

International Crimes Tribunal-1

Old High Court Building, Dhaka, Bangladesh.

ICT-BD [ICT-1] Case No.02 of 2019

Present:

Justice Md. Shahinur Islam, Chairman

Justice Amir Hossain, Member

Justice Md. Abu Ahmed Jamadar, Member

Order No.09

11 September, 2019

The Chief Prosecutor

Vs.

(1) Abdul Mannan Howlader @ Abdul Mannan Delar @ Mannaf, (2) Ashraf Ali @ Assrab Ali Howlader (3) Md. Moharaj Howlader @ Hatkata Moharaj (4) Md. Amir Hossain @ Hafez Md. Amir Hossain @ Amir Ali Howlader[**absconding**] (5) Md. Nurul Amin Howlader[**absconding**] (6) Md. Siddiqur Rahman @ Siddique Howlader @ Siddique Munshi [**absconding**]

For the Prosecution

Mr. Md. Sahidur Rahman, learned Prosecutor

Ms. Rezia Sultana Begum, learned Prosecutor

For the Defence :

Mr. Gazi M. H. Tamim, Advocate, Bangladesh Supreme Court: Learned **Engaged Counsel** for three [03]present accused AND learned **State Defence Counsel** for three[03] absconded accused.

[Decision on framing charges]

Today is fixed for rendering decision on charge framing matter.

Three [03] accused persons --- (1) Abdul Mannan Howlader @ Abdul Mannan Delar @ Mannaf (2) Ashraf Ali @ Assrab Ali Howlader (3) Md. Moharaj Howlader @ Hatkata Moharaj have been brought before the Tribunal from prison and are present on dock.

The rest three [03] accused (4) Md. Amir Hossain @ Hafez Md. Amir Hossain @ Amir Ali Howlader (5) Md. Nurul Amin Howlader (6) Md. Siddiqur Rahman @ Siddique Howlader @ Siddique Munshi have been absconding.

On conclusion of hearing on charge framing matter Tribunal fixed today for rendering order. Now, the record is taken up for passing order on indictment matter.

Formal charge based on investigation conducted by the investigation agency under the International Crimes (Tribunals) Act, 1973 involves recommendation of prosecution of the offences allegedly committed in 1971, during the war of liberation around the localities under police station Bhandaria of District [now]- Pirojpur. Those are not isolated crimes.

The alleged offences were committed in context of the war of liberation directing unarmed civilian population, in violation of international humanitarian law and the laws of war. Thus, before we move to render the order, we deem it necessary to outline a brief portrayal of the settled historical context of those atrocious offences. 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 judicial institution known as ‘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 background that pressed the Bengali nation for achieving Bangladesh, an independent state through the war of liberation in 1971 has been portrayed in all the earlier cases dealt with by this Tribunal. However, 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 struggle 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 established history too that in the War of Liberation that ensued in 1971 under the farsighted leadership of Bangabandhu the Father of the Nation, all 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 pro-Pakistan political parties namely Jamat-e-Islami[JEI], Muslim League 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 mayhem in the territory of Bangladesh directing unarmed civilians which continued for long nine months. 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, quitting their homes and million others were internally displaced. The Bengali nation also experienced unprecedented and untold 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 created number of *para militia* auxiliary forces such as the Razakars, the Al-Badar, the Al-Shams, the Peace Committee etc. essentially to collaborate with the Pakistani occupation army in carrying out horrendous atrocious activities and 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 pro-liberation 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 and extremely barbaric atrocious attacks allegedly carried out directing unarmed civilian population of the localities **under police station-Bhandaria of District[now]-Pirojpur** in 1971 to which the accused persons, in exercise of their active and culpable affiliation in locally formed infamous Razakar Bahini, allegedly participated and deliberately contributed to the commission of grave serious crimes, in violation of international humanitarian law and the laws of war, as enumerated in section 3(2) of the Act of 1973.

III. Procedural History

6. The Investigation Agency formed under The Act of 1973 started investigation pursuant to compliant register serial no. 66 dated 12.04.2016, in respect of commission of offences enumerated in section 3(2) of the Act of 1973 allegedly perpetrated by the suspected accused persons, being part of the criminal enterprise.

7. During investigation, the IO prayed, through the chief prosecutor for showing arrested of the suspected accused (1) Abdul Mannan Howlader @ Abdul Mannan Delar @ Mannaf (2) Ajahar Ali Howlader @ Aju Munshi [died on 29.07.2019, after hearing charge framing matter] (3) Ashraf Ali @ Assrab Ali Howlader (4) Md. Moharaj Howlader @ Hatkata Moharaj and Md . Fazlul Haque [died on 30.10.2018] who were in jail in connection with Bhandaria police station case no. 22 dated 23.05.2018 under section 25(gha) of the Special Powers Act, 1974. Accordingly production warrant was issued by the Tribunal on 29.05.2018. Next tribunal by its order dated 10.07.2018 sent those five suspected accused to prison showing them arrested in connection with this case, for the purpose of effective investigation.

8. On application on part of the investigation officer through the chief prosecutor Tribunal permitted to interrogate the detained five suspected accused and accordingly they were interrogated on

15.07.2018 to 19.07.2018, as ordered. Detained suspected accused Md. Fazlul Haque died on 30.10.2018 in Dhaka medical College Hospital and then proceeding so far as it related to this suspected accused stood abated vide Tribunal's order dated 07.11.2018.

9. On conclusion of investigation, the IO submitted its report to the chief prosecutor together with documents and materials collected and statement of witnesses, before the Chief Prosecutor on 06.11.2018 recommending joint prosecution of seven[07] accused of whom now three[03] are in prison.

10. Chief Prosecutor, on the basis of the report and documents submitted therewith by the Investigation Agency, placed the '**Formal Charge**' on 11.02.2019 under section 9(1) of the Act of 1973 read with the Rule 18(1) of the ROP[ICT-1] before this Tribunal alleging that total seven (07) accused had committed the offences enumerated in section 3(2) of the Act of 1973 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 station-Bhandaria, District[now]-Pirojpur.

11. 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 **06.03.2019**, by application its judicial

mind to the Formal Charge and materials and documents submitted therewith.

12. Out of seven accused three could not be arrested in execution of the warrant of arrest issued on prayer of the prosecution. On getting report in execution of warrant of arrest against these three [03] accused namely Md. Amir Hossain @ Hafez Md. Amir Hossain @ Amir Ali Howlader , Md. Nurul Amin Howlader and Md. Siddiqur Rahman @ Siddique Howlader @ Siddique Munshi Tribunal ordered publication of notice in two national daily news papers, for the purpose of holding proceeding in absentia against them.

13. But none of those three accused turned up in response to such notification and as such treating them absconded Tribunal by its order dated **11.06.2019** appointed **Mr. Gazi M.H Tamim**, Advocate, Bangladesh Supreme Court as state defence counsel to defend the three absconding accused Md. Amir Hossain @ Hafez Md. Amir Hossain @ Amir Ali Howlader, Md. Nurul Amin Howlader **and** Md. Siddiqur Rahman @ Siddique Howlader @ Siddique Munshi., at the cost of government and fixed the date of hearing on charge framing matter which took place on 15.07.2019.

14. On closure of hearing on charge framing matter Tribunal eventually fixed today the 11th **day** of September 2019 for order.

15. Meanwhile, prosecution by filing an application on 01.09.2019 together with relevant papers informed the Tribunal that accused Ajahar Ali Howlader @ Aju Munshi who was on bail died on 29.07.2019 and prayed for necessary order . Accordingly, on hearing on this matter Tribunal ordered on 04.09.2019 that proceeding so far as it relates to the accused Ajahar Ali Howlader @ Aju Munshi stands abated.

IV. Brief Account of Accused Persons

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

(1) Abdul Mannan Howlader @ Abdul Mannan Delar @ Mannaf

Accused Abdul Mannan Howlader @ Abdul Mannan Delar @ Mannaf (75) is the son of late Hashem Ali Howlader and late Amena Khatun of village-Hetalia, Police Station-Bhandaria, District-Pirojpur. His date of birth is 19.08.1943 [as per his NID]. He studied up to class VIII from Endurkani High School. He was an active member of the Muslim League. In 1971, during the liberation war he joined the Bhandaria Thana Peace Committee and then he joined in locally formed Razakar Bahini. Now he is an active supporter of Jamat-e-Islami. He in collaboration with the Pakistani occupation army

actively participated and committed heinous crimes including crimes against humanity, prosecution alleges.

(2) Ashraf Ali @ Assrab Ali Howlader

Accused Ashraf Ali @ Assrab Ali Howlader (67) is the son of late Najar Ali Howlader and Hajera Begum Nesa of Village-Hetalia, Police Station-Bhandaria, District-Pirojpur. His date of birth is 20.11.1950 [as per his NID]. He studied up to class VIII. In 1971, during the liberation war he was an active supporter of Jamat-e-Islami. He joined the locally formed Razakar Bahini. He in collaboration with the Pakistani occupation army actively participated and committed heinous crimes including crimes against humanity, prosecution alleges.

(3) Md. Moharaj Howlader @ Hatkata Moharaj

Accused Md. Moharaj Howlader @ Hatkata Moharaj (68) is the son of late Mohabbat Ali Howlader and Sometto Banu of Village-Charkhali, Police Station-Bhandaria, District-Pirojpur. His date of birth is 03.03.1950 [as per his NID]. He studied up to class IV. In 1971, during the liberation war he was an active supporter of Jamat-e-Islami. He joined the locally formed Razakar Bahini. He in collaboration with the Pakistani occupation army actively participated and committed heinous crimes including crimes against humanity, prosecution alleges.

(4) Md. Amir Hossain @ Hafez Md. Amir Hossain @ Amir Ali Howlader

Accused Md. Amir Hossain @ Hafez Md. Amir Hossain @ Amir Ali Howlader (70) is the son of late Khabir Uddin Howlader and late Hasina Banu @ Asen Banu of Village-Hetalia, Police Station-Bhandaria, District-Pirojpur. His date of birth is 12.07.1949 [as per his NID]. He studied up to class VIII and joined the Pakistan Army as a Sepoy [soldier] on 03.05.1964. In 1971, during the liberation war he joined the locally formed Razakar Bahini and his name appeared in the list of Bhandaria Upazila Razakar Bahini in serial No.09. He in collaboration with the Pakistani occupation army actively participated and committed heinous crimes including crimes against humanity, prosecution alleges.

(5). Md. Nurul Amin Howlader

Accused Md. Nurul Amin Howlader (63) is the son of late Shamsul Haque Howlader and Most. Setara Begum of village-Hetalia, Police Station-Bhandaria, District-Pirojpur. His date of birth is 06.05.1955 [as per his NID]. He studied up to Bachelor of Arts (BA). In 1971, during the liberation war he joined the locally formed Razakar Bahini. He in collaboration with the Pakistani occupation army actively participated and committed heinous crimes including crimes against humanity, prosecution alleges.

(6). Md. Siddiqur Rahman @ Siddique Howlader @ Siddique Munshi

Accused Md. Siddiqur Rahman @ Siddique Howlader @ Siddique Munshi (73) is the son of late Oyez Uddin Howlader @ Wajed Munshi and late Maleken Nesa Begum of Village-Hetalia, Police Station-Bhandaria, District-Pirojpur. He studied up to Kamel. In 1971, during the liberation war he was involved with the politics of Muslim League. He joined the locally formed Razakar Bahini and his name appears in the list of Bhandaria Upazila Razakar Bahini in serial no. 13. He in collaboration with the Pakistani occupation army actively participated and committed heinous crimes including crimes against humanity, prosecution alleges.

V. Submission by the Prosecutor

16. **Mr. Shahidur Rahman** the learned prosecutor drawing attention to the formal charge and other materials collected in course of investigation asserted that the accused persons belonged to locally formed infamous Razakar Bahini and in exercise of their potential association with it they along with their cohorts and Pakistani occupation army deliberately perpetrated ‘group crimes’ or ‘system crimes’ directing unarmed pro-liberation civilians of localities under police station-Bhandaria of District–Pirojpur. It has been emphatically asserted further that the evidence and materials collected during investigation *prima facie* point towards actual participation and complicity of the accused persons with the events of attacks arraigned

constituting the offences as crimes against humanity and genocide, as has been pressed in the formal charge.

VI. Submission advanced by the Defence

17. **Mr. Gazi M.H. Tamim** the learned **engaged counsel** for the present accused persons and also as state defence counsel for absconding accused persons submits that the accused persons did not belong to Razakar Bahini; that they have been implicated in this case out of local rivalry; that no credible evidence and documents could be collected during investigation to connect these accused persons with the crimes alleged; that the alleged documents and materials collected during investigation do not demonstrate prima facie any form of their participation and complicity in committing the alleged offences and thus they deserve discharge.

VII. Deliberation and Decision

18. The averment agitated by the prosecution that in 1971 the accused persons were the armed members of locally formed Razakar Bahini is a pertinent issue which indisputably relates to the arraignments brought. But this issue needs to be resolved only on appraisal of evidence to be tendered in trial. At this stage, conclusive finding on it cannot be given. Further, Tribunal notes that the International Crimes (Tribunals) Act, 1973 permits to prosecute and try even an

‘individual’ or ‘group of individuals’, in addition to member[s] of an auxiliary force.

19. We reiterate that at this phase of proceeding, we are to just see whether the documents and materials relied upon by the prosecution *prima facie* demonstrate the commission of the alleged atrocious activities constituting the offences as enumerated in the Act of 1973 and alleged complicity and involvement of the accused persons therewith. But of course, the accused persons shall be presumed innocent, till they are found guilty as liability of accused persons for the offences alleged cannot be determined at this stage without trial and weighing evidence to be presented by the prosecution.

20. Defence asserted that the accused persons were not connected in any way in accomplishing any of the offences alleged as the evidence collected during investigation does not link them therewith.

21. The above submission agitated on part of the defence does not carry merit , at this stage, as it relates to factual aspect which may be well resolved only in trial. Their culpability, if any, can only be well determined at trial, not at this stage.

22. On careful scrutiny, we have found *prima facie* the nexus of the accused persons with the commission of the alleged offences, mostly

from the particulars of events of attacks narrated in the Formal Charge.

23. 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 obviously need to be resolved in trial.

24. In view of above, we are of the **UNANIMOUS** view that there are sufficient and substantial materials before this Tribunal forming reasonable grounds of proceeding by framing charges against accused

—

(1) Abdul Mannan Howlader @ Abdul Mannan Delar @ Mannaf (75) is the son of late Hashem Ali Howlader and late Amena Khatun of village-Hetalia, Police Station-Bhandaria, District-Pirojpur;

(2) Ashraf Ali @ Assrab Ali Howlader (67) is the son of late Najar Ali Howlader and Hajera Begum Nesa of Village-Hetalia, Police Station-Bhandaria, District-Pirojpur;

(3) Md. Moharaj Howlader @ Hatkata Moharaj (68) is the son of late Mohabbat Ali Howlader and Sometto Banu of Village-Charkhali, Police Station-Bhandaria, District-Pirojpur;

(4) Md. Amir Hossain @ Hafez Md. Amir Hossain @ Amir Ali Howlader (70) is the

son of late Khabir Uddin Howlader and late Hasina Banu @ Asen Banu of Village-Hetalia, Police Station-Bhandaria, District-Pirojpur;

(5) Md. Nurul Amin Howlader (63) is the son of late Shamsul Haque Howlader and Most. Setara Begum of village-Hetalia, Police Station-Bhandaria, District-Pirojpur
AND

(6) Md. Siddiqur Rahman @ Siddique Howlader @ Siddique Munshi (73) is the son of late Oyez Uddin Howlader @ Wajed Munshi and late Maleken Nesa Begum of Village-Hetalia, Police Station-Bhandaria, District-Pirojpur

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) Abdul Mannan Howlader @ Abdul Mannan Delar @ Mannaf, (2) Ashraf Ali @ Assrab Ali Howlader, (3) Md. Moharaj Howlader @ Hatkata Moharaj, (4) Md. Amir Hossain @ Hafez Md. Amir Hossain @ Amir Ali Howlader, (5) Md. Nurul Amin Howlader and (6) Md. Siddiqur Rahman @ Siddique Howlader @ Siddique Munshi as follows:

Charge 01: [06 accused have been indicted]

[Event no.01 as narrated in the formal charge: page 25-29]

[Offences of ‘abduction’, ‘confinement’, ‘torture’, ‘looting’, ‘arson and ‘murder’ of 07[seven] civilians on forcible capture from the village-East Pasharibunia under Police Station-Bhandaria of District-Pirojpur].

Charge: That on 04.06.1971 (20 Jaistha, 1378) at about 9:00 A.M a gang formed of about 10/12 Pakistani occupation army, 20/25 armed Razakar being accompanied by you the accused (1) Abdul Mannan Howlader @ Abdul Mannan Delar @ Mannaf, (2) Ashraf Ali @ Assrab Ali Howlader, (3) Md. Moharaj Howlader @ Hatkata Moharaj, (4) Md. Amir Hossain @ Hafez Md. Amir Hossain @ Amir Ali Howlader, (5) Md. Nurul Amin Howlader, (6) Md. Siddiqur Rahman @ Siddique Howlader @ Siddique Munshi, Md. Fazlul Haque Howlader (now dead) and Ajahar Ali Howlader @ Aju Munshi [died on 29.07.2019] by launching attack at Village-East Pasharibunia under police station-Bhandaria of District-Pirojpur forcibly captured unarmed Hindu civilians namely-Mukunda Bihari Mallik @ Mukunda Dhulaidha, Chitta Ranjan Bepari, Satish Chandra Bepari, Sarat Chandra Majhi, Rashik Gharami, Upendra Nath Mistri

and Ananta Chashi from their houses and killed them by gunshot, looted their houses and set 40/50 houses on fire.

Therefore, you the accused (1) Abdul Mannan Howlader @ Abdul Mannan Delar @ Mannaf, (2) Ashraf Ali @ Assrab Ali Howlader, (3) Md. Moharaj Howlader @ Hatkata Moharaj, (4) Md. Amir Hossain @ Hafez Md. Amir Hossain @ Amir Ali Howlader, (5) Md. Nurul Amin Howlader and (6) Md. Siddiqur Rahman @ Siddique Howlader @ Siddique Munshi, by such criminal acts forming part of systematic attack directing non-combatant Hindu civilian population, to further policy and plan of the Pakistani occupation army participated, facilitated, abetted, aided and substantially contributed to the commission offences of 'abduction', 'confinement', 'torture', 'looting, 'arson' and 'murder' 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 of 1973.

Charge 02: [04 accused have been indicted]

[Event no.02 as narrated in the formal charge: page 29-33]

[Offences of 'abduction', 'confinement', 'torture', 'plundering' and 'rape' of Surabala Dasi @ Surabala Halder by taking away on forcible capture from the village-Charkhali under Police Station-Bhandaria of District-Pirojpur].

Charge: That on 16.08.1971 (30 Sravan 1378) at about 2:00 P.M a group formed of you the accused (1) Abdul Mannan Howlader @ Abdul Mannan Delar @ Mannaf, (2) Ashraf Ali @ Assrab Ali

Howlader, (3) Md. Moharaj Howlader @ Hatkata Moharaj, (4) Md. Siddiqur Rahman @ Siddique Howlader @ Siddique Munshi, Md. Fazlul Haque Howlader (now dead), Ajahar Ali Howlader @ Aju Munshi[died on 29.07.2019] and about 8/9 armed Razakar by launching attack at Village-Charkhali under police station-Bhandaria of District-Pirojpur unlawfully detained Amullya Ratan Howlader from his house, inhumanly tortured him and looted his house. Thereafter, you the accused persons along with your companions attacked the house of Surendra Howlader of the said village and detained him and looted his house.

In conjunction with the attack, you the accused Abdul Mannan Howlader @ Abdul Mannan Delar @ Mannaf, Ashraf Ali @ Assrab Ali Howlader and Md. Siddiqur Rahman @ Siddique Howlader @ Siddique Munshi entering into the room committed rape upon Surabala Dasi, wife of Surendra Nath Howlader. On the same day at about 3.30 P.M you the accused persons made the detained victim Amullya Ratan Howlader free , in exchange of ransom money of Taka 300/-.

Therefore, you the accused (1) Abdul Mannan Howlader @ Abdul Mannan Delar @ Mannaf, (2) Ashraf Ali @ Assrab Ali Howlader, (3) Md. Moharaj Howlader @ Hatkata Moharaj and (4) Md. Siddiqur Rahman @ Siddique Howlader @ Siddique Munshi, by such criminal acts forming part of systematic attack directing non-combatant

civilian population, to further policy and plan of the Pakistani occupation army participated, facilitated, abetted, aided and substantially contributed to the commission of the offences of 'abduction', 'confinement', 'torture', 'plundering' and 'rape' 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 of 1973.

Charge 03: [04 accused have been indicted]

[Event no.03 as narrated in the formal charge: page 33-36]

[Offences of 'abduction', 'confinement', 'plundering' and 'torture' of Chandra Kanta Mistri and Monoronjon Mistri by taking away on forcible capture from the village-Charkhali under Police Station-Bhandaria of District-Pirojpur].

Charge: That on 12.09.1971 (26 Bhadra 1378) at about 9:00 A.M a group formed of you the accused (1) Abdul Mannan Howlader @ Abdul Mannan Delar @ Mannaf, (2) Ashraf Ali @ Assrab Ali Howlader, (3) Md. Moharaj Howlader @ Hatkata Moharaj and (4) Md. Siddiqur Rahman @ Siddique Howlader @ Siddique Munshi, Ajahar Ali Howlader @ Aju Munshi[died on 29.07.2019] and about 8/9 armed Razakar by launching attack at Village-Charkhali under police station-Bhandaria of District-Pirojpur unlawfully detained Monoronjon Mistri and his elder brother Chandra Kanta Mistri [now dead] from their house, inhumanly tortured them and plundered their houses. Thereafter, you the accused persons freed the detained victim

Monoronjon Mistri and Chandra Kanta Mistri in exchange of ransom money of Taka 200/-.

Therefore, you the accused (1) Abdul Mannan Howlader @ Abdul Mannan Delar @ Mannaf, (2) Ashraf Ali @ Assrab Ali Howlader, (3) Md. Moharaj Howlader @ Hatkata Moharaj and (4) Md. Siddiquir Rahman @ Siddique Howlader @ Siddique Munshi, by such criminal acts forming part of systematic attack directing non-combatant civilian population, to further policy and plan of the Pakistani occupation army participated, facilitated, abetted, aided and substantially contributed to the commission of the offences of Abduction, Confinement, Plunder, Torture 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 of 1973.

Charge 04: [06 accused have been indicted]

[Event no.04 as narrated in the formal charge: page 37-44]

[Offences of ‘abduction’, ‘confinement’, ‘torture’, ‘plunder’, ‘arson’, and ‘murder’ of 18[eighteen] civilians or in the alternative ‘genocide’ by launching attack at villages-West Pasharibunia, East Pasharibunia and Hetalia under Police Station-Bhandaria of District-Pirojpur].

Charge: That on 27.10.1971 (09 Kartik 1378) at about 4:00/5:00 A.M a group formed of about 45/50 armed Razakars being accompanied by you the accused (1) Abdul Mannan Howlader @ Abdul Mannan Delar @ Mannaf, (2) Ashraf Ali @ Assrab Ali Howlader, (3) Md. Moharaj

Howlader @ Hatkata Moharaj, (4) Md. Amir Hossain @ Hafez Md. Amir Hossain @ Amir Ali Howlader, (5) Md. Nurul Amin Howlader, (6) Md. Siddiqur Rahman @ Siddique Howlader @ Siddique Munshi, Md. Fazlul Haque Howlader (now dead) and Ajahar Ali Howlader @ Aju Munshi[died on 29.07.2019], by launching attack at Village-West Pasharibunia under police station-Bhandaria of District-Pirojpur abducted Satish Sikder, Satya Ranjan Halder, Chandra Kanto Halder, Bijoy Krishna Sikder, Kanok Prova Roy @ Rita Rani Kulu @ Biva Kulu, Protap Chandra Bepari and Upendra Nath Kulu and killed them by gunshot near to Raj Behari Doctor Bari, injured Bimala Halder by gunshot, plundered and arson 20/25 houses. Thereafter, you the accused persons plundered and arson the house of Shib Charan Mistri and killed his wife Gunomoni Mistri throwing her into the fire.

In conjunction with the attack, you the accused persons and your accomplices also plundered and arson the houses of Hindu civilians of village East Pasharibunia, abducted Nirod Chandra Bala, Amullya Mistri, Samullya Mistri, Gonga Charan Halder and killed them by gunshot near the house of Bonomali Roy Gacharu.

In continuation with the attack, you the accused persons also abducted Debendra Sikder, Bholanath Mistri, Narod Halder and Sadhu Prokash Halder from the same village and killed them by gunshot, plundered and arson 80/90 houses of Hindu civilians of village East

Pasharibunia, West Pasharibunia, Dash Para Jagipara, Nath Para and Darul Huda.

On the same day at about 2.30 P.M you the accused Nurul Amin Howlader along with your other accomplices killed Ananta Sikder on forcible capture while you were going to the house of Razakar Amir Hossain Howlader at village Hetalia. On the same day at about 4.30 P.M you the accused Nurul Amin Howlader with the help of your accomplices confined Satindra Nath Mondal and killed him by gunshot and threw the dead body into the canal.

Therefore, you the accused (1) Abdul Mannan Howlader @ Abdul Mannan Delar @ Mannaf, (2) Ashraf Ali @ Assrab Ali Howlader, (3) Md. Moharaj Howlader @ Hatkata Moharaj, (4) Md. Amir Hossain @ Hafez Md. Amir Hossain @ Amir Ali Howlader, (5) Md. Nurul Amin Howlader and (6) Md. Siddiquir Rahman @ Siddique Howlader @ Siddique Munshi by such criminal acts forming part of systematic attack directing non-combatant civilian population, to further policy and plan of the Pakistani occupation army participated, facilitated, abetted, aided and substantially contributed to the commission offences of 'abduction', 'confinement', 'torture', 'plunder', 'arson', and 'murder' 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 or in the alternative '**Genocide**' as enumerated

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

25. Thus, by framing the charges as above you the accused persons have been indicted 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.

26. You accused **(1) Abdul Mannan Howlader @ Abdul Mannan Delar @ Mannaf, (2) Ashraf Ali @ Assrab Ali Howlader (3) Md. Moharaj Howlader @ Hatkata Moharaj** present on dock have heard and understood the aforesaid charges framed which have been read out and explained [**in Bangla**] in the open court in your presence.

Question: Do you plead guilty or not.

Answer:

27. The charges so framed have been read over and explained to the accused **(1) Abdul Mannan Howlader @ Abdul Mannan Delar @ Mannaf, (2) Ashraf Ali @ Assrab Ali Howlader (3) Md. Moharaj**

Howlader @ Hatkata Moharaj to which he pleaded not guilty and claimed to be tried according to law.

28. The rest three [03] accused (4) Md. Amir Hossain @ Hafez Md. Amir Hossain @ Amir Ali Howlader (5) Md. Nurul Amin Howlader(6) Md. Siddiqur Rahman @ Siddique Howlader @ Siddique Munshi have been absconding and as such the charges framed could not be read over and explained to them.

29. Let 17.10.2019 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.

30. 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, if any, 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

Justice Md. Abu Ahmed Jamadar, Member