

International Crimes Tribunal-1

Old High Court Building, Dhaka, Bangladesh.

ICT-BD [ICT-1] Case No.11 of 2016

[Arising out of Investigation Agency's compliant register serial no. 56 dated 28.07.2015]

Present:

Justice Md. Shahinur Islam, Chairman

Justice Amir Hossain, Member

Justice Md. Abu Ahmed Jamadar, Member

Order No.23

27 May, 2019

The Chief Prosecutor

Vs.

(1) M.A Hannan,(2) Md. Rafiq Sajjad (3) Doctor Khondaker Golam Sabbir Ahmed (4) Mizanur Rahman @ Mintu (5) Md. Hormuj Ali (6) Md. Fakhruzzaman, (7) Md. Abdus Sattar and (8) Khondaker Golam Rabbani.

For the prosecution

Mr. Md. Sultan Mahmud, Prosecutor

For the Defence:

Mr. Mizanul Islam, Advocate, Bangladesh Supreme Court: Engaged Counsel for accused M.A Hannan, Md. Rafiq Sajjad and Doctor Khondaker Golam Sabbir Ahmed.

Mr. Abdus Sobhan Tarafdar, Advocate, Bangladesh Supreme Court: **Engaged Counsel** for accused Mizanur Rahman @ Mintu and Md. Hormuj Ali

Mr. Abdus Sobhan Tarafdar, Advocate, Bangladesh Supreme Court: **State Defence Counsel** for accused Md. Fakhruzzaman, Md. Abdus Sattar and Khondaker Golam Rabbani.

[Decision on framing charges]

Today is fixed for rendering decision on charge framing matter.

Six [06] accused (1) M.A Hannan,(2) Md. Rafiq Sajjad (3) Doctor Khondaker Golam Sabbir Ahmed (4) Mizanur Rahman @ Mintu (5) Md. Hormuj Ali and (6) Md. Abdus Sattar have been brought before the Tribunal from prison. Another two [02] accused (7) Md. Fakhruzzaman and (8) Khondaker Golam Rabbani have been absconding.

Hearing on charge framing matter concluded on 23.01.2019. Today is fixed for rendering order. Now, the record is taken up for passing order on indictment matter.

Before we move to render the order, we deem it necessary to outline a brief portrayal of the settled historical context of the case as in involves the offences allegedly committed in 1971 during the liberation war. At the same time succinct submission advanced by both the prosecution and the defence, in course of hearing also be addressed.

I. Introduction and Formation of the Tribunal

1. This International Crimes Tribunal-1 (hereinafter referred to as the “Tribunal”) has been established under the International Crimes (Tribunals) Act enacted in 1973 (hereinafter referred to as the “Act”) by Bangladesh Parliament to provide for the detention, prosecution and punishment of persons responsible for genocide, crimes against humanity, war crimes as enumerated in sub section (2) of section 3 of the Act committed in the territory of Bangladesh, before or after commencement of the Act.

II. Brief Historical Context

2. **The** settled historical context that pushed the Bengali nation for achieving Bangladesh an independent state through the war of liberation in 1971 has been portrayed in all the earlier cases disposed of by this Tribunal. Now, in brief, we reiterate that movement started in this part [now Bangladesh] of Pakistan as Bangabandhu Sheikh Mujibur Rahman the Father of the Nation in his historic glowing speech of 7th March, 1971, called on the people of Bangladesh to strive for independence. 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.

3. It is now well established history that in the War of Liberation that ensued in 1971 under the leadership of Bangabandhu the Father of the Nation, all Bengalee people of the then East Pakistan enthusiastically 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 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 diabolical atrocities in the territory of Bangladesh directing unarmed civilians. As a result, 3 million (thirty lacs) people were killed, more than 2, 00,000 (two lacs) women were raped, about 10 million (one crore) people deported to India as refugees and million others were internally displaced. It also experienced unprecedented destruction of properties all over Bangladesh.

4. The Pakistan government and the occupation military in collaboration with Jamaat E Islami [JEI], a potential pro-Pakistan political party setup number of auxiliary forces such as the Razakars, the Al-Badar, the Al-Shams, the Peace Committee etc. essentially to collaborate with the military in liquidating all those who were perceived to be sympathized with the liberation of Bangladesh, individuals belonging to minority religious groups especially the Hindus, political groups belonging to Awami League and other pro-

independence political parties, Bangalee intellectuals and civilian population of Bangladesh.

5. In the case in hand, the arraignments as have been pressed by the prosecution, by submitting 'formal charge' involve the deliberate barbaric atrocious attacks allegedly carried out directing unarmed civilian population of the localities under Police Stations Kotwali, Gouripur and Trishal, District- Mymensingh in 1971 in committing which the accused persons, in exercise of their active and culpable association with the locally formed Razakar Bahini and Al-Badar Bahini, allegedly participated and deliberately contributed to the accomplishment of atrocious activities, in violation of international humanitarian law and the laws of war.

III. Procedural History

6. The investigation Agency of the Tribunal started investigation pursuant to compliant register serial no. 56 dated 28.07.2015, in respect of commission of offences enumerated in section 3(2) of the Act of 1973 allegedly perpetrated by the accused persons.

7. During investigation, the IO prayed through the chief prosecutor on 28.07.2015 considering which Tribunal by its order dated 01.10.2015 issued warrant of arrest. Five [05] suspected accused (1) M.A Hannan,(2) Md. Rafiq Sajjad (3) Doctor Khondaker Golam Sabbir Ahmed (4) Mizanur Rahman @ Mintu (5) Md. Hormuj Ali could be

arrested in execution of warrant of arrest and on production before the Tribunal they were sent to prison , for the purpose of proper and effective investigation. Five accused persons detained in prison were interrogated at the safe home of the investigation agency as permitted by the Tribunal.

8. On conclusion of investigation, the IO submitted its report together with documents and materials collected and statement of witnesses, before the Chief Prosecutor on 11.07.2016 recommending prosecution of eight [08] accused persons.

9. The Chief Prosecutor , on the basis of the report and documents submitted therewith by the Investigation Agency, placed the ‘Formal Charge’ on 30.10.2016 under section 9(1) of the Act of 1973 before this Tribunal alleging that the accused persons had committed the offence of crimes against humanity including abetting and also for complicity to commit such crimes narrated in the formal charge during the period of War of Liberation in 1971 around the localities under Police Stations-Trishal , Gouripur and Kotwali , District-Mymensingh.

10. The Tribunal, under Rule 29(1) of the Rules of Procedure, took cognizance of offences as mentioned in section 3(2) read with section 4(1) of the Act of 1973 on 11.12.2016, by application its judicial mind

to the Formal Charge and materials and documents submitted therewith.

11. Out of eight [08] accused three [03] accused could not be arrested. After having the report in execution of warrant of arrest issued against them the Tribunal, for the purpose of holding proceeding in absentia against him ordered publication of notice in two national daily news papers.

12. It appears that after publication of such notice in two daily news papers one accused Abdus Sattar surrendered before the Tribunal on 28.03.2017 when he was sent prison. However, two accused Fakhruzzaman and Khondaker Golam Rabbani did not turn up within the time stipulated in the notification and as such treating them absconding Tribunal appointed Mr. Abdus Sobhan Tarafdar, Advocate, Bangladesh Supreme Court as state defence counsel to defend these two absconding accused. In addition to these two accused three other accused too are being defended by Mr. Abdus Sobhan Tarafdar.

13. Three accused detained in prison M.A Hannan, Md. Rafiq Sajjad and Doctor Khondaker Golam Sabbir Ahmed are being defended by their engaged counsel **Mr. Mizanul Islam**, Advocate, Bangladesh Supreme Court.

14. Hearing on charge framing matter concluded on 23.01.2019.

IV. Brief Account of Accused Persons

15. It is essentially needed to focus on brief account of the accused persons they had in 1971 which is crucially chained to the arraignments brought. The brief account of the accused persons as has been described in the formal charge is as below:

(i) M.A Hannan

Accused M.A Hannan[80], MP (Jatiya Party) Mymensingh-7 is the son of late M.A Khalek and late Nosimonnessa, of 59, Rambabu Road, Mymensingh Sadar, District- Mymensingh and Darirampur, Ward No.-8, Trishal Pourashava, District- Mymensingh, present address- Road no. 36, House no. 31, adjacent to Gulshan Azad Masjid, Police Station-Gulshan, DMP, Dhaka. He was born on 11.04.1935. He passed B.A from Anandamohan College, Mymensingh in 1957. He was involved with the politics of pro-Pakistan political party Convention Muslim League since 1960. He was elected Member of Provincial Assembly from Mymensingh Kotwali and Trishal as a candidate of Convention Muslim League and closely associated with the then Governor Monaem Khan. In 1971 he was a potential leader of Peace Committee of Mymensingh District. Accused M.A Hannan himself and his close associates, Razakars and Al-Badar, under his order used to carry out heinous offences in Mymensingh town and Trishal Police Station localities, as alleged.

After independence of Bangladesh accused M.A Hannan remained in hiding and Ministry of Home Affairs published proclamation in the Bangladesh Gazette for the purpose of holding inquiry and prosecution against him under the Bangladesh Collaborators (Special Tribunals) Order, 1972. After assassination of Bangabandhu Sheikh Mujibur Rahman the accused joined in Muslim League and contested Parliamentary Election in 1979 and 1990 as a candidate of the said party but failed. In 1996 and 2001 he also contested in Parliamentary Election as a nominated candidate of Jatiya Party but failed and finally he has been elected M.P in 2014 from Jatiya Party.

(ii) Md. Rafique Sajjad

Accused Md. Rafique Sajjad[62] is the son of M.A Hannan and Mosammat Shamsunnahar of 59, Rambabu Road, Mymensingh Sadar, District- Mymensingh and Darirampur, Ward No.-8, Trishal Pourashava, District- Mymensingh, present address-Road No.36, House No.31, adjacent to Gulshan Azad Masjid, Police Station- Gulshan, DMP, Dhaka. He was born on 26.07.1953. He passed S.S.C in 1971 and H.S.C in 1974 from Dhaka Residential Model School and got admitted in Law department of Dhaka University but could not complete his course. During the Liberation War in 1971 as member of the locally formed armed Razakar Bahini and close associate of his father accused M.A Hannan he allegedly got engaged in carrying out atrocious acts constituting the offences as crimes against humanity.

(iii) Md. Fakhruzzaman

Accused Md. Fakhruzzaman [61] is the son of late Abdul Wahed and late Halima Akhter Khatun of 3 Ka/1, College Road, Mymensingh Sadar, District- Mymensingh. He was born on 14.07.1955. He passed S.S.C in 1970 from Mymensingh Zilla School, H.S.C in 1972 and B.A in 1976 from Anandamohan College, Mymensingh. He also passed M.A from Dhaka University in 1978. He was an active member of Islami Chattra Sangha, the student wing of Jamat E Islami [JEI] since prior to 1971. During the Liberation War in 1971 he as a close associate of Peace Committee leader accused M.A Hannan and an active member of locally formed Razakar Bahini allegedly got engaged in carrying out atrocious activities in different places of Mymensingh District , as alleged.

(iv) Md. Abdus Sattar

Accused Md. Abdus Sattar [64] is the son of late Kudrat Ali Mondol and late Mosammat Kabiron Nessa of 5/16, Jail Road Outer Stadium, Mymensingh Sadar, District- Mymensingh. He was born on 05.06.1952. He studied up to class VIII. He was a follower of Convention Muslim League. During the Liberation War in 1971 as close associate of Peace Committee leader accused M.A Hannan and an active member of locally formed armed Razakar Bahini he allegedly committed heinous offences in different places of Mymensingh District.

(v) Dr. Khondokar Golam Sabbir Ahmed

Accused Dr. Khondokar Golam Sabbir Ahmed [60] is the son of late Khondokar Abdur Rashid and Mosammat Amena Khatun of 53/ka, Golki Bari Road, Mymensingh Sadar, District- Mymensingh. He was born on 04.01.1947. He passed S.S.C from Mymensingh Zilla School in 1963 and completed MBBS degree in 1972 from Mymensingh Medical College. During student life he was the member of Islami Chattra Sangha [ICS] and contested student union election of Mymensingh Medical College as V.P candidate in 1969. During the Liberation War in 1971 he joined in Al-Badar Bahini and as a close associate of Peace Committee leader accused M.A Hannan he allegedly got engaged in carrying out heinous offences in different places of Mymensingh District.

(vi) Khondokar Golam Rabbani

Accused Khondokar Golam Rabbani [63] is the son of late Khondaker Abdur Rashid and Mosammat Amena Khatun of 30/ka, Golki Bari Road, Mymensingh Sadar, District- Mymensingh. He was born on 28.10.1952. He passed S.S.C from Mymensingh Zilla School in 1967 and H.S.C from Junior Training College Dhaka in 1972. He also passed B.A from Dhaka University in 1987. During student life he was the member of Islami Chattra Sangha. During the Liberation War in 1971 he joined in Al-Badar Bahini and as a close associate of Peace Committee leader accused M.A Hannan he was allegedly involved in committing atrocious activities.

(vii) Mizanur Rahman @ Mintu

Accused Mizanur Rahman @ Mintu[63] son of late Dr. Lutfor Rahman(former Vice-Chairman, Mymensingh Pourashava) and Hawa Khatun of 143/A, R.K. Mission Road (Nawmohol), Mymensingh Sadar, District- Mymensingh. He was born on 02.02.1953. He passed S.S.C from Nasirabad High School, Mymensingh in 1970 and H.S.C from Nasirabad Collegiate School, Mymensingh in 1972. During the Liberation War in 1971 he joined in armed Razakar Bahini and as a close associate of Peace Committee leader accused M.A Hannan he allegedly got involved in committing atrocious activities in different places of Mymensingh District.

(viii)Md. Hormuj Ali

Accused Md. Hormuj Ali[73] is the son of Saad Akkas of Shommukh Boilor, Police Station-Trishal, District- Mymensingh. He was born on 06.06.1943. He completed his 'Kariana' Course from local Madrasha before independence of Bangladesh. He was a supporter of Jamat-e-Islami. During the War of Liberation in 1971 he joined in locally formed armed Razakar Bahini and as a close associate of Peace Committee leader accused M.A Hannan allegedly got involved in committing atrocious activities.

V. Submission by the Prosecutor

16. **Mr. Sultan Mahmud**, learned prosecutor drawing attention to the formal charge and other materials procured during investigation

submitted that the accused M.A Hannan was a potential leader of peace committee; that some of accused belonged to locally formed Razakar Bahini and some belonged to Al-Badar ; that the accused persons had acted as close associate of accused M.A Hannan.

17. It has been further asserted that in exercise of their affiliation with para militia auxiliary forces the accused persons deliberately got engaged and collaborated with the Pakistani occupation army in perpetrating ‘group crimes’ or ‘system crimes’ directing unarmed pro-liberation civilians of localities under police stations- Kotwali, Gouripur and Trishal of District-Mymensingh . It has been asserted further that the evidence and materials collected during investigation *prima facie* indicate towards participation and complicity of all the eight [08] accused persons with the events constituting the offences as crimes against humanity, as have been pressed in the formal charge.

VI. Submission on behalf of accused

18. Mr. Mizanul Islam, Advocate, Bangladesh Supreme Court, the learned engaged counsel defending three accused detained in prison M.A Hannan, Md. Rafique Sajjad and Doctor Khondaker Golam Sabbir Ahmed submits that in 1971 the accused Md. Rafique Sajjad was not a Razakar and did not participate in committing the alleged crimes. Alleged arraignment pressed in the formal charge does not

demonstrate this accused's participation and role in any manner in perpetrating the alleged crimes.

19. It has also been asserted by the learned defence counsel that accused Md. Rafique Sajjad has been recommended just for prosecution of one alleged event, as pressed in the formal charge. But the arraignment against this accused suffers from non-specificity and thus he deserves discharge. In respect of two other accused the learned defence counsel submitted that no sufficient materials and evidence could be collected against them to connect them with the commission of offences alleged and that there has been no grounds of framing charges against them.

20. Mr. Abdus Sobhan Tarafdar, the learned engaged counsel for accused Mizanur Rahman @ Mintu and Md. Hormuj Ali and also as state defence counsel for accused Md. Fakhruzzaman, Md. Abdus Sattar and Khondokar Golam Rabbani submitted that these accused have been recommended for prosecution on the basis of flawed investigation; that the materials allegedly collected do not connect these accused with any of the events alleged; that these accused persons were not associated with locally formed Razakar Bahini ;that the documents relied upon by the prosecution have been created with an intention of showing their affiliation in Razakar Bahini and that they have been implicated in this case out of local rivalry. The learned counsel concluded his submission seeking discharge of these accused.

VII. Deliberation and Decision

21. The prosecution alleges that in 1971 the accused M.A Hannan was a potential leader of Mymensingh peace committee and that the other accused persons belonged to Razakar Bahini and Al-Badar Bahini—auxiliary forces and they got involved in committing atrocious activities in exercise of their affiliation with those auxiliary forces.

22. On contrary, defence submitted that none of the accused belonged to any such auxiliary force and that no credible document could be collected to establish it.

23. Tribunal notes that membership in any such auxiliary force created to collaborate with the Pakistani occupation army is indeed a crucial issue which relates to the arraignments brought. But at this stage, decisive finding on it cannot be given, without trial. For this issue is required to be resolved on evaluation of evidence to be presented in course of trial. Further, it is to be noted too that the International Crimes (Tribunals) Act, 1973 permits to prosecute and try even an ‘individual’ or ‘group of individuals’.

24. We are not agreed with the submission advanced by Mr. Abdus Sobhan Tarafdar the learned stated defence counsel that the documents relied upon by the prosecution have been created with an intention of showing the fact that the accused persons had affiliation

in Razakar Bahini and that they have been implicated in this case out of local rivalry. Defence shall have due opportunity to agitate all these aspects at trial, if charges framed. At this stage, falsity of any document or untruthfulness of arraignment brought cannot be settled.

25. At this phase of proceeding, we are to just consider whether the documents and materials forming part of the case record *prima facie* demonstrate the commission of the alleged atrocious activities constituting the offences as crimes against humanity and complicity and involvement of the accused persons therewith. But of course, presuming the accused persons innocent, till they are found guilty as liability of accused persons for the offences alleged cannot be determined at this stage and without trial and weighing evidence to be presented.

26. However, we reiterate the settled norm that at this stage the accused persons shall be presumed innocent, till they are found guilty as neither the guilt nor the innocence can be adjudicated decisively. Finally, delay is not a clog in prosecuting the offences which are known as international crimes. There has been no statutory limitation in prosecuting the offences of crimes against humanity. It is now well settled.

27. On careful scrutiny, we have found *prima facie* the nexus of the accused persons with the commission of the alleged events

constituting the offences enumerated in the Act of 1973, mostly from the particulars narrated in the Formal Charge. The alleged offences were system crimes committed against the civilian population constituting the offences as crimes against humanity committed in context of the war of liberation in 1971 and the same need to be resolved in trail.

28. In view of above, now, we proceed to read out the charges framed. We are of the view that there are sufficient and substantial materials before this Tribunal forming reasonable grounds to frame charges against accused —

(1) **M.A Hannan**, son of late M.A Khalek and late Nosimonnessa, of 59, Rambabu Road, Mymensingh Sadar, District- Mymensingh and Darirampur, Ward No.-8, Trishal Pourashava, District- Mymensingh, present address- Road no. 36, House no. 31, adjacent to Gulshan Azad Masjid, Police Station-Gulshan, DMP, Dhaka.

(2) **Md. Rafique Sajjad**, son of M.A Hannan and Mosammat Shamsunnahar of 59, Rambabu Road, Mymensingh Sadar, District- Mymensingh and Darirampur, Ward No.-8, Trishal Pourashava, District- Mymensingh, present address-Road No.36, House No.31, adjacent to Gulshan Azad Masjid, Police Station-Gulshan, DMP, Dhaka.

(3) **Md. Fakhruzzaman**, son of late Abdul Wahed and late Halima Akhter Khatun of 3 Ka/1, College Road, Mymensingh Sadar, District- Mymensingh

(4) **Md. Abdus Sattar**, son of late Kudrat Ali Mondol and late Mosammat Kabiron Nessa of 5/16, Jail Road

Outer Stadium, Mymensingh Sadar, District-Mymensingh

(5)Dr. Khondokar Golam Sabbir Ahmed, son of late Khondokar Abdur Rashid and Mosammat Amena Khatun of 53/ka, Golki Bari Road, Mymensingh Sadar, District-Mymensingh.

(6)Khondokar Golam Rabbani, son of late Khondaker Abdur Rashid and Mosammat Amena Khatun of 30/ka, Golki Bari Road, Mymensingh Sadar, District-Mymensingh

(7)Mizanur Rahman @ Mintu, son of late Dr. Lutfor Rahman(former Vice-Chairman, Mymensingh Pourashava) and Hawa Khatun of 143/A, R.K. Mission Road (Nawmohol), Mymensingh Sadar, District-Mymensingh

And

(8)Md. Hormuj Ali, son of Saad Akkas of Shommukh Boilor, Police Station-Trishal, District- Mymensingh

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) M.A Hannan, (2) Md. Rafiq Sajjad (3) Doctor Khondaker Golam Sabbir Ahmed., (4) Mizanur Rahman @ Mintu, (5)Md. Hormuj Ali, (6) Md. Fakhruzzaman, (7) Md. Abdus Sattar and (8) Khondaker Golam Rabbani as follows:

Charge no. 01: [03 accused indicated]

**[Event no.01 as narrated in the formal charge: page 19-21]
[Offences of ‘abduction’, ‘torture’ and ‘murder’]**

Charge: That being persuaded by the declaration announced on 23.04.1971 by you the accused M.A Hannan and Moulana Foyzur Rahman [now dead], the chairman of peace committee that sculpture Abdur Rashid was a *kefir* as he made statues of God-Goddess of Hindu religion you the accused **(1) M.A Hannan, (2) Khondakar Golam Robbani, (3) Md. Fakhruzzaman** and your Bihari accomplices unlawfully detained Abdur Rashid from his house on 24.04.1971 at about 10:00 A.M and took him away by buckling behind a jeep, with chanting slogans-- Nara-e-Takbir’, ‘Pakistan Zindabad’. Since then the detainee could not be traced.

Therefore, you accused **(1) M.A Hannan, (2) Khondakar Golam Robbani** and **(3) Md. Fakhruzzaman** is hereby charged for participating, facilitating, aiding and substantially contributing to the commission of offences of ‘**abduction**’, ‘**torture**’ and ‘**murder**’ as crimes against humanity as enumerated in section 3(2)(a)(g)(h) of the International Crimes (Tribunals) Act, 1973 read with section 4(1) of

the Act of 1973 which are punishable under section 20(2) of the said Act of 1973.

Charge no. 02:[02 accused indicated]

**[Event no.02 as narrated in the formal charge: page 21-23]
[Offences of ‘arson’, ‘other inhumane act’ and ‘murder’]**

Charge: That on 02.08.1971 at about 10:00 A.M you the accused (1) **M.A Hannan**, (2) **Md. Hormuj Ali** being accompanied by your accomplices Mahatab Tarafdar [now dead], Mohsin Tarafdar [now dead], Shafiqul Islam Bhola [now dead], Golakata Poto [now dead], Bogu Kari [now dead] by launching attack at Hindu populated vicinity known as ‘Boiler Hindu Palli’ under police station-Trishal of District Mymensingh torched the houses of Hindu civilians and unlawfully detained Sree Jotish Chandra Chakraborti @ Sentu and fired gunshot to him that resulted in injuries and he fell down. Then **you accused M.A Hannan** taking rifle from one of your accomplice Razakars shot him to death when he was taken to you.

Therefore, you accused (1) M.A Hannan, (2) Md. Hormuj Ali is hereby charged for participating, facilitating, aiding and substantially contributing to the commission of offences of ‘arson’, ‘other inhumane act’ and ‘murder’ as crimes against humanity as enumerated in section 3(2)(a)(g)(h) of the International Crimes (Tribunals) Act, 1973 read with section 4(1) of the Act of 1973 which are punishable under section 20(2) of the said Act of 1973.

Charge no. 03:[02 accused indicated]

**[Event no.03 as narrated in the formal charge: page 23-26]
[Offences of ‘arson’, ‘torture’, ‘abduction’ , ‘confinement’
and ‘murder’]**

Charge: That on 02.08.1971 at about 11:00 A.M after carrying out attack as narrated in charge no. 02 you the accused **(1) M.A Hannan,**
(2) Md. Hormuj Ali being accompanied by your accomplices destroyed the house of A. Rahman, a freedom fighter of village-Boiler Munshipara under police station-Trishal of District Mymensingh by setting those on fire terming him ‘miscreant’.

On 07.08.1971 being misinformed by one of his companions Felu [now dead] A. Rahman being unarmed came out of their shelter place, the house of Gedu Bepari of village-Bhanganamarir Char under police station- Gouripur of District- Mymensingh along with Felu when the Razakars forcibly captured him and Gedu Bepari and took them away, by boat, to room no. 210/Ka, Fazlul Haque Hall of Agricultural University, Mymensingh, the ‘joint torture cell’.

Thereafter, on 09.08.1971 you the **accused M.A Hannan** visited the torture cell and on your order the detainee A. Rahman was then shot to death taking him out of the cell. Another detainee Umed Ali Master was kept confined at the torture cell for more than three months when he was subjected to sever torture in captivity and eventually he got release there from. After independence the decomposed body of victim A. Rahman was buried.

Therefore, you accused (1) M.A Hannan, (2) Md. Hormuj Ali are hereby charged for participating, facilitating, aiding and substantially contributing to the commission of offences of ‘arson’, ‘torture’, ‘abduction’, ‘confinement’ and ‘murder’ as crimes against humanity as enumerated in section 3(2)(a)(g)(h) of the International Crimes (Tribunals) Act, 1973 read with section 4(1) of the Act of 1973 which are punishable under section 20(2) of the said Act of 1973.

Charge no. 04:[07 accused indicated]

**[Event no.04 as narrated in the formal charge: page-26-30]
[Offences of ‘abduction’, ‘confinement’, ‘torture’ and ‘murder’]**

Charge: That on 17 November 1971 at about 3:00/04:00 P.M you the accused (1) **Khondokar Golam Rabbani**, (2) **Khondokar Golam Sabbir Ahmed** and (3) **Md. Fakhruzzaman** and your 7/8 Razakars and Al Badar unlawfully detained Khondokar Abdul Ali Ratan and his brother A. Rahim Mintu when they were on the way to Mymensingh Medical College Hospital by rickshaw. At that time you accused (4) **Md. Rafiq Sajjad**, (5) **Md. Sattar** and (6) **Md. Mizanur Rahman alias Mintu** arrived there by a jeep and took Khondokar Abdul Ali Ratan away by the jeep making him blindfolded to the District Council Duk Bungalow near Kotwali police Station which was the concentration camp where he was subjected to torture.

You accused M.A Hannan defied the appeal made to you in the first part of December, 1971 by the mother of the detainee to secure his release. On the 07th day of December, 1971 at night you the accused (7) **M. A Hannan and Md. Mizanur Rahman alias Mintu, Md. Rafique Sajjad and Md. Satter** came in front of the Duk Bungalow and you accused **M.A Hannan** ordered to wipe out all the detainees taking them on the bank of the river Brahmaputra.

Therefore, you accused (1) **M.A Hannan**, (2) **Md. Mizanur Rahman alias Mintu**, (3) **Md. Rafiq Sajjad**, (4) **Khondokar Golam Rabbani**, (5) **Khondokar Golam Sabbir Ahmed**, (6) **Md. Fakhruzzaman** and (7) **Md. Sattar** are hereby charged for participating, facilitating, aiding and substantially contributing to the commission of offences of ‘**abduction**’, ‘**confinement**’, ‘**torture**’ and ‘**murder**’ as crimes against humanity as enumerated in section 3(2)(a)(g)(h) of the International Crimes (Tribunals) Act, 1973 read with section 4(1) of the Act of 1973 which are punishable under section 20(2) of the said Act of 1973.

Charge no. 05: [03 accused indicated]
[Event no.05 as narrated in the formal charge: page 30-32]
[Offences of ‘abduction’, ‘confinement’ and ‘torture’]

Charge: That on 23.04.1971 at dawn a group formed of Biharis and Pakistani occupation army forcibly captured Md. Abed Hossain Khan of 45/1 Shaheb Ali Road, Natun Bazar, police station-Kotwali of

District Mymensingh when he, sensing the attack, attempted to escape and then he was taken to the house of you the accused **(1) M.A Hannan** at 59, Rambabu Road, Mymensingh Sadar and then was kept confined in a tin shed house located to the southern side of your residence, along with other detainees.

Thereafter, you the accused (2) Md. Abdus Sattar and (3) Md. Mizanur Rahman being accompanied by your armed cohorts came there and started beating the detained Md. Abed Hossain Khan. The victim was then handed over to the Pakistani occupation army on order of you the **accused M.A Hannan** and was taken to Kotwali police station where he was kept confined.

Two days later, the detained victim was sent of Mymensingh Jail and then to Dhaka Cantonment. On the following day, the victim was taken away to the army camp at Joydevpur and one month later he was brought back to Dhaka cantonment and was kept confined in a godown along with numerous detainees. In the name of interrogation he and other detainees were subjected to torture in captivity and thus the victim became sick and eventually, on 28.07.1971 the victim got released.

Therefore, you accused **(1) M.A Hannan, (2) Md. Abdus Sattar and (3) Md. Mizanur Rahman** are hereby charged for participating, facilitating, aiding and substantially contributing to the commission of

offences of ‘**abduction**’, ‘**confinement**’ ‘**torture**’ as crimes against humanity as enumerated in section 3(2)(a)(g)(h) of the International Crimes (Tribunals) Act, 1973 read with section 4(1) of the Act of 1973 which are punishable under section 20(2) of the said Act of 1973.

Charge No. 06:[01 accused indicated]

[Event no.06 as narrated in the formal charge: page 33-34]
[Offences of ‘abduction’, ‘confinement’ and ‘torture’]

Charge: That on 07.08.1971 in afternoon a group formed of Pakistani occupation army and Razakars unlawfully detained K.M Khalid Babu from the place Swadeshi Bazar in front of the house of you the accused **M.A Hannan** and took him to you when you ordered to send him to the torture cell set up at the Agricultural University, Mymensingh. With this the detainee was taken away there and kept in captivity along with 05 other detainees.

On 09.08.1971 in the afternoon you accused **M.A Hannan** along with the Imam of Boro Masjid Moulana Foyzur Rahman [now dead] and other cohorts visited the torture cell and on the following day the victim got release on order of the Imam Moulana Foyzur Rahman.

Therefore, you accused (1) **M.A Hannan** is hereby charged for participating, facilitating, aiding and substantially contributing to the commission of offences of ‘**abduction**’, ‘**confinement**’ and ‘**torture**’

as crimes against humanity as enumerated in section 3(2)(a)(g)(h) of the International Crimes (Tribunals) Act, 1973 read with section 4(1) of the Act of 1973 which are punishable under section 20(2) of the said Act of 1973.

29. Thus, you the accused persons 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.

30. You accused (1) M.A Hannan,(2) Md. Rafiq Sajjad (3) Doctor Khondaker Golam Sabbir Ahmed (4) Mizanur Rahman @ Mintu (5) Md. Hormuj Ali and (6) Md. Abdus Sattar 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:

31. The charges so framed have been read over and explained to the accused (1) M.A Hannan,(2) Md. Rafiq Sajjad (3) Doctor Khondaker Golam Sabbir Ahmed (4) Mizanur Rahman @ Mintu (5) Md. Hormuj

Ali and (6) Md. Abdus Sattar to which they pleaded not guilty and claimed to be tried according to law.

32. Two [02] accused Md. (6) Fakhruzzaman and (8) Khondaker Golam Rabbani have been absconding and as such the charges framed could not be read over and explained to them.

33. Let 14.07.2019 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.

34. At the same time the learned engaged counsel and also the learned state defence counsel shall be at liberty 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