

International Crimes Tribunal -1-

Old High Court Building, Dhaka, Bangladesh.

ICT-BD [ICT-1] Case No.09 of 2016

Present:

Justice Md. Shahinur Islam , Chairman
Justice Amir Hossain, Member
Justice Md. Abu Ahmed Jamadar, Member

Order No.20

21 January 2019

Chief Prosecutor

Vs.

(1) Md. Rezaul Karim @ Abu Saleh Md. Rezaul Haq @ A.S.M Reazul Haq @ Akkas Moulavi (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi (3) Md. Yusuf Ali @ A.K.M Yusuf Alam (4) Md. Omar Faruq @ Md. Omar Ali (5) A.K.M Belayet Hossain @ Md. Belayet Hossain @ Billal Hossain @ Billal Uddin [absconding] (6) Md. Nasir Uddin @ Abul Bashar Mohammad Nasir Uddin @ Kalu [absconding] and (7) Md. Ismail @ Md. Ismail Hossain [absconding]

Mr. Sayed Haider Ali, Prosecutor: For the prosecution

Mr. Mohammad Ali, Advocate: Engaged for 01 accused **(1) Md. Yusuf Ali @ A.K.M Yusuf Alam**

Mr. Abdus Sattar Palwan, Advocate: State defence Counsel for 01 accused **(2) Md. Ismail @ Md. Ismail Hossain**

Mr. Gaji M.H Tamim, Advocate: State defence Counsel for 05 accused **(3) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi, (4) A.B.M Yunus Ali @ Abul**

Bashar Md. Yunus Ali @ Yunus Moulavi, (5) Md. Omar Faruq @ Md. Omar Ali, (6) Md. Nasir Uddin @ Abul Bashar Mohammad Nasir Uddin @ Kala [**absconding**] (7) A.K.M Belayet Hossain @ Md. Belayet Hossain @ Billal Hossain @ Billal Uddin [**absconding**]

[Decision on framing charges]

Accused (1) Rezaul Karim @ Abu Saleh Md. Rezaul Haq @ A.S.M Reazul Haq @ Akkas Moulavi (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi (3) Md. Yusuf Ali @ A.K.M Yusuf Alam (4) Md. Omar Faruq @ Md. Omar Ali are present before this Tribunal as have been brought from prison.

Three other accused (5) A.K.M Belayet Hossain @ Md. Belayet Hossain @ Billal Hossain @ Billal Uddin (6) Md. Nasir Uddin @ Abul Bashar Mohammad Nasir Uddin @ Kalu (7) Md. Ismail @ Md. Ismail Hossain have been absconding.

On conclusion of hearing on charge framing matter Tribunal[ICT-1] fixed today for rendering its decision and as such the record is taken up for order on indictment matter. Before passing the order, we consider it appropriate to portray a brief context of the case involving the offences allegedly committed in 1971 during the war of liberation, succinct arguments put forward by both prosecution and defence before this Tribunal.

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. In the earlier cases, already disposed of, 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 by this Tribunal. Now, in brief, we reiterate that despite the overwhelming majority in the general election of 1970, Pakistan Government did not hand over power to Bangabandhu Sheikh Mujibur Rahman the leader of the majority party as democratic norms required. As a result, movement started in this part of Pakistan and Bangabandhu Sheikh Mujibur Rahman the father of the nation in his historic speech of 7th March, 1971, called on the people of Bangladesh to strive for independence. 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 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 joined and/or collaborated with the Pakistani military to actively oppose the creation of independent Bangladesh and most of them committed and facilitated the commission of diabolical atrocities in the territory of Bangladesh. 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] 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 identifying and eliminating 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 Station-Muktagacha, District-Mymensingh in 1971 to which the accused persons, in exercise of their active and culpable affiliation with the locally formed Razakar Bahini, allegedly participated and deliberately contributed, in violation of international humanitarian law and the laws of war.

III. Brief account of the Accused Persons

6. Before we render order on charge framing matter let us have a look to the brief account of the accused persons that they had in 1971 during the war of liberation, as has been narrated in the formal charge.

(1) Accused Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi[65]

Accused Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi[65] is the son of late Muslem Uddin @ Pecharbap and late Banesa Khatun of village-Purbochandi Mondop, Chechua Bazar under Police Station Muktagacha of District Mymensingh and he was born on 01.9.1957[as per his NID]. He passed Dakhil examination in 1969 from Subornokhila Dakhil Madrasa. In 1971, during the war of liberation he joined Al-Badar Bahini formed at Muktagacha intending to collaborate with the Pakistani occupation army and got engaged in carrying out atrocious

activities around the localities under Muktagacha Police Station, as alleged by the prosecution. In 1986 he got engaged in politics of Jatiya Party and now he is the joint convener of Muktagacha Jatiya Party.

(2) A.B.M Yunus Ali @ Yunus Moulavi[65]

Accused A.B.M Yunus Ali @ Yunus Moulavi[65] is the son of late Abdul Khaleq Master and Zayed Bewa @ Zayed Khatun of village-Chanpur Horinakanda under Police Station Jamalpur Sadar of District [now] Jamalpur was born on 01.04.1955 [as per his NID]. He passed Dakhil examination in 1966 from Subornokhila Dakhil Madrasa and Alim and Fajel examination respectively in 1968 and in 1970 from Kamal Khan Hat Fajel Madrasa. In 1971, during the war of liberation he joined in locally formed Al Badar Bahini and got involved in carrying out atrocious activities around the localities under Police Station-Muktagacha of District Mymensingh, as alleged by the prosecution.

(3) Md. Yusuf Ali @ A.K.M Yusuf Alam[62]

Accused Md. Yusuf Ali @ A.K.M Yusuf Alam[62] is the son of late Abdul Khaleq Master and Zayed Bewa @ Zayed Khatun of village Chanpur Horinakanda under Police Station-Jamalpur Sadar of District [now] Jamalpur. He was 17 years old in 1971 as has been found in investigation. In 1971 during the war of liberation he joined the Al Badar Bahini formed at Muktagacha and had carried out atrocious

activities around the localities under Muktagacha Police Station of District Mymensingh, prosecution alleges.

(4) Md. Omar Faruque @ Omor Ali [70]

Accused Md. Omar Faruque @ Omor Ali[70] is the son of late Muhammad Ali and Atarjan Bewa of village Chanpur Horinakanda under Police Station Jamalpur Sadar of District [now] Jamalpur and he was born on 6.7.1940 [as per his NID]. Prosecution alleges that in 1971 during the war of liberation he joined the Al Badar Bahini and got engaged in carrying out atrocious activities around the localities under Muktagacha police station.

(5) A.K.M Belayet Hossain @ Md. Belayet Hossain @ Billal Hossain @ Billal Uddin [absconding][64]

Accused A.K.M Belayet Hossain @ Md. Belayet Hossain @ Billal Hossain @ Billal Uddin [64] is the son of late Amir Uddin and Nasimon Bewa of village Chanpur Horinakanda under Police Station Jamalpur Sadar of District [now] Jamalpur was born on 01.11.1952 [as per his NID]. He passed SSC examination in 1974. Prosecution alleges that he joined the locally formed Al Badar Bahini in 1971 during the war of liberation and remained associated with the commission of atrocious activities around the localities under Muktagacha Police Station.

(6) Md. Nasir Uddin @ Abul Bashar Mohammad Nasir Uddin @ Kalu [absconding][64]

Accused Md. Nasir Uddin @ Abul Bashar Mohammad Nasir Uddin @ Kalu [64] is the son of late Kayem Uddin Sheikh @ Kandhu Sheikh and Henduri Bewa of village Chanpur Horinakanda under Police Station Jamalpur Sadar of District [now] Jamalpur. Presently he is 64 years old, as has been found in investigation. In 1971, during the war of liberation he joined in locally formed Al Badar Bahini and got associated in accomplishing atrocious activities around the localities under Police Station-Muktagacha of District- Mymensingh, prosecution alleges.

(7) Md. Ismail @ Md. Ismail Hossain [65] [absconding]

Accused Md. Ismail @ Md. Ismail Hossain [65] is the son of late Abdur Rahman and late Nabiron Nesa of village-Chanpur Horinakanda under Police Station Jamalpur Sadar of District [now] Jamalpur and he was born on 22.9.1947[as per his NID] . He passed SSC examination in1970. In 1971, during the war of liberation he joined in locally formed Al Badar Bahini and remained affiliated with this Bahini in carrying out atrocious activities around the localities under Muktagacha Police Station, prosecution alleges.

IV. Procedural History

7. The investigation Agency of the Tribunal started investigation pursuant to compliant register serial no.51 dated 01.04.2015 , in respect of commission of offences enumerated in section 3(2) of the

Act of 1973 allegedly perpetrated by eight (08) suspected accused (1) Md. Rezaul Karim @ Abu Saleh Md. Rezaul Haq @ A.S.M Reazul Haq @ Akkas Moulavi (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi (3) Md. Yusuf Ali @ A.K.M Yusuf Alam (4) Md. Omar Faruq @ Md. Omar Ali (5) A.K.M Belayet Hossain @ Md. Belayet Hossain @ Billal Hossain @ Billal Uddin, (6) Md. Nasir Uddin @ Abul Bashar Mohammad Nasir Uddin @ Kalu ,(7) Md. Ismail @ Md. Ismail Hossain and (8) Kazi Badruzzaman @ Mushfiqur Rahman @ Chan Kazi[died before hearing on charge framing matter]

8. During investigation, the IO prayed for causing arrest of the accused persons through the Chief Prosecutor, for the purpose of proper and effective investigation. In execution of warrant of arrest issued by the Tribunal three accused (1) Md. Rezaul Karim @ Abu Saleh Md. Rezaul Haq @ A.S.M Reazul Haq @ Akkas Moulavi (2) A.B.M Yunus Ali @ Md. Yunus Ali @ Yunus Moulavi and (3) Md. Omar Faruq @ Md. Omar Ali were arrested on 10.12.2015 and another suspected accused (4) Md. Yusuf Ali @ A.K.M Yusuf Alam was arrested on 12.12.2015. The arrested four accused were duly produced before the Tribunal when they were sent to prison.

9. The Investigating Officer prayed through the Chief Prosecutor to interrogate those accused persons , detained in prison, at safe home and the Tribunal allowed it by an order dated 05.01.2016 and

accordingly they were interrogated at the safe home of the Investigation Agency.

10. The IO submitted its report together with documents and materials collected and statement of witnesses, on conclusion of investigation before the Chief prosecutor on 04.05.2016.

11. The Chief Prosecutor, on the basis of the report and documents submitted therewith by the Investigation Agency, after completion of investigation, placed the 'Formal Charge' on 18.09.2016 under section 9(1) of the Act of 1973 before this Tribunal alleging that the eight accused persons had committed the offences of crimes against humanity, including abetting and aiding to commit such crimes during the period of War of Liberation in 1971 around the localities under Muktagacha police station of District Mymensingh as has been narrated in the formal charge.

12. The Tribunal, under Rule 29(1) of the Rules of Procedure, took cognizance of offences as mentioned in section 3(2) (a)(g)(h) of the Act of 1973 on 17.10.2016, by application its judicial mind to the Formal Charge and materials and documents submitted therewith.

13. Out of eight accused four 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

them ordered publication of notice in two daily news papers as required under law. But despite publication of such notification those four accused did not turn up and as such treating them absconded Tribunal by its order dated 24.05.2017 fixed date for hearing the charge framing matter by appointing Mr. Gaji M.H Tamim, Advocate and Mr. Abdus Sattar Palwan, Advocate as state defence counsels to defend the absconding four accused persons.

14. On 08.01.2018 prosecution by filing an application brought it to the notice of the Tribunal that one absconding accused Kazi Badruzzaman @ Mushfiqur Rahman @ Chan Kazi died on 29.07.2017. Having considered the papers submitted together with the application Tribunal ordered that the proceedings so far as it related to this accused stood abated.

15. Finally, hearing on charge framing matter took place on 03.12.2018 against seven (07) accused of whom three(03) have been absconding.

V. Submission by the Prosecutor

16. **Mr. Syed Haider Ali** the learned prosecutor drawing attention to the formal charge, documents and statement of witnesses made to the IO submitted that the accused persons belonged to Al Badar Bahini and prima facie it has been found in investigation that they

participated in committing the offences as enumerated in section 3 (2) of the Act of 1973.

17. Mr. Syed Haider Ali the learned prosecutor further submits that for ascertaining identity of the accused A.B.M Yunus Ali @ Abul Bashar Md. Yunus @ Yunus Moulavi and Yusuf Ali @ A.K.M Yusuf Alam their respective NIDs have been taken into account in investigation and not to rely upon their date of birth contained therein. Admittedly, accused A.B.M Yunus Ali @ Abul Bashar Md. Yunus @ Yunus Moulavi[65] is the elder brother of accused Yusuf Ali @ A.K.M Yusuf Alam and their NIDs show the same date i.e 15.10.1960 as their date of birth which is not at all practicable.

18. It has been also submitted by the learned prosecutor that none but those accused persons are responsible for the information as to their date of birth contained in their respective NID and thus at this stage simply on the basis of the information contained in their NIDs their age cannot be resolved. It may be well adjudicated in trial, the learned prosecutor argued.

19. It has been further submitted by the learned prosecutor that according to information contained in the tabulation sheet issued by the Education Board date of birth of accused Yusuf Ali @ A.K.M Yusuf Alam is 01.01.1955 which is not disputed by the defence, although it shall seem to be inconsistent with that contained in his

NID . Thus, the matter of age of accused Yusuf Ali @ A.K.M Yusuf Alam may be well determined only in trial on having evidence.

VI. Submission on behalf of accused

20. **Mr. Mohammad Ali** the learned counsel defending the accused Yusuf Ali @ A.K.M Yusuf Alam submitted that this accused was only 10 years old in 1971, according to his NID obtained by the IO during investigation and thus it is not true that he belonged to Al Badar Bahini and was involved with the commission of any of alleged offences. Chiefly on this ground an application seeking his discharge has been filed.

21. **Mr. Abdus Sattar Palwan** the learned state defence counsel defending the accused Md. Ismail @ Ismail Hossain submits that there has been no prima facie case against this accused; that he did not belong to Al Badar or Razakar Bahini and that no effective investigation has been conducted in respect of affiliation of this accused with the alleged offences and thus he deserves discharge.

22. **Mr. Gaji M.H. Tamim** the learned state defence counsel defending the rest five accused including 02 absconding accused submits that there has been no specific allegation against these accused; that none of them was involved with the commission of alleged offences and the documents relied upon by the defence do not

suggest indication as to their participation with the offences alleged and thus they deserve discharge.

VII. Deliberations and Decision

23. It appears that Mr. Mohammad Ali the learned counsel defending the accused Md. Yusuf Ali @ A.K.M Yusuf Alam [62] has asserted that in 1971 this accused was 10 years old. In view of submission advanced by him in this regard it transpires that such claim is based on the information contained in the NID of this accused which shows 15.10.1960 as his date of birth. But the NID of this accused's elder brother accused A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi [65] also shows the same date i.e 15.10.1960 as his date of birth. It is not claimed that these two accused are twin brothers. Thus, prima facie it may be said that the information as to date of birth as has been shown in their respective NID does not carry authenticity.

24. We agree with the submission made by the learned prosecutor that none but the accused persons are responsible for the information provided in their respective NID and mere collecting these NIDs does not mean that the same have been relied upon by the prosecution as the proof of age of the accused A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi and his younger brother accused Md. Yusuf Ali @ A.K.M Yusuf Alam.

25. On holding investigation it has been found that accused Md. Yusuf Ali @ A.K,M Yusuf Alam is three years younger than his elder bother accused A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi. The tabulation sheet of accused Md. Yusuf Ali @ A.K.M Yusuf Alam issued by the Education Board shows 01.01.1955 as his date of birth and it has not been denied by the defence. Inconsistency on date of birth of this accused in two documents remained unexplained by the defence.

26. For the reason of inconsistency mirrored in the NID and tabulation sheet issued by the Education Board the actual age of accused Md. Yusuf Ali @ A.K,M Yusuf Alam can be well resolved only in trial on having evidence. At this stage, we do not consider it appropriate to resolve this issue conclusively merely on the basis of inconsistent and unauthenticated information as to date of birth of this accused and his elder brother accused A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi.

27. Besides, information about age shown in NID may not always carry correctness or authenticity as we cannot keep the practice and inclination of showing lesser age in such document out of consideration. Thus, we consider it just to leave this matter for effective determination at trial.

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

29. Now, at this stage, we are to merely see the *prima facie* complicity and participation of the accused persons with the commission of alleged offences and of course, treating them innocent, till they are found guilty.

30. We have gone through the formal charge, statement of witnesses and the documents submitted therewith. The formal charge and documents submitted therewith cumulatively demonstrate, at this stage that there has been *prima facie* disclosure of participation, substantial contribution and abetment of the accused persons to the perpetration of the alleged offences as enumerated in section 3(2) of the Act of 1973.

31. Rule 36 of the ROP provides provision of trying the persons accused of offences at one trial as they allegedly committed the same offences being the associates of the group of attackers, allegedly in exercise of their membership in locally formed Al-Badar Bahini. Thus, trying them jointly is lawfully approved.

32. Affiliation of accused persons with auxiliary force, as alleged by the prosecution too can be well determined only in trial and not at this stage. Thus, we are not going to render any definite finding on it.

33. However, mostly on *prima facie* perusal from the particulars of facts narrated in the Formal Charge we are of the view that there are sufficient and substantial materials before this Tribunal to presume *prima facie* that accused persons had nexus with the commission of the alleged offences as specified under section 3(2) of the Act.

34. 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) **Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi** is the son of late Muslem Uddin @ Pecharbap and late Banesa Khatun of village- Purbochandi Mondop, Chechua Bazar under Police Station Muktagacha of District Mymensingh , (2) **A.B.M Yunus Ali @ Yunus Moulavi** is the son of late Abdul Khaleq Master and Zayeda Bewa @ Zayeda Khatun of village- Chanpur Horinakanda under Police Station Jamalpur Sadar of District [now] Jamalpur,(3) **Md. Yusuf Ali @ A.K.M Yusuf Alam** is the son of late Abdul Khaleq Master and Zayeda Bewa @ Zayeda Khatun of village Chanpur Horinakanda under Police Station-Jamalpur Sadar of District [now] Jamalpur, (4) **Md. Omar Faruque @ Omor Ali** is the son of late

Muhammad Ali and Atarjan Bewa of village Chanpur Horinakanda under Police Station Jamalpur Sadar of District [now] Jamalpur, (5) **A.K.M Belayet Hossain @ Md . Belayet Hossain @ Billal Hossain @ Billal Uddin** is the son of late Amir Uddin and Nasimon Bewa of village Chanpur Horinakanda under Police Station Jamalpur Sadar of District [now] Jamalpur, (6) **Md. Nasir Uddin @ Abul Bashar Mohammad Nasir Uddin @ Kalu** is the son of late Kayem Uddin Sheikh @ Kandhu Sheikh and Henduri Bewa of village Chanpur Horinakanda under Police Station Jamalpur Sadar of District [now] Jamalpur and (7) **Md. Ismail @ Md. Ismail Hossain** is the son of late Abdur Rahman and late Nabiron Nesa of village-Chanpur Horinakanda under Police Station Jamalpur Sadar of District [now] Jamalpur **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) Md. Rezaul Karim @ Abu Saleh Md. Rezaul Haq @ A.S.M Reazul Haq @ Akkas Moulavi (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi

(3) Md. Yusuf Ali @ A.K.M Yusuf Alam (4) Md. Omar Faruq @ Md. Omar Ali , (5) A.K.M Belayet Hossain @ Md. Belayet Hossain @ Billal Hossain @ Billal Uddin (6) Md. Nasir Uddin @ Abul Bashar Mohammad Nasir Uddin @ Kalu (7) Md. Ismail @ Md. Ismail Hossain **as follows:**

**Charge 01: [04 accused indicted]
[Abduction, confinement, torture and Killing three [03] civilians on forcible capture from the village Malotipur Pathalia under Police Station Muktagacha]**

That on 13.5.1971 at about 16:00 hours you the accused (1) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi, (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi , (3) Md. Yusuf Ali @ A.K.M Yusuf Alam , (4) Md. Ismail @ Md. Ismail Hossain (**absconding**) being accompanied by Kazi Badruzzaman @ Mushfiqur Rahman @ Chan Kazi [died during proceeding] , Al Badar commander Kazi Shamsuzzaman @ Suruj Kazi[now dead] and the Pakistani occupation army by launching attack at village- Malotipur Pathalia under Police Station- Muktagacha forcibly captured 03 civilians -- Mukul Acharya Chowdhury, his body guard Omar Bahadur Rana and Troilakh Nath Sarker, the then secretary of Muktagacha Municipality and took them away to Muktagacha Al Badar camp where they were severely tortured to death in captivity and their dead bodies could not be traced.

Therefore, you the accused (1) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi, (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi , (3) Md. Yusuf Ali @ A.K.M Yusuf Alam and (4) Md. Ismail @ Md. Ismail Hossain (**absconding**) 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**’ 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 said Act of 1973.

Charge No.02: [07 accused indicted]
[Abduction and killing 04 Hindu civilians, causing bodily harm and arson by burning down houses of civilians of the Hindu community of village Kuri Para Mucher Bari under Police Station Muktagacha]

That on 27.6.1971 at about 11:00 AM you the accused (1) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi, (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi , (3) Md. Yusuf Ali @ A.K.M Yusuf Alam , (4) Md. Omar Faruq @ Md. Omar Ali , (5) Md. Nasir Uddin @ Abul Bashar Mohammad Nasir Uddin @ Kalu [**absconding**], (6) Md. Ismail @ Md. Ismail Hossain[**absconding**] and (7) A.K.M Belayet Hossain @ Md. Belayet Hossain @ Billal Hossain @ Billal Uddin

[**absconding**] belonging to Al Badar Bahini being accompanied by Razakars and Pakistani occupation army by launching attack at village-Kuri Para Mucher Bari under Police Station- Muktagacha of District-Mymensingh forcibly captured **Puchia Chowkider, Jadua Rabi Das, Jahira Robi Das, Badhauya Robi Das** and **Mukul Chandra Das** and then took them under a banyan tree on the bank of the pond of one Zoad Ali where, with intent to destroy the Hindu community, either in whole or part, four of the five detained Hindu civilians belonging were shot to death and one detainee Badhauya Robi Das somehow got survived despite receiving severe bullet hit injury and died one year later.

In conjunction with the attack you the accused persons and your accomplices burnt down 10/12 houses of village-Mucher Bari and also that of the victims. After you the accused persons and your accomplices had left the killing site the local people buried the dead bodies of the victims.

Therefore, you the accused (1) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi[65], (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi , (3) Md. Yusuf Ali @ A.K.M Yusuf Alam , (4) Md. Omar Faruq @ Md. Omar Ali (5) Md. Nasir Uddin @ Abul Bashar Mohammad Nasir Uddin @ Kalu [**absconding**] (6) Md. Ismail @ Md. Ismail

Hossain[**absconding**] and (7) A.K.M Belayet Hossain @ Md. Belayet Hossain @ Billal Hossain @ Billal Uddin [**absconding**] are hereby charged for participation, abetment and substantial contribution to the act of forcible capture of 05 civilians belonging to Hindu community, gunning four of the detainees down to death, causing severe injury by gun shot to one detainee and then causing massive destruction by burning down the houses of victims and others, with intent to destroy a protected community or group, either whole or in part, by launching systematic attack to further policy and plan of the Pakistani occupation army constituting the offences of '**abduction**', '**arson**' and '**murder**' as crimes against humanity as enumerated in section 3(2)(a)(g)(h) of the Act of 1973 or in the alternative the offence of '**genocide**' as enumerated in section 3(2)(c)(i)(ii) which are punishable under section 20(2) read with section 3(1) of the Act and thus you the accused persons incurred liability under section 4(1) of the Act for the above offences.

Charge NO.03: [07 accused indicted]

[Abduction, torture and killing a non combatant civilian of village Subornokhila under Police Station-Muktagacha of District Mymensingh]

That on 5.8.1971 at about 12:00 noon you the accused (1) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi, (2) A.B.M Yunus Ali @ Abul Bashir Md. Yunus Ali @ Yunus Moulavi, (3) Md. Yusuf Ali @ A.K.M Yusuf Alam, (4) Md. Omar Faruq @ Md. Omar Ali (5) Md. Nasir Uddin @ Abul Bashir

Mohammad Nasir Uddin @ Kalu [**absconding**] (6) Md. Ismail @ Md. Ismail Hossain[**absconding**] and (7) A.K.M Belayet Hossain @ Md. Belayet Hossain @ Billal Hossain @ Billal Uddin [**absconding**] being accompanied by accomplice Al Badars and Pakistani occupation army by launching attack at village-Subornokhila under Police Station-Muktagacha of District Mymensingh forcibly captured **Md. Abed Ali** son of late Eaqub Ali and took him at the place in front of Morol Babu road where he was subjected to severe torture for extracting information about freedom fighters. At a stage, **Ahmed Ali** a student of class VIII started chanting the slogan 'Joy Bangla' in front of his house when he was also forcibly captured and you accused Yunus Ali shot him to death. The villagers buried the body of Ahmed Ali in front of his house after you the accused and your accomplices had left the crime site.

Therefore, you the accused (1) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi, (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi , (3) Md. Yusuf Ali@ A.K.M Yusuf Alam , (4) Md. Omar Faruq @ Md. Omar Ali (5) Md. Nasir Uddin @ Abul Bashar Mohammad Nasir Uddin @ Kalu [**absconding**] (6) Md. Ismail @ Md. Ismail Hossain[**absconding**] and (7) A.K.M Belayet Hossain @ Md. Belayet Hossain @ Billal Hossain @ Billal Uddin [**absconding**] are hereby charged for participation, abetment and substantial contribution to the act of causing torture to an unarmed civilian on

forcible capture and causing death of a pro-liberation youth by gun shot, by launching systematic attack, to further policy and plan of the Pakistani occupation army constituting the offence of '**abduction**', '**torture**' and '**murder**' as crimes against humanity as enumerated in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) read with section 3(1) of the Act and thus you the accused persons incurred liability under section 4(1) of the Act for the above offences.

Charge No.04:[07 accused indicted]
[Arson and killing 07 unarmed civilians of village Kezaikanda under Police Station-Muktagacha]

That on 5.8.1971 at about 14:00 hours noon you the accused (1) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi, (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi , (3) Md. Yusuf Ali @ A.K.M Yusuf Alam , (4) Md. Omar Faruq @ Md. Omar Ali (5) Md. Nasir Uddin @ Abul Bashar Mohammad Nasir Uddin @ Kalu [**absconding**] (6) Md. Ismail @ Md. Ismail Hossain[**absconding**] and (7) A.K.M Belayet Hossain @ Md. Belayet Hossain @ Billal Hossain @ Billal Uddin [**absconding**] being accompanied by your accomplice Al Badars, Razakars and Pakistani occupation army arriving at village-Kezaikanda under Police Station-Muktagacha of District-Mymensingh had launched attack by setting 7/8 houses of a civilian Jolu Mondol on fire as he used to provide shelter to one Roghu

Poddar a follower of freedom fighters at his house. **Roghu Poddar** was then subjected to torture and gunned down to death by you the accused persons and the Pakistani army men.

The people of village-Kezaikanda sensing the attack went into hid inside the jackfruit garden of Omar Ali and Kejai Bil. But you the accused and your cohorts and Pakistani army men encircling their hiding place had killed **Hanif Uddin, Jahur Uddin, Aizuddin, Billal Uddin, Abdul Jalil and Mosammat Begum** by indiscriminate gun firing as they were known as followers of the freedom fighters.

Therefore, you the accused (1) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi, (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi , (3) Md. Yusuf Ali @ A.K.M Yusuf Alam , (4) Md. Omar Faruq @ Md. Omar Ali (5) Md. Nasir Uddin @ Abul Bashar Mohammad Nasir Uddin @ Kalu [absconding] (6) Md. Ismail @ Md. Ismail Hossain[absconding] and (7) A.K.M Belayet Hossain @ Md. Belayet Hossain @ Billal Hossain @ Billal Uddin [absconding] are hereby charged for participation, abetment , facilitating and substantial contribution to the act of causing destructive activities directing civilians and causing death of 07 non-combatant pro-liberation civilians by gunshot, by launching systematic attack, to further policy and plan of the Pakistani occupation army constituting the offences of ‘arson’ and ‘murder’ as crimes against humanity as

enumerated in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) read with section 3(1) of the Act and thus you the accused persons incurred liability under section 4(1) of the Act for the above offences.

**Charge No. 05: [07 accused indicted]
[Offences of 'abduction', 'confinement', 'torture', 'other inhumane act' and 'murder']**

That on 10.10.1971 at about 16:00 hours exchange of gun firing started between freedom-fighters and Razakars of Charakathi Bridge camp set up at Jamal Road of Muktagacha when it faced attack and at a stage, one **freedom-fighter Golam Rabbani** sustained bullet injury and as such he was moved to the house of **Alhaj Mizanur Rahman** of village- Banda Chitholia and finally he died at night despite medical treatment provided to him. **[No offence but context of attack launched on 12.11.1971]**

On 12.11.1971 at about 12:00 noon you the accused (1) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi, (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi , (3) Md. Yusuf Ali @ A.K.M Yusuf Alam , (4) Md. Omar Faruq @ Md. Omar Ali (5) Md. Nasir Uddin @ Abul Bashar Mohammad Nasir Uddin @ Kalu **[absconding]** (6) Md. Ismail @ Md. Ismail Hossain**[absconding]** and (7) A.K.M Belayet Hossain @ Md. Belayet Hossain @ Billal Hossain @ Billal Uddin **[absconding]** by launching attack burnt down the house of said **Alhaj Mizanur**

Rahman and started causing **inhumane torture to Mokbul Hossain** son of late Hanif Sarker, **Esahaque Mia and Mosar Ali**, son of late Ibrahim Sarker and took two unarmed freedom-fighters **Sadek Ali** and **Helal Uddin** away to Muktagacha Al Badar camp on forcible capture where they were subjected to brutal torture . Then it was announced at Muktagacha town by mike that two 'miscreants'[detained unarmed freedom-fighters] would be executed in public.

On being informed of such announcement, the Pakistani occupation army stationed at Mymensingh Agricultural University came there and the accused persons then handed over two detained non-combatant freedom-fighters **Sadek Ali** and **Helal Uddin** to the Pakistani army men who then dragged them away towards Mymensingh by tying them up with rope behind the jeep and since then they could not be traced.

Therefore, you the accused (1) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi, (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi , (3) Md. Yusuf Ali @ A.K.M Yusuf Alam , (4) Md. Omar Faruq @ Md. Omar Ali (5) Md. Nasir Uddin @ Abul Bashar Mohammad Nasir Uddin @ Kalu [**absconding**] (6) Md. Ismail @ Md. Ismail Hossain[**absconding**] and (7) A.K.M Belayet Hossain @ Md. Belayet Hossain @ Billal Hossain @ Billal Uddin [**absconding**] are

hereby charged for participation, abetment , facilitating and substantial contribution to the act of causing destructive activities directing civilians and causing death of 02 non-combatant freedom-fighters, by launching systematic attack, to further policy and plan of the Pakistani occupation army constituting the offences of **'Abduction', 'confinement', 'torture', 'other inhumane act' and 'murder'** as crimes against humanity as enumerated in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) read with section 3(1) of the Act and thus you the accused persons incurred liability under section 4(1) of the Act for the above offences.

**Charge No.06: [03 accused indicted]
[Abduction, confinement, torture and other inhumane act
committed at village- Tarati Charpara]**

That on 12.11.1971 at about 04:00 hours you the accused (1) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi , (2) A.B.M Yunus Ali @ Abul Bashir Md. Yunus Ali @ Yunus Moulavi, (3) Md. Yusuf Ali @ A.K.M Yusuf Alam being accompanied by your cohorts Kazi Badruzzaman @ Mushfiqur Rahman @ Chan Kazi[died during proceeding] by launching attack apprehended Abdul Latif @ Tara Miah the elder brother of freedom fighter Abdul Hai @ Chan Mia from Muktagacha bazaar and he was subjected to torture keeping him confined for 07 days at the Al Badar camp set up at Boro Masjid Para, Muktagacha. Seven days later the

detainee Abdul Latif got release from captivity on condition of handing over his freedom-fighter brother Abdul Hai @ Chan Mia to them. In such context you the accused persons later on burnt down the houses of Abdul Latif and others by setting fire.

Therefore, by the above criminal acts forming part of systematic attack directing civilian population you the accused (1) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi , (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali@ Yunus Moulavi and (3) Md. Yusuf Ali @ A.K.M Yusuf Alam and by launching attack participated, facilitated, abetted and substantially contributed to the commission of offences of ‘abduction’, ‘confinement’, ‘torture’ and ‘other inhumane act’ as crimes against humanity as enumerated in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) read with section 3(1) of the Act and thus you the accused persons incurred liability under section 4(1) of the Act for the above offences.

**Charge No.07:[04 accused indicted]
[Killing one civilian Md. Azizur Rahman, a follower of freedom-fighters of village- Protab Mazumdar Road under Police station- Muktagacha]**

That during the Liberation War in 1971 one Md Azizur Rahman son of Zafar Ali Fakir of Protab Mazumdar Road under Police station- Muktagacha of District- Mymensingh had been working as a doctor’s assistant at Haripur Deuli Health Sub-Center and he used to provide assistance including medical treatment to the injured freedom fighters.

In such context, on 20.11.1971 at about 02:00 AM you the accused (1) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi, (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi , (3) Md. Yusuf Ali @ A.K.M Yusuf Alam and (4) Md. Ismail @ Md. Ismail Hossain[**absconding**] being accompanied by Kazi Badruzzaman@ Mushfiqur Rahman @ Chan Kazi [**died during proceeding**] by launching systematic attack forcibly captured said Md. Azizur Rahman from his house and dragged him away to the bank of the pond near his[detainee] house where you the accused persons brutally bayoneted him to death and dumped the dead body in the pond. Later on, the family members buried the body recovering it from the pond.

Therefore, you the accused (1) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi, (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali@ Yunus Moulavi, (3) Md. Yusuf Ali @ A.K.M Yusuf Alam and (4) Md. Ismail @ Md. Ismail Hossain[**absconding**], by launching systematic attack participated , facilitated, abetted and substantially contributed to the accomplishment of causing death of a non combatant civilian by charging bayonet constituting the offence of '**murder**' as crime against humanity as enumerated in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) read with section 3(1) of the Act and thus you the accused persons incurred liability under section 4(1) of the Act for the above offence.

**Charge no.08: [07 accused indicted]
[Abduction, confinement, torture and murder of one civilian Dr.
Anil Kumar Singh]**

That on 26.11.1971 at about 16:00 hrs. you the accused (1) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi, (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi , (3) Md. Yusuf Ali @ A.K.M Yusuf Alam , (4) Md. Omar Faruq @ Md. Omar Ali (5) Md. Nasir Uddin @ Abul Bashar Mohammad Nasir Uddin @ Kalu [absconding] (6) Md. Ismail @ Md. Ismail Hossain[absconding] and (7) A.K.M Belayet Hossain @ Md. Belayet Hossain @ Billal Hossain @ Billal Uddin [absconding] under the leadership of Al Badar Commander Kazi Shamsuzzaman @ Suruj Kazi[now dead] being accompanied by accomplice Al Badars and Pakistani occupation army by launching attack forcibly captured Doctor Anil Kumar Singh[son-in-law of victim Roghu Poddar, the victim of the event narrated in charge no.04] from Muktagacha bazaar and took him away to Al Badar camp where he was tortured to death and then his dead body was thrown to the killing site at Zaminder Bari.

Therefore, you the accused(1) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi, (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi , (3) Md. Yusuf Ali @ A.K.M Yusuf Alam , (4) Md. Omar Faruq @ Md. Omar Ali (5) Md. Nasir Uddin @ Abul Bashar Mohammad Nasir Uddin @ Kalu [absconding] (6) Md. Ismail @ Md. Ismail

Hossain[**absconding**] and (7) A.K.M Belayet Hossain @ Md. Belayet Hossain @ Billal Hossain @ Billal Uddin [**absconding**] by launching systematic attack participated , facilitated, abetted and substantially contributed to the accomplishment of causing death of a non combatant civilian by torture constituting the offences of ‘**abduction**’, ‘**confinement**’ and ‘**murder**’ as crime against humanity as enumerated in section 3(2)(a)(g)(h) of the Act of 1973 which are punishable under section 20(2) read with section 3(1) of the Act and thus you the accused persons incurred liability under section 4(1) of the Act for the above offence.

35. 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.

36. You accused (1) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi, (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi , (3) Md. Yusuf Ali @ A.K.M Yusuf Alam , (4) Md. Omar Faruq @ Md. Omar Ali 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:

37. The charges so framed have been read over and explained to the accused (1) Md. Rezaul Karim @ A.S.M Rezaul Haq @ Abu Saleh Md. Rezaul Haq @ Akkas Moulavi, (2) A.B.M Yunus Ali @ Abul Bashar Md. Yunus Ali @ Yunus Moulavi , (3) Md. Yusuf Ali @ A.K.M Yusuf Alam , (4) Md. Omar Faruq @ Md. Omar Ali to which they pleaded not guilty and claimed to be tried according to law.

38. Accused 5) Md. Nasir Uddin @ Abul Bashar Mohammad Nasir Uddin @ Kalu [**absconding**], (6) Md. Ismail @ Md. Ismail Hossain [**absconding**] and (7) A.K.M Belayet Hossain @ Md. Belayet Hossain @ Billal Hossain @ Billal Uddin [**absconding**] have been absconding and as such the charges framed could not be read over and explained to them.

39. Let 10.03.2019 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.

40. At the same time the learned engaged counsel and also 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