes (Tribunals) Act, 1973 which are punishable under section 20(2) of the Act.

**Charge No. 05 :02 accused indicted**

**[Offences of 'Abduction'; 'Confinement'; 'Torture'; 'Rape', 'Plunder' and 'other Inhumane Acts']**

That on 17 November 1971, at about 4.00 P.M a group formed of 20/25 armed Razakars and Pakistani Occupation Army being accompanied by you the **accused (1) Md. Abdul Aziz alias Habul, (2) Md. Abdul Matin (absconded)**, your accomplice Razakars Monir Ali (now dead), Razakar Akbar Ali alias Bokai (now dead) by launching attack at Demai Bazar under

Police Station Baralekha of District Moulavibazar forcibly captured freedom-fighter Monir Ali and thereafter looted the house of Habib Commander and wherefrom took away Monir Ali's wife Afiya Begum to Keramatnagar Tea Garden army camp, on forcible capture where she was subjected to sexual ravishment. On intervention of relatives and local peace committee leader Habib Chairman she got release.

The detained victim Monir Ali was also subjected to torture by hanging him with a tree at the Razakar camp by you the accused persons and your accomplices. Two days later the victim got release on intervention of one Habib Chairman.

Therefore, you the accused (1) Md. Abdul Aziz alias Habul and (2) Md. Abdul Matin (absconded) are hereby charged for actively participating, abetting, facilitating, contributing and also for complicity in the commission of offences of '**abduction**'; '**confinement**'; '**torture**'; '**rape**'; '**plunder**' and '**other Inhumane Acts**' as crimes against humanity as enumerated in section 3(2)(a)(g)(h) read with section 4(1) of the International Crimes (Tribunals) Act, 1973 which are punishable under section 20(2) of the Act.

34. Thus, you have been indicted as above for committing the offences under section 3(2)(a)(g)(h) of the International Crimes(Tribunals) Act, 1973, punishable under section 20(2) read with section 4(1) of the Act which are within the cognizance and jurisdiction of this Tribunal. And we hereby direct you to be tried by this Tribunal on the said charges.

35. You accused Md. Abdul Aziz alias Habul and Md. Abdul Mannan alias Monai have heard and understood the aforesaid charges which have been read out and explained [**in Bangla**] in the open court in your presence.

**Question:** Do you plead guilty or not.

**Answer:**

36. The charges so framed have been read over and explained to the accused Md. Abdul Aziz alias Habul and Md. Abdul Mannan alias Mona to which they pleaded not guilty and claimed to be tried according to law. Accused Md. Abdul Matin remained absconded and as such the charges framed against him could not be explained to him.

37. Let 04.07.2018 be fixed for opening statement and examination of prosecution witnesses. 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 learned engaged defence counsel and the learned state defence counsel are directed to submit a list of witnesses along with documents which the defence intends to rely upon, as required under section 9(5) of the Act on or before the date fixed.

**Justice Md. Shahinur Islam, Chairman**

**Justice Amir Hossain, Member**

**Judge Md. Abu Ahmed Jamadar, Member**