

International Crimes Tribunal-1
Old High Court Building, Dhaka, Bangladesh
ICT-BD [ICT-1] Case No.05 of 2017

Present:

Justice Md. Shahinur Islam, Chairman

Justice Amir Hossain, Member

Justice Md. Abu Ahmed Jamadar, Member

Order No.08

01 August, 2018

The Chief Prosecutor

Vs.

(1) Khan Ashraf Ali [**absconding**], (2) Khan Akram Hossain, (3) Sultan Ali Khan[**absconding**],(4) Rustam Ali Mollah[**absconding**], (5) Idris Ali Mollah, (6) Sheikh Md. Ukiluddin, (7) Sheikh Idris Ali [**absconding**],(8) Sheikh Rafiqul Islam alias Babul [**absconding**], (9) Md. Maniruzzaman Howlader [**absconding**],(10) Md. Hashem Ali Sheikh ,(11) Md. Ajahar Ali Sikder [**absconding**] and Md. Mokbul Mollah

Mr. Rana Das Gupta, Prosecutor: For the prosecution

Mr. Gaji M.H Tamim, Advocate, Bangladesh Supreme Court: Engaged Counsel For accused (1) Idris Ali Mollah and State defence Counsel for 04 accused detained in prison.

Mr. Abdus Sattar Palwan, Advocate, Bangladesh Supreme Court: State Defence Counsel to defend 07 absconding accused.

[Decision on framing charges]

Five accused (1) Khan Akram Hossain, (2) Idris Ali Mollah, (3) Sheikh Md. Ukiluddin, (4) Md. Mokbul Mollah and (5) Md. Hashem Ali Sheikh are present on dock as have been produced from prison.

The rest seven [07] accused (6) Khan Ashraf Ali, (7) Sultan Ali Khan, (8) Rustam Ali Mollah, (9) Sheikh Idris Ali , (10) Sheikh Rafiqul Islam alias Babul , (11) Md. Maniruzzaman Howlader , and (12) Md. Ajahar Ali Sikder have been absconding. On closure of hearing on charge framing matter today the record is taken up for rendering order on indictment matter.

The alleged offences which are known as ‘system crimes’ were committed in context of the war of liberation in 1971 in violation of international humanitarian law. Thus, before we pass the order, we consider it indispensable to go over a brief portrayal of the settled historical context and backdrop 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 March of 2010.

II. Brief Historical Context

2. In all the earlier cases, already disposed of, the Tribunal considered it essential to portray the settled historical context that imbued the Bengali nation to begin 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 go all-out 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 enthused 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 unarmed civilian population of the localities under Police Stations Moralganj and Kachua of District-Bagerhat in 1971 to which the accused persons, in exercise of their affiliation with the locally formed Razakar Bahini, allegedly participated and culpably contributed, in violation of international humanitarian law and the laws of war.

III. Brief account of the accused

8. It is essentially needed to paint an account of the accused he had in 1971 which is indispensably chained to the arraignments brought. The brief account of the accused as has been described in the formal charge is as below:

(i) Khan Ashraf Ali

Accused Khan Ashraf Ali the son of late Moktar Ali Khan and late Shamsunnahar Begum of village-Teligati under police station-Morganj of District-Bagerhat was born on 24.11.1950[according to his NID Card]. He passed SSC from Teligati High School. In 1971, his father was a local leader

of Convention Muslim League. In 1971 he got enrolled in locally formed Razakar Bahini and collaborated with the Pakistani occupation army in accomplishing crimes against the civilian population, prosecution alleges. He was prosecuted in 1972 for offences of murder punishable under The Collaborators Order, 1972.

(ii) Khan Akram Hossain

Accused Khan Akram Hossain [younger brother of accused Khan Ashraf Ali] the son of late Moktar Ali Khan and late Shamsunnahar Begum of village-Teligati under police station-Moralganj of District-Bagerhat was born on 01.01.1955[according to NID Card]. He studied up to class VIII at Teligati High School. In 1971 he got enrolled in locally formed Razakar Bahini and collaborated with the Pakistani occupation army in carrying out atrocious activities against the civilian population of the localities under Moralganj police station, prosecution alleges. He was prosecuted under The Collaborators Order, 1972 for the offences of murder committed in 1971 in the localities under Moralganj police station.

(iii) Sultan Ali Khan

Accused Sultan Ali Khan the son of late Anis Khan and late Amena Begum of village-Teligati under police station-Moralganj of District Bagerhat was born on 03.01.1947[according to NID Card]. He studied up to class VIII at Teligati High School. He served in East Pakistan Rifles [EPR] for five years prior to 1971. In 1971, he joined in locally formed Razakar Bahini and collaborated with the Pakistani occupation army in perpetrating the atrocious activities around the localities under Moralganj police station, prosecution alleges. After independence, he was prosecuted for the offences of murder under The Collaborators Order, 1972.

(iv) Rustam Ali Mollah

Accused Rustam Ali Mollah the son of late Gafur Mollah and Jarina Begum of village-Josordi under police station-Kachua of District Bagerhat was born on 03.01.1947 [according to NID Card]. He studied up to class V at Josordi Primary School. He was a follower of Convention Muslim League, a pro-Pakistan political party. In 1971 he joined in locally formed Razakar Bahini

and collaborated with the Pakistani occupation army in carrying out atrocious activities against the civilian population, prosecution alleges. He was prosecuted under The Collaborators Order, 1972 for the offences of murder committed in 1971 in the localities under Moralganj police station.

(v) *Idris Ali Mollah*

Accused Idris Ali Mollah [younger brother of accused Rustam Ali Mollah]the son of late Gafur Mollah and Jarina Begum of village-Josordi under police station-Kachua of District Bagerhat was born on 04.07.1952 [according to NID Card]. He studied up to class V at Josordi Primary School. In 1971 he joined in locally formed Razakar Bahini and collaborated with the Pakistani occupation army in carrying out heinous atrocious activities against the civilian population, prosecution alleges. He was prosecuted under The Collaborators Order, 1972 for the offences of murder committed in 1971 in the localities under Moralganj police station.

(vi) *Sheikh Md. Ukiluddin*

Accused Sheikh Md. Ukiluddin the son of late Sheikh Moslemuddin and Chufiya Begum of village-Chapri under police station-Morganj District-Bagerhat was born on 03.07.1933 [according to NID Card]. He studied up to class III at Daibagyhati Madhyamik School. In 1971 he joined in locally formed Razakar Bahini and collaborated with the Pakistani occupation army in carrying out heinous atrocious activities against the civilian population, prosecution alleges.

(vii) *Sheikh Idris Ali*

Accused Sheikh Idris Ali the son of late Sheikh Afsar Ali and Fatema Begum of village-Josordi under police station-Kachua of District Bagerhat was born on 07.07.1954 [according to NID Card]. He studied up to class V at Josordi Primary School. In 1971 he was a follower of Convention Muslim League and joined in locally formed Razakar Bahini and collaborated with the Pakistani occupation army in carrying out heinous atrocious activities against the civilian population, prosecution alleges. He was prosecuted under The Collaborators Order, 1972 for the offences of murder committed in 1971 in the localities under Moralganj police station.

(viii) Sheikh Rafiqul Islam alias Babul

Accused Sheikh Rafiqul Islam alias Babul the son of late Sheikh Showkat Ali and Jobeda Begum of village-Sannyasi under police station-Rampal of District Bagerhat was born on 20.02.1951 [according to NID Card]. He studied up to SSC. In 1971 he joined in locally formed Razakar Bahini and actively collaborated with the Pakistani occupation army in carrying out heinous atrocious activities against the civilian population, prosecution alleges.

(ix) Md. Maniruzzaman Howlader

Accused Md. Maniruzzaman Howlader the son of late Saidur Hoque Howlader and Achiya Khatun of village-Chhotobaga under police station-Kachua of District Bagerhat was born on 12.01.1947 [according to NID Card]. In 1971 he joined in locally formed Razakar Bahini and actively collaborated with the Pakistani occupation army in carrying out heinous atrocious activities against the civilian population, prosecution alleges

(x) Md. Hashem Ali Sheikh

Accused Md. Hashem Ali Sheikh the son of late Yakub Ali Sheikh and Chhuti Bibi of village-Hajrakhali under police station-Kachua of District Bagerhat was born on 10.08.1937 [according to NID Card]. He studied up to class X. In 1971 he joined in locally formed Razakar Bahini and actively collaborated with the Pakistani occupation army in carrying out heinous atrocious activities against the civilian population, prosecution alleges.

(xi) Md. Ajahar Ali Sikder

Accused Md. Ajahar Ali Sikder the son of late Haji Ahmed Ali Sikder and Mosammat Amena Khatun of village-Bisharkhola Paschim under police station-Kachua of District Bagerhat was born on 05.02.1952 [according to NID Card]. He studied up to class IX. He was a follower of Convention Muslim League and in 1971 he joined in locally formed Razakar Bahini and actively collaborated with the Pakistani occupation army in carrying out heinous atrocious activities against the civilian population, prosecution alleges.

(xii) Md. Mokbul Mollah

Accused Md. Mokbul Mollah the son of late Md. Safdar Mollah and Mosammat Chhutu Bibi of village-Udankhali under police station-Kachua of District Bagerhat was born on 05.02.1952 [according to NID Card]. He studied up to class IV at Alipur Primary School. In 1971, he being a follower of Convention Muslim League joined in locally formed Razakar Bahini and actively collaborated with and assisted the Pakistani occupation army in committing heinous atrocious activities against the civilian population, prosecution alleges.

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. 53 dated 04.06.2015, 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-Moralganj of District-Bagerhat. Investigation started against fourteen suspected accused (1) Khan Akram Hossain, (2) Idris Ali Mollah, (3) Sheikh Md. Ukiluddin, (4) Md. Mokbul Mollah and (5) Md. Hashem Ali Sheikh are present on dock as have been produced from prison. The rest seven [07] accused (6) Khan Ashraf Ali , (7) Sultan Ali Khan, (8) Rustom Ali Mollah, (9) Sheikh Idris Ali , (10) Sheikh Rafiqul Islam alias Babul , (11) Md. Maniruzzaman Howlader , (12) Md. Ajahar Ali Sikder, (13) Mokched Ali Didar and (14) Md. Abdul Ali Mollah.

10. During investigation, on prayer of the IO through the prosecution the Tribunal on 16.07.2016 ordered issuance of warrant of arrest [WA] against all the 14 suspected accused.

11. In execution of WA issued the enforcement agency causing arrest of 03 accused Khan Akram Hossain, Idris Ali Mollah and Mokbul Mollah produced them before the Tribunal when they were sent to prison on 22.08.2016. Accused Sheikh Md. Ukiluddin was shown arrested on 22.08.2016 in connection with this case.

12. In this way 04 suspected accused could have been detained at pre-trial stage in execution of WA issued by the Tribunal, on prayer of the Investigation Officer and they were permitted by the Tribunal's order dated 09.11.2016 to be interrogated at the safe home of the Investigation Agency, as prayed for. Accused Hashem Ali Sheikh has also been arrested on 04.01.2017 in execution of WA issued by the Tribunal and on production he was sent to prison, as prayed for.

13. On 22.01.2017, the Investigation Officer [IO] submitted report together with documents and materials collected and statement of witnesses before the Chief Prosecutor, wrapping up of investigation against 14 suspected accused including accused Md. Abdul Ali Mollah who was arrested at pre-trial stage in execution of WA issued by the Tribunal and was sent to prison vide Tribunal's order dated 24.01.2017.

14. After submission of the report by the investigation agency, accused Md. Abdul Ali Mollah died on 27.03.2017 in Dhaka Medical College Hospital and as such proceedings so far as it related to him stood abated.

15. 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 20.04.2017 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-Moralganj of District-Bagerhat, recommending joint trial of the accused persons as permitted in law.

16. On 31.5.2017, the Tribunal, under Rule 29(1) of the Rules of Procedure, took cognizance of offences as mentioned in section 3(2) of the Act of 1973, by application its judicial mind to the Formal Charge, materials and documents submitted therewith.

17. The law enforcement agency could not secure arrest of eight accused persons as they remained absconded and there was no immediate prospect of causing their arrest. Thus after having the report in execution of warrant of arrest issued against these accused the Tribunal, for the purpose of holding proceeding in *absentia* against them, ordered publication of notice in two national daily news papers as required by law. But these accused did not turn up despite such notification published in two national daily news papers and as such treating them absconding the Tribunal ordered for hearing the charge framing matter by appointing Mr. Gaji M.H Tamim who is engaged counsel for one accused Idris Ali Mollah as the state defence counsel to defend 04 accused detained in prison and also by appointing Mr. Abdus Sattar Palwan as the state defence counsel to defend 07 absconding accused , at the cost of Government, to defend them.

18. Before hearing on charge framing matter, accused Mokched Ali Didar died on 02.01.2018, after submitting the formal charge and after bringing it to notice of the Tribunal together with a report of the OC, Police Station-Kachua District Bagerhat dated 06.01.2018 proceedings so far as related to this accused stood abated.

19. Thus hearing on charge framing matter took place in presence of 05 accused who are in prison and in absentia of 07 accused as they have been absconding. In course of hearing on charge framing matter both sides placed their respective submission, drawing attention to the formal charge and documents submitted therewith.

V. Submission by the Prosecutor

20. Mr. Rana Das Gupta, the learned prosecutor chiefly submitted that there have been sufficient and reasonable grounds of proceedings by framing charges as the materials and evidence collected during investigation sufficiently and prima facie disclose the commission of atrocious criminal activities constituting the offences of crimes against humanity as enumerated in the Act of 1973 involvement and nexus of the accused persons therewith. The evidence collected discloses it too that the accused persons were engaged

in committing the alleged offences in exercise of their active affiliation with the locally formed Razakar Bahini, the learned prosecutor added.

VI. Submission by the Defence Counsels

21. Mr. Gaji M.H Tamim, the learned engaged counsel for one accused Idris Ali Mollah and also as the state defence counsel defending 04 accused detained in prison submitted that these accused did not belong to Razakar Bahini; they were not involved in committing any of crimes alleged; that the evidence and materials do not suggest their complicity with any of events of attacks as narrated in the formal charge. The narratives made in the formal charge do not specify the mode of participation of these accused persons with the commission of any of alleged offences and thus they deserve to be discharged, the learned counsel adds.

22. Mr. Abdus Sattar Palwan, the learned state defence counsel defending the 07 absconding accused echoing the submission as advanced by Mr. Gaji M.H Tamim submitted that these accused have been implicated in this case out of local rivalry; they had no nexus with the locally formed Razakar Bahini and they could have been prosecuted under the Collaborators Order 1972 if really they had complicity with the commission of any of alleged events.

VII. Deliberations and Decision

23. The events of attacks as narrated in the formal charge involve the 'international crimes' which are known as 'system crimes' or 'group crimes'. At this stage there has been no room to figure out any finding as to commission of the alleged crimes and involvement of the accused persons therewith without trial. At this phase we are to just see as to prima facie nexus of the accused persons with the alleged events of attacks that resulted in commission of crimes alleged. And till the accused persons are found guilty in trial they must be treated innocent. This is the settled norm.

24. At this stage, we are to just focus our mind to the allegations and facts of attacks disclosed in the Formal Charge as well as the statement of witnesses

and documents submitted therewith. On *prima facie* scrutiny 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 by the prosecution.

25. Prosecution avers that the accused was the potential member of locally formed Razakar Bahini and in exercise of affiliation with this auxiliary force the accused persons were actively engaged in accomplishing atrocious activities against unarmed civilians around the localities under police station-Moralganj and Kachua of District-Bagerhat in 1971.

26. Conversely, the defence argument is that the accused persons did not belong to Razakar Bahini and that they have been falsely implicated in this case.

27. It is to be noted that not only a member of an auxiliary force as defined in the Act of 1973 but even an individual or a group of individuals may also be prosecuted and tried for the offence or offences as enumerated in the Act of 1973. Thus, the crucial issue of accused persons' affiliation with an auxiliary force can be well resolved at trial only.

28. 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 seem to be relevant at this stage. At this stage this matter which is necessarily related to determination of liability of the accused persons cannot be resolved. Further, defence of course shall have due right to negate the alleged complicity of accused persons in trial.

29. Now, at this stage, we are to merely see the *prima facie* complicity and participation of the accused person with the commission of alleged offence and of course, treating the accused person innocent till they are found guilty for the alleged offences of which he has been recommended for prosecution.

30. 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 person in accomplishing the alleged offences as enumerated in section 3(2) of the Act of 1973.

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 person 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 person was involved with the commission of offences during the War of Liberation in 1971 as specified under section 3(2) of the Act for which he is 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) Khan Akram Hossain of village-Teligati under police station-Moralganj of District-Bagerhat, (2) Idris Ali Mollah of village-Josordi under police station-Kachua of District Bagerhat, (3) Sheikh Md. Ukiluddin of village-Chapri under police station-Moralganj District-Bagerhat, (4) Md. Mokbul Mollah of village-Udankhali under police station-Kachua of District Bagerhat , (5) Md. Hashem Ali Sheikh of village-Hajrakhali under police station-Kachua of District Bagerhat, (6) Khan Ashraf Ali of village-Teligati under police station-Moralganj of District-Bagerhat, (7) Sultan Ali Khan of village-Teligati under police station-Moralganj of District Bagerhat, (8) Rustam Ali Mollah of village-Josordi under police station-Kachua of District Bagerhat, (9) Sheikh Idris Ali of village-Josordi under police station-Kachua of District Bagerhat , (10) Sheikh Rafiqul Islam alias Babul of village-Sannyasi under police station-Rampal of District Bagerhat, **(11)** Md. Maniruzzaman Howlader of village-Chhotobaga under police station-Kachua of District Bagerhat , and (12) Md. Ajahar Ali Sikder

of village-Bisharkhola Paschim under police station-Kachua of District Bagerhat **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

Justice Md. Abu Ahmed Jamadar, Member

Of the International Crimes Tribunal -1

Do hereby charge you the accused (1) Khan Akram Hossain, (2) Idris Ali Mollah, (3) Sheikh Md. Ukiluddin, (4) Md. Mokbul Mollah and (5) Md. Hashem Ali Sheikh are present on dock as have been produced from prison. The rest seven [07] accused (6) Khan Ashraf Ali, (7) Sultan Ali Khan, (8) Rustam Ali Mollah, (9) Sheikh Idris Ali , (10) Sheikh Rafiqul Islam alias Babul , (11) Md. Maniruzzaman Howlader , (12) Md. Ajahar Ali Sikder as follows:

Charge No.01: [08 accused indicted]

[Narrated as event no. 01: page 34-41 of the Formal Charge]

[Offences of confinement, torture, looting, arson as crimes against humanity or in the alternative the offence of genocide at villages Chapri and Teligati under police station- Moralganj of District-Bagerhat]

That on 26 May 1971 at about 02:00 P.M a group formed of you the accused (1) Khan Ashraf Ali (2) Khan Akram Hossain,(3) Sultan Ali Khan,(4) Rustam Ali Mollah, (5) Idris Ali Mollah, (6) Sheikh Md. Ukiluddin, (7) Sheikh Idris Ali (8) Sheikh Rafiqul Islam alias Babul and your 15/20 cohort Razakars including Mokched Ali Didar[now dead] coming from Teligati Razakar camp and a group of Pakistani occupation army coming from Bagerhat by launching joint attack against civilians of villages Chapri and Teligati , with intent to destroy political group, in whole or in part forcibly captured 09 civilians [as named in the formal charge] and brutally

tortured them to death, burnt down their houses, looted one Hindu temple and caused serious bullet hit injury to one Jabeda begum[now dead].

Next, you the accused and the army men and your accomplices attacked the village-Teligati and carried out looting, destruction of houses of numerous civilians [as named in the formal charge].

On the following day, in continuation of the attack carried out as above you the accused persons, being accompanied by your cohorts by launching attack at village-Teligati at about 11:00 A.M unlawfully detained Saheb Ali Sheikh who was subjected to torture when the victims killed on previous day were being buried by their relatives.

Therefore, you the accused 1) Khan Ashraf Ali (2) Khan Akram Hossain,(3) Sultan Ali Khan,(4) Rustom Ali Mollah, (5) Idris Ali Mollah, (6) Sheikh Md. Ukiluddin, (7) Sheikh Idris Ali (8) Sheikh Rafiqul Islam alias Babul participated, facilitated, abetted and substantially contributed, by your culpable act and conduct forming part of systematic attack to the commission of offences of abduction, confinement, torture, arson, other inhumane act and murder as crimes against humanity as specified in section 3(2)(a)(g)(h) of the International Crimes (Tribunals) Act 1973 or in the alternative the offence of genocide as specified in section 3(2)(c)(a)(g)(h) of the Act of 1973 read with section 4(1) of the Act, 1973 which are punishable under section 20(2) of the said Act.

Charge No.02: [04 accused indicted]

[Narrated as event no. 02: page 42-44 of the Formal Charge]

[Offences of confinement, torture, abduction and murder as crimes against humanity committed at Hazrakhali, Baikhlai Ramnagar and Abader canal's bridge under police station-Kachua of District-Bagerhat]

That on 07 July 1971 at about 08:00 A.M you the accused (1) Md. Maniruzzaman Howlader, (2) Md. Hashem Ali Sheikh,(3) Md. Ajahar Ali Sikder and(4) Md. Mokbul Mollah , the armed members of Razakar Bahini

by launching attack at villages Hazrakhali, Baikhlai Ramnagar and adjacent locality forcibly captured Nur Mohammad, Mobarak Kha and one unknown people and taking them to the bridge of Abader canal where you the accused persons gunned down them to death and threw their bodies into the canal. Bodies of victims could not be traced.

Therefore, you the accused (1) Md. Maniruzzaman Howlader,(2) Md. Hashem Ali Sheikh,(3)Md. Ajahar Ali Sikder and(4) Md. Mokbul Mollah participated, facilitated, abetted and substantially contributed, by your culpable act and conduct forming part of systematic attack to the commission of offences of abduction, confinement, torture and murder as crimes against humanity as specified in section 3(2)(a)(g)(h) of the International Crimes (Tribunals) Act 1973 read with section 4(1) of the Act, 1973 which are punishable under section 20(2) of the said Act.

Charge No.03:[08 accused indicted]

[Narrated as event no. 03: page 44-48 of the Formal Charge]

[Offences of confinement, torture and murder of 02 civilians as crimes against humanity committed at village-Dhuligati under police station-Moralganj of District-Bagerhat]

That on 13 November 1971 at about 10:00 A.M a group of 15/20 Razakars being accompanied by you the accused(1)Khan Ashraf Ali,(2)Khan Akram Hossain,(3)Sultan Ali Khan,(4)Rustam Ali Mollah,(5) Idris Ali Mollah (6) Sheikh Md. Ukiluddin,(7)Sheikh Idris Ali and(8) Sheikh Rafiqul Islam alias Babul the members of locally formed Razakars Bahini and your accomplice Mokched Ali Didar[now dead] by launching attack at the house of Raihan Ali Master of village-Dhuligati under police station-Moralganj forcibly captured Basarat Khan and Mannan Khan, the two full brothers out 06 unarmed freedom-fighters staying there for taking meal and gunned them down to death when they attempted to escape.

On way back to Razakars camp you the accused persons going to the house of Basarat and Mannan disclosed to their wives about the killing. Later on, bodies of victims were collected from the killing site and were buried.

Therefore, you the accused (1) Khan Ashraf Ali,(2)Khan Akram Hossain,(3)Sultan Ali Khan,(4)Rustam Ali Mollah,(5) Idris Ali Mollah (6) Sheikh Md. Ukiluddin,(7)Sheikh Idris Ali and (8) Sheikh Rafiqul Islam alias Babul participated, facilitated, abetted and substantially contributed, by your culpable act and conduct forming part of systematic attack to the commission of offences of confinement, torture and murder as crimes against humanity as specified in section 3(2)(a)(g)(h) of the International Crimes (Tribunals) Act 1973 read with section 4(1) of the Act, 1973 which are punishable under section 20(2) of the said Act.

Charge No.04:[12 accused indicted]

[Narrated as event no. 04: page 48-51 of the Formal Charge]

[Offences of confinement, abduction, torture and murder of Soleman Sheikh and 03 other civilians as crimes against humanity committed at village-Dhuligati under police station-Kachua of District-Bagerhat]

That on 17 November 1971 at about 10:00 A.M a group formed of you the accused (1) Khan Akram Hossain, (2) Idris Ali Mollah, (3) Sheikh Md. Ukiluddin, (4) Md. Mokbul Mollah (5) Md. Hashem Ali Sheikh (6) Khan Ashraf Ali , (7) Sultan Ali Khan, (8) Rustam Ali Mollah, (9) Sheikh Idris Ali , (10) Sheikh Rafiqul Islam alias Babul , (11) Md. Maniruzzaman Howlader and (12) Md. Ajahar Ali Sikder and 30/35 other Razakars affiliated with the Razakars camps of Kachua, Daibagyahati and Teligati by launching attack at villages forcibly captured two non-combatant freedom-fighters Ashraf Ali Mollah and Soleman Sheikh and Nipen Debnath of village-Bilkul and Sunil Kumar Ghosh of village Bichat. In conjunction with the attack the gang carried out wanton destruction of households and burnt down houses.

Then at about 12:00 noon the detained unarmed freedom-fighters were taken to Kathaltola Bridge where they were shot to death and their bodies were thrown to the river Ichamoti. Later on, relatives of victims recovered the bodies of victims and buried the same at their houses.

Therefore, you the accused (1) Khan Akram Hossain, (2) Idris Ali Mollah, (3) Sheikh Md. Ukiluddin, (4) Md. Mokbul Mollah (5) Md. Hashem Ali Sheikh (6) Khan Ashraf Ali , (7) Sultan Ali Khan, (8) Rustam Ali Mollah, (9) Sheikh Idris Ali , (10) Sheikh Rafiqul Islam alias Babul , (11) Md. Maniruzzaman Howlader , (12) Md. Ajahar Ali Sikder participated, facilitated, abetted and substantially contributed, by your culpable act and conduct forming part of systematic attack to the commission of offences of confinement, abduction, torture and murder as crimes against humanity as specified in section 3(2)(a)(g)(h) of the International Crimes (Tribunals) Act 1973 read with section 4(1) of the Act, 1973 which are punishable under section 20(2) of the said Act.

Charge No.05:[12 accused indicted]

[Narrated as event no. 05: page 51-54 of the Formal Charge]

[Offences of confinement, abduction, torture and murder of Mansur Ali Nakib and other inhumane act as crimes against humanity committed at village-Bilkul under police station-Kachua of District-Bagerhat]

That on 30 November 1971 at about 02:00 P.M a group formed of you the accused (1) Khan Akram Hossain, (2) Idris Ali Mollah, (3) Sheikh Md. Ukiluddin, (4) Md. Mokbul Mollah (5) Md. Hashem Ali Sheikh (6) Khan Ashraf Ali , (7) Sultan Ali Khan, (8) Rustam Ali Mollah, (9) Sheikh Idris Ali , (10) Sheikh Rafiqul Islam alias Babul , (11) Md. Maniruzzaman Howlader and (12) Md. Ajahar Ali Sikder and 20/25 cohort Razakars by launching attack at village-Bilkul forcibly captured unarmed freedom-fighter Mansur Ali Nakib from his house and inflicted brutal torture to him. In conjunction with the attack the gang looted households and set the house on fire.

Next, the detained victim Mansur Ali Nakib was taken to the place adjacent to Garur Hat Bridge at Daibagyahati where he was gunned down to death and his body was left abandoned on the bank of the canal. Later on, relatives of victim recovered his body and buried the same.

Therefore, you the accused (1) Khan Akram Hossain, (2) Idris Ali Mollah, (3) Sheikh Md. Ukiluddin, and (4) Md. Mokbul Mollah (5) Md. Hashem Ali

Sheikh (6) Khan Ashraf Ali , (7) Sultan Ali Khan, (8) Rustam Ali Mollah, (9) Sheikh Idris Ali , (10) Sheikh Rafiqul Islam alias Babul , (11) Md. Maniruzzaman Howlader , and (12) Md. Ajahar Ali Sikder participated, facilitated, abetted and substantially contributed, by your culpable act and conduct forming part of systematic attack to the commission of offences of confinement, abduction, torture and murder as crimes against humanity as specified in section 3(2)(a)(g)(h) of the International Crimes (Tribunals) Act 1973 read with section 4(1) of the Act, 1973 which are punishable under section 20(2) of the said Act.

Charge No.06:[12 accused indicted]

[Narrated as event no. 06: page 54-58 of the Formal Charge]

[Offences of confinement torture and murder of Ukil Uddin Majhi and rape upon his daughter as crimes against humanity committed at village-Udankhali under police station-Kachua of District-Bagerhat]

That on 16 October 1971 at about 04:00 P.M you the accused Md. Maniruzzaman Howlader, Md. Hashem Ali Sheikh, Md. Ajahar Ali Sikder, Md. Mokbul Mollah by launching attack at the house of Ukil Uddin Majhi of village Udankhali attempted to effect forcible capture of Ukil Uddin Majhi a pro-liberation civilian but on failure to capture him the gang took his daughter Taslima begum away to Kachua Razakars camp on forcible capture where she was subjected to rape in protracted captivity for 07 days.

During captivity of Taslima Begum at Kachua Razakar camp the father of the victim moved to the camp and appealed for his daughter's release. The victim was then however released on condition of bringing her again to the camp, seven days later.

In continuation of the attack, on 02 November 1971 at about 03;00 P.M you the accused Md. Maniruzzaman Howlader, Md. Ajahar Ali Sikder, Md. Mokbul Mollah and Md. Hashem Ali Sheikh being accompanied by your 7/8 cohort Razakars attacking the house of Ukil Uddin Majhi again forcibly detained his daughter and Ukil Uddin Majhi was subjected to torture when he

attempted to save his daughter and then he was taken away to the wooden bridge on Alipur canal located nearer to the house of the victim where he was slaughtered and shot to death and his body was thrown into the canal.

Then the gang took away Taslima Begum the daughter of Ukil Uddin Majhi again to the Razakar camp on forcible capture and she was subjected to rape by you the accused (1) Khan Akram Hossain, (2) Idris Ali Mollah, (3) Sheikh Md. Ukiluddin, (4) Md. Mokbul Mollah (5) Md. Hashem Ali Sheikh (6) Khan Ashraf Ali, (7) Sultan Ali Khan, (8) Rustam Ali Mollah, (9) Sheikh Idris Ali , (10) Sheikh Rafiqul Islam alias Babul , (11) Md. Maniruzzaman Howlader and (12) Md. Ajahar Ali Sikder in captivity till 16 December, 1971. The victim was rescued there from by the freedom-fighters.

Therefore, you the accused (1) Khan Akram Hossain, (2) Idris Ali Mollah, (3) Sheikh Md. Ukiluddin, (4) Md. Mokbul Mollah (5) Md. Hashem Ali Sheikh (6) Khan Ashraf Ali , (7) Sultan Ali Khan, (8) Rustam Ali Mollah, (9) Sheikh Idris Ali , (10) Sheikh Rafiqul Islam alias Babul , (11) Md. Maniruzzaman Howlader and (12) Md. Ajahar Ali Sikder participated, facilitated, abetted and substantially contributed, by your culpable act and conduct forming part of systematic attack to the commission of offences of confinement, abduction, torture , rape and murder as crimes against humanity as specified in section 3(2)(a)(g)(h) of the International Crimes (Tribunals) Act 1973 read with section 4(1) of the Act, 1973 which are punishable under section 20(2) of the said Act.

Charge No.07:[12 accused indicted]

[Narrated as event no. 07: page 58-61 of the Formal Charge]

[Offences of confinement torture and murder of Sreedham Karmakar and rape as crimes against humanity committed at village-Gajalia under police station-Kachua of District-Bagerhat]

That on the first day of November, 1971 at about 10:00 A.M a group formed of you the accused Md. Maniruzzaman Howlader, Md. Hashem Ali Sheikh Md. Ajahar Ali Sikder, Md. Mokbul Mollah and your cohort armed Razakars by launching attack at Gajalia bazaar under police station-Kachua forcibly

captured Sreedham Karmakar and his wife from their house and started causing torture to them and at a stage shot him to death. Kamala Rani Karmakar the wife of Sreedham Karmakar was then taken away on forcible capture to Kachua Razakar camp where she along with two other women was kept confined. The victim Kamala Rani Karmakar was subjected to recurrent rape by you the accused (1) Khan Akram Hossain, (2) Idris Ali Mollah, (3) Sheikh Md. Ukiluddin, (4) Md. Mokbul Mollah (5) Md. Hashem Ali Sheikh (6) Khan Ashraf Ali , (7) Sultan Ali Khan, (8) Rustam Ali Mollah, (9) Sheikh Idris Ali , (10) Sheikh Rafiqul Islam alias Babul , **(11)** Md. Maniruzzaman Howlader and (12) Md. Ajahar Ali Sikder. Victim Kamala Rani became ill in captivity and thus was sent to hospital wherefrom she managed to flee.

Therefore, you the accused (1) Khan Akram Hossain, (2) Idris Ali Mollah, (3) Sheikh Md. Ukiluddin, (4) Md. Mokbul Mollah (5) Md. Hashem Ali Sheikh (6) Khan Ashraf Ali , (7) Sultan Ali Khan, (8) Rustam Ali Mollah, (9) Sheikh Idris Ali , (10) Sheikh Rafiqul Islam alias Babul , **(11)** Md. Maniruzzaman Howlader , (12) Md. Ajahar Ali Sikder participated, facilitated, abetted and substantially contributed, by your culpable act and conduct forming part of systematic attack to the commission of offences of confinement, abduction, torture , rape and murder as crimes against humanity as specified in section 3(2)(a)(g)(h) of the International Crimes (Tribunals) Act 1973 read with section 4(1) of the Act, 1973 which are punishable under section 20(2) of the said Act.

34. Thus, you the accused persons have been indicted as above for committing the offences under section 3(2)(a)(c)(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 1) Khan Akram Hossain, (2) Idris Ali Mollah, (3) Sheikh Md. Ukiluddin, and (4) Md. Mokbul Mollah and (5) Md. Hashem Ali Sheikh

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 (1) Khan Akram Hossain, (2) Idris Ali Mollah, (3) Sheikh Md. Ukiluddin, (4) Md. Mokbul Mollah and (5) Md. Hashem Ali Sheikh to which they pleaded not guilty and claimed to be tried according to law.

37. The charges framed as above could not be explained to the rest seven [07] accused (6) Khan Ashraf Ali , (7) Sultan Ali Khan, (8) Rustam Ali Mollah, (9) Sheikh Idris Ali , (10) Sheikh Rafiqul Islam alias Babul , (11) Md. Maniruzzaman Howlader and (12) Md. Ajahar Ali Sikder as they remained absconded.

38. Let 10.09.2018 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.

39. At the same time the learned engaged counsel for accused and the learned state defence counsels are asked to submit a list of witnesses along with documents which the defence intends to rely upon, if any, as required under section 9(5) of the Act on or before the date fixed.

Justice Md. Shahinur Islam, Chairman

Justice Amir Hossain, Member

Justice Md. Abu Ahmed Jamadar, Member