

International Crimes Tribunal-1

Old High Court Building, Dhaka, Bangladesh.

ICT-BD [ICT-1] Case No.03 of 2018

[Arising out of Investigation Agency's compliant register serial no. 75 dated 01.01.2017]

Present:

Justice Md. Shahinur Islam, Chairman

Justice Amir Hossain, Member

Justice Md. Abu Ahmed Jamadar, Member

Order No.05

15 May, 2019

The Chief Prosecutor

Vs.

(1) Sheikh Abdur Rahim, (2) Shamsur Rahman Gazi @ Maiza Bhai, (3) Jahan Ali Biswas, (4) Nazer Ali Fakir, (5) Md. Shahjahan Sardar, (6) Abdul Karim Sheikh @ Abdul Member, (7) Md. Abu Bakkar Sardar, (8) Md. Royshan Ali Gazi @ Royshan Mollik, (9) Md. Shorab Hossain Sardar @ Md. Abdul Hamid @ Khulnar Hujur and (10) Omar Ali Fakir

Mr. Syed Haider Ali, Prosecutor: For the prosecution

Mr. S.M. Shahjahan, Advocate, Bangladesh Supreme Court: Engaged Counsel for accused Md. Shorab Hossain Sardar alias Md. Abdul Hamid alias Khulnar Hujur.

Mr. Gazi M.H Tamim, Advocate, Bangladesh Supreme Court: Engaged Counsel for accused Md. Shorab Hossain Sardar alias Md. Abdul Hamid alias Khulnar Hujur and State Defence Counsel for accused Md. Shahjahan Sardar, Abdul Karim Sheikh alias Abdul

Member, Md. Abu Bakkar Sardar and Md. Royshan Ali Gazi alias Royshan Mollik.

Mr. Abdus Sattar Palwan, Advocate, Bangladesh Supreme Court: State Defence Counsel for accused Sheikh Abdur Rahim, Shamsur Rahman Gazi alias Maiza Bhai, Jahan Ali Biswas, Nazer Ali Fakir and Md. Omar Ali Fakir.

[Decision on framing charges]

Today is fixed for rendering decision on charge framing matter.

Nine [09] accused (1) Sheikh Abdur Rahim, (2) Shamsur Rahman Gazi @ Maiza Bhai, (3) Jahan Ali Biswas,(4) Nazer Ali Fakir, (5) Md. Shahjahan Sardar, (6) Abdul Karim Sheikh @ Abdul Member, (7) Md. Abu Bakkar Sardar, (8) Md. Royshan Ali Gazi @ Royshan Mollik, (9) Md. Shorab Hossain Sardar @ Md. Abdul Hamid @ Khulnar Hujur have been brought before the Tribunal from prison. Another one [01] accused **Omar Ali Fakir** has been absconding. Hearing on charge framing matter took place on 28.11.2018 and 24.01.2019 and 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 Station-Dumuria, District-Khulna and police station-Keshabpur of District-Jashore in 1971 in committing which the accused persons, in exercise of their active and culpable association with the locally formed Razakar Bahini, allegedly participated and deliberately contributed, 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. 75 dated 01.01.2017, 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 for causing arrest of suspected accused persons of whom all excepting accused Md. Omar Ali could be arrested in execution of warrant of arrest issued by the Tribunal and on production before the Tribunal they were sent to prison , for the purpose of proper and effective investigation. Accused persons

detained in prison were interrogated at the safe home of the investigation agency on 23.07.2017--26.07.2017.

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 26.12.2017 recommending prosecution of ten[10] 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 04.04.2018 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-Dumuria, District-Khulna and Keshabpur, District-Jashore.

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 07.05.2018, by application its judicial mind to the Formal Charge and materials and documents submitted therewith.

11. Out of ten [10] accused one [01] accused Md. Omar Ali Fakir could not be arrested. After having the report in execution of warrant

of arrest issued against him the Tribunal, for the purpose of holding proceeding in absentia against him ordered publication of notice in two national daily news papers. But this accused did not turn up within the time stipulated in the notification and as such treating him absconding Tribunal by appointed Mr. Abdus Sattar Palwan, Advocate as state defence counsel to defend this absconding accused.

12. Mr. Gaji M.H Tamim, Advocate and Mr. Abdus Sattar Palwan, Advocate have also been appointed stated defence counsels to defend the eight other accused , at the cost of government and fixed 07.01.2019 for hearing on charge framing matter.

13. It is to be noted that accused Md. Shorab Hossain Sarder @ Md. Abdul Hamid @ Khulnar Hujur is being defended by his learned engaged counsel Mr. S.M Shahjahan.

IV. Brief Account of Accused Persons

(i) Sheikh Abdur Rahim

Accused Sheikh Abdur Rahim [68] is the son of late Hazer Ali Sheikh and late Achhira Nesa of village-Angerdaha, Police Station-Dumuria, District-Khulna. His date of birth is 23.10.1949[as per his NID].He was directly involved with the politics of Jamaat-e-Islami since prior to the war of liberation. In 1971, during the war of liberation, he joined in locally formed armed Razakar Bahini and on getting training from Khulna Ansar Camp formed a Razakar Camp

in his locality and participated in committing the crimes against humanity and genocide to foil liberation war, in exercise of his potential membership in Razakar Bahini, prosecution alleges. At present he is an active supporter of Jamaat-e-Islami.

(ii)Shamsur Rahman Gazi alias Maiza Bhai

Accused Shamsur Rahman Gazi alias Maiza Bhai [82], is the son of late Lokman Gazi and late Sowravjan Bibi of village-Kharnia, Police Station-Dumuria, District-Khulna. His date of birth is 27.04.1935[as per his NID]. He was directly involved with the politics of Jamaat-e-Islami since prior to the war of liberation. He joined in locally formed armed Razakar Bahini intending to assist the Pakistani occupation army. He on receiving training from Khulna Ansar Camp formed a Razakar Camp in his locality and participated in committing the crimes against humanity and genocide to frustrate the liberation war, as a potential member of Razakar Bahini, prosecution alleges. At present he is an active supporter of Jamaat-e-Islami.

(iii)Jahan Ali Biswas

Accused Jahan Ali Biswas [67], is the son of late Bholai Biswas and late Mariom Begum of village-Ranai, Police Station-Dumuria, District-Khulna. His date of birth is 08.10.1950[as per his NID]. He passed class IX from Shovna High School. He was directly involved with the politics of Jamaat-e-Islami even since prior to the war of liberation. In 1971, during the war of liberation, he joined in locally formed armed Razakar Bahini aiming to assist the Pakistani

occupation army. After receiving training from Khulna Ansar Camp he was engaged in forming a Razakar Camp in his locality and participated in committing the offences as crimes against humanity and genocide, prosecution alleges.

(iv) Nazer Ali Fakir

Accused Nazer Ali Fakir [65], is the son of late Rais Uddin Fakir and late Atarjan Bibi of village-Ranai, Police Station-Dumuria, District-Khulna. His date of birth is 10.03.1942[as per his NID,75] but during investigation it has been found that now [at the time of investigation] he is about 65 years old. He studied up to class. He was affiliated with the politics of Jamaat-e-Islami, even since prior to the war of liberation ensued. In 1971 he joined in locally formed armed Razakar Bahini, received training from Khulna Ansar Camp and participated in committing atrocious activities constituting the offences of as crimes against humanity and genocide, prosecution avers.

(v) Md. Shahjahan Sardar

Accused Md. Shahjahan Sardar [75] is the son of Md. Abdul Jabbar Sardar and late Saburan Nesa of village-Ranai, Police Station-Dumuria, District-Khulna. His date of birth is 10.06.1950[as per his NID, 67] but on investigation it has been found that his real age is about 75 years. He was associated with the politics of Jamaat-e-Islami, in 1971. He joined in locally formed armed Razakar Bahini and received training from Khulna Ansar camp and got engaged in

committing atrocious activities directing civilian population, prosecution alleges.

(vi) Md. Abdul Karim Sheikh @ Abdul Member

Accused Md. Abdul Karim Sheikh @ Abdul Member [65], is the son of late Kala Chad Sheikh and late Joygun Bibi of village-Kharnia, Police Station-Dumuria, District-Khulna. His date of birth is 21.12.1952[as per his NID]. He studied up to class IV. In 1971 he joined in locally formed Razakar Bahini and received training too and then became engaged in committing atrocious activities directing civilian population, in collaboration with the Pakistani occupation army, as alleged. He was an active follower of Jamaat-e-Islami, a pro-Pakistan political party.

(vii) Md. Abu Bakkar Sardar

Accused Md. Abu Bakkar Sardar [67], is the son of late Nasher Ali Sardar alias Nasher Munshi and late Kulsum Bibi of village-Ranai, Police Station-Dumuria, District-Khulna. His date of birth is 20.03.1950[as per his NID]. He studied up to class III from Ranai Government Primary School. He was a follower of Jamaat-e-Islami, a pro-Pakistan political party. In 1971 he joined in locally formed Razakar Bahini and after receiving training in Khulna he started committing atrocious activities, as alleged.

(viii) Md. Royshan Ali Gazi alias Royshan Mollik

Accused Md. Royshan Ali Gazi alias Royshan Mollik [72], is the son of late Zahir Uddin Gazi and late Jobeda Begum of village-Ranai, Police Station-Dumuria, District-Khulna. His date of birth is 01.07.1945[as per his NID]. He studied up to class V. In 1971, in addition to his affiliation with Jamat-e-Islami he joined in locally formed Razakar Bahini and received training too. He allegedly participated in committing the offences as crimes against humanity and genocide, in exercise of his membership in Razakar Bahini.

(ix) Md. Shorab Hossain Sardar @ Md. Abdul Hamid @ Khulnar Hujur

Accused Md. Shorab Hossain Sardar @ Md. Abdul Hamid @ Khulnar Hujur [62] is the son of late Sekmat Ali Sardar and Sakina Begum of village-Ranai, Police Station-Dumuria, District-Khulna; at present: R/19, Nurjahan Road, Block-D-1, Police Station-Mohammadpur, Dhaka. His date of birth is 10.01.1959 [as per his NID]. He passed Title examination. He is a teacher at the Kaomi Madrasha, Mohammadpur. Since prior to the war of liberation ensued in 1971 he was involved with the politics of Jamaat-e-Islami. In 1971, he joined in locally formed armed Razakar Bahini also received training in this regard and then he got engaged in committing atrocious activities directing civilian population , as alleged.

(x) Md. Omar Ali Fakir

Accused Md. Omar Ali Fakir [70], is the son of Hazer Ali Fakir and late Shayera Bibi of village-Kharnia, Police Station-Dumuria, District-Khulna. His date of birth is 05.02.1947 [as per his NID]. He studied up to class V. He was a follower of Jamaat-e-Islami. In 1971, he joined in locally formed armed Razakar Bahini and also received training from Khulna Ansar Camp. He participated in committing the offences as crimes against humanity and genocide, as alleged.

V. Submission by the Prosecutor

14. **Mr. Syed Haider Ali** , learned prosecutor drawing attention to the formal charge and other materials procured during investigation submitted that the accused persons belonged to locally formed Razakar Bahini and in exercise of their affiliation therewith they deliberately collaborated with the Pakistani occupation army in perpetrating ‘group crimes’ or ‘system crimes’ directing unarmed pro-liberation civilians of localities under police station- Dumuria of District-Khulna and police station-Keshabpur , District-Jashore. It has been asserted further that the evidence and materials collected during investigation *prima facie* indicate towards participation and complicity of all the ten [10] accused persons with the events constituting the offences as crimes against humanity, as has been pressed in the formal charge.

VI. Submission on behalf of accused

15. Mr. S.M Shahjahan, the learned engaged counsel defending the accused Md. Shorab Hossain Sarder @ Md. Abdul Hamid @ Khulnar Hujur chiefly submits that in 1971 this accused was 12 years old; narrative made in the formal charge on the basis of NID card proves it. Prosecution does not claim the information contained in the NID card to be incorrect. Thus, this accused who was a minor boy in 1971 was not a Razakar and did not participate in committing the alleged crimes.

16. Mr. Gaji M. H. Tamim the learned stated defence counsel defending four [04] accused submitted an application seeking discharge, on grounds stated therein. It has been asserted too 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 event alleged; that these accused persons were not associated with locally formed Razakar Bahini. The learned counsel concluded his submission seeking discharge of these accused.

17. Mr. Abdus Sattar Palwan the learned stated defence counsel defending other accused persons submitted that there has been no prima facie grounds of proceeding, by framing charges; that these accused were not Razakars; that the documents relied upon by the

prosecution have been created with an intention of showing them Razakar and that they have been implicated in this case out of local rivalry.

VII. Deliberation and Decision

18. The prosecution alleges that in 1971 the accused persons were the armed members of locally formed Razakar Bahini and they got involved in committing atrocious activities in exercise of their affiliation with this auxiliary force. Membership in such an 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'.

19. It has been asserted by Mr. Shahjahan, the learned engaged counsel for accused Md. Shorab Hossain Sarder @ Md. Abdul Hamid @ Khulnar Hujur that in 1971 he was simply a minor boy of 12 years old and the information made in the formal charge based on the respective NID card shows it clearly and thus it is not true that he was involved in committing any of crimes alleged.

20. It is true that the information made in the brief account of accused Md. Shorab Hossain Sarder @ Md. Abdul Hamid @ Khulnar Hujur based on his NID Card his age in 1971 was 12 years. But, first, information contained in NID card of course has been provided by its holder i.e. the accused and not the prosecution. Second, this matter relating to age of this accused has been explained in the investigation report. Third, mere information made in the NID card, particularly in respect of its holder's age may not always be correct. And finally, this issue may be well resolved only at trial, on having evidence.

21. We are not agreed with the submission advanced by Mr. Abdus Sattar Palwan the learned stated defence counsel that the documents relied upon by the prosecution have been created with an intention of showing them Razakar and that they have been implicated in this case out of local rivalry. All these aspects need to be agitated at trial. At this stage, falsity of any document or untruthfulness of arraignment brought cannot be settled.

22. At this phase of proceeding, we are to just consider whether the documents and materials *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.

23. 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. Their culpability, if any, can only be well determined only at trial, not at this stage. 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.

24. 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. 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.

25. 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) Sheikh Abdur Rahim, the son of late Hazer Ali Sheikh and late Achhiran Nesa of village-Angerdaha, Police Station-Dumuria, District-Khulna,

(2) Shamsur Rahman Gazi @ Maiza Bhai the son of late Lokman Gazi and late Sowravjan Bibi of village-Kharnia, Police Station-Dumuria, District-Khulna,

(3) Jahan Ali Biswas, the son of late Bholai Biswas and late Mariom Begum of village-Ranai, Police Station-Dumuria, District-Khulna,

(4) Nazer Ali Fakir, the son of late Rais Uddin Fakir and late Atarjan Bibi of village-Ranai, Police Station-Dumuria, District-Khulna,

(5) Md. Shahjahan Sardar, the son of Md. Abdul Jabbar Sardar and late Saburan Nesa of village-Ranai, Police Station-Dumuria, District-Khulna,

(6) Abdul Karim Sheikh @ Abdul Member, the son of late Kala Chad Sheikh and late Joygun Bibi of village-Kharnia, Police Station-Dumuria, District-Khulna,

(7) Md. Abu Bakkar Sardar, the son of late Nasher Ali Sardar alias Nasher Munshi and late Kulsum Bibi of village-Ranai, Police Station-Dumuria, District-Khulna,

(8) Md. Royshan Ali Gazi @ Royshan Mollik, the son of late Zahir Uddin Gazi and late Jobeda Begum of village-Ranai, Police Station-Dumuria, District-Khulna,

(9) Md. Shorab Hossain Sardar @ Md. Abdul Hamid @ Khulnar Hujur, the son of late Sekmat Ali Sardar and Sakina Begum of village-Ranai, Police Station-Dumuria, District-Khulna; at present: R/19, Nurjahan Road, Block-D-1, Police Station-Mohammadpur, Dhaka

And

(10) Md. Omar Ali Fakir [absconding], the son of Hazer Ali Fakir and late Shayera Bibi of village-Kharnia, Police Station-Dumuria, District-Khulna

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) Sheikh Abdur Rahim, (2) Shamsur Rahman Gazi alias Maiza Bhai, (3) Jahan Ali Biswas, (4) Nazer Ali Fakir, (5) Md. Shahjahan Sardar, (6) Abdul Karim Sheikh

alias Abdul Member, (7) Md. Abu Bakkar Sardar, (8) Md. Royshan Ali Gazi alias Royshan Mollik, (9) Md. Shorab Hossain Sardar alias Md. Abdul Hamid alias Khulnar Hujur and (10) Md. Omar Ali Fakir as follows:

Charge No. 01: [10 accused indicted]

[Offences of ‘abduction’, ‘confinement’, ‘looting’, ‘arson, ‘torture’ and ‘murder’ of 09 [nine] civilians on forcible capture from the village- Pachuria, Kharnia, Ranai Palpara and River Bhadra under Police Station- Dumuria, District-Khulna].

Charge: That on 20th May 1971, at about 9 A.M, you the accused persons (1) Sheikh Abdur Rahim, (2) Shamsur Rahman Gazi @ Maiza Bhai, (3)Md. Omar Ali Fakir (4)Jahan Ali Biswas, (5) Nazer Ali Fakir, (6) Md. Shahjahan Sardar, (7) Abdul Karim Sheikh @ Abdul Member, (8) Md. Abu Bakkar Sardar, (9) Md. Royshan Ali Gazi @ Royshan Mollik and (10) Md. Shorab Hossain Sardar @ Md. Abdul Hamid @ Khulnar Hujur, along with 20/25 armed Razakars by launching attack at village Pachuria forcibly captured Md. Anisur Rahman, Anu Sheikh @ Aziz Sheikh, Iman Sheikh and Kowser Sheikh, looted households and set their houses and 10/12 other houses on fire. Then, you the accused persons and your accomplices took away the unlawfully detained civilians to the Union Council Office at Kharnia bazaar where they were subjected to brutal torture.

In conjunction with the attack you the accused persons and some of your cohorts attacked village- Pachpota and unlawfully apprehended Md. Shaheb Ali Gazi, Mazid Biswas, Shamsur Mollah, Amjad Sarder, Abdul Latif Morol; looted households and set the house on fire. Then you the accused persons and your accomplices, taking the detainees with you, moved back to the Kharnia UP office where they were subjected ruthless torture.

At one stage, you the accused persons and your accomplices apprehending one Sajem Ali from the road forced him to collect 50-60 green coconut and confined him with other and thereafter brought 10 detainees to the Razakar Camp situated at the house of Sahar Ali Joarder and confined them there.

On the same day, at about 04:00 P.M, all the 10 detainees were taken to 'Bakultala' alongside the river 'Bhadra' at Palpara when one detainee Anisur Rahman was set at liberty on approach made by his paternal uncle Jahir Uddin Sardar[now dead]. But you the accused persons and your cohorts making the 09 detainees stood in a line gunned them down to death and brutally slaughtered Sajem Ali Morol when he was trying to escape as the bullet did not hit him and threw their dead bodies to the river.

Therefore, you the accused(1) Sheikh Abdur Rahim, (2) Shamsur Rahman Gazi @ Maiza Bhai, (3)Jahan Ali Biswas,(4) Nazer Ali Fakir, (5) Md. Shahjahan Sardar, (6) Abdul Karim Sheikh @ Abdul

Member, (7) Md. Abu Bakkar Sardar, (8) Md. Royshan Ali Gazi @ Royshan Mollik, (9) Md. Shorab Hossain Sardar @ Md. Abdul Hamid @ Khulnar Hujur and (10) Omar Ali Fakir are hereby charged for actively participating, facilitating, abetting and substantially contributing to the commission of the offences of 'abduction', 'confinement', 'looting', 'arson', '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: [10 accused indicted]

[Offences of Abduction, Confinement, Torture and murder of 01 [one] civilian on forcible capture from the village-Shovna under Police Station- Dumuria of District-Khulna]

Charge: That on 27.05.1971 at 11.00 A.M, you the accused persons (1) Sheikh Abdur Rahim, (2) Shamsur Rahman Gazi @ Maiza Bhai, (3) Jahan Ali Biswas,(4) Nazer Ali Fakir, (5) Md. Shahjahan Sardar, (6) Abdul Karim Sheikh @ Abdul Member, (7) Md. Abu Bakkar Sardar, (8) Md. Royshan Ali Gazi @ Royshan Mollik, (9) Md. Shorab Hossain Sardar @ Md. Abdul Hamid @ Khulnar Hujur and (10) Omar Ali Fakir being accompanied by 15/20 armed Razakars surrounded 200/300 unarmed civilians assembled at Shovna government primary school under Dumuria police station of Khulna District, under prior announcement made by you the accused persons and amongst them unlawfully detained one Md. Mansur Ali Sheikh,

an active follower of liberation war and took him away to Union Parishad Office at Kharnia hat and started causing inhumane torture upon him. Thereafter, you the accused persons started pinning his hand with a mango tree.

On the same day, at about 3.00 P.M, you the accused persons and your cohorts took the detained victim to Kharnia kheya ghat alongside river Bhadra where he was slaughtered to death and his dead body was dumped into the river.

Therefore, you the accused(1) Sheikh Abdur Rahim, (2) Shamsur Rahman Gazi @ Maiza Bhai, (3) Jahan Ali Biswas,(4) Nazer Ali Fakir, (5) Md. Shahjahan Sardar, (6) Abdul Karim Sheikh @ Abdul Member, (7) Md. Abu Bakkar Sardar, (8) Md. Royshan Ali Gazi @ Royshan Mollik, (9) Md. Shorab Hossain Sardar @ Md. Abdul Hamid @ Khulnar Hujur and (10) Omar Ali Fakir are hereby charged for actively participating, facilitating, abetting and substantially contributing 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. 03: [10 accused indicted]

[Offences of ‘looting’, ‘arson’ and ‘murder’ of Md. Nowsher Ali Khan of village-Agarhati under Police Station- Keshabpur of District-Jashore]

Charge: That on 16.06 1971, at about 10.00 A.M, a group formed of you the accused persons (1) Sheikh Abdur Rahim, (2) Shamsur Rahman Gazi @ Maiza Bhai, (3) Jahan Ali Biswas,(4) Nazer Ali Fakir, (5) Md. Shahjahan Sardar, (6) Abdul Karim Sheikh @ Abdul Member, (7) Md. Abu Bakkar Sardar, (8) Md. Royshan Ali Gazi @ Royshan Mollik, (9) Md. Shorab Hossain Sardar @ Md. Abdul Hamid @ Khulnar Hujur and (10) Omar Ali Fakir and your 22/25 cohort Razakars by launching attack at Hindu dominated villages Gourighona, Kashimpur and looted valuables from 31 houses of Hindu civilians [as named in the formal charge], set the houses on fire.

On the same day at about 4.00 P.M, in conjunction with the attack, one local influential person Md. Nowsher Ali Khan arriving at Kharnia ferry ghat approached you the accused persons and your cohorts to return back the looted articles but you defying the approach shot him to death and threw his dead body into the river. On the next morning the dead body of Md. Nowsher Ali Khan could be traced and his relatives buried him at their house.

Therefore, you the accused(1) Sheikh Abdur Rahim, (2) Shamsur Rahman Gazi @ Maiza Bhai, (3) Jahan Ali Biswas,(4) Nazer Ali Fakir, (5) Md. Shahjahan Sardar, (6) Abdul Karim Sheikh @ Abdul Member, (7) Md. Abu Bakkar Sardar, (8) Md. Royshan Ali Gazi @

Royshan Mollik, (9) Md. Shorab Hossain Sardar @ Md. Abdul Hamid @ Khulnar Hujur and (10) Omar Ali Fakir are hereby charged for actively participating, facilitating, abetting and substantially contributing to the commission of the offences of '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 said Act of 1973.

Charge No. 04: [10 accused indicted]

[Offences of 'abduction', 'confinement', 'torture' and 'murder' of 03 [three] civilians of villages-Bhadradia and Shovna under Police Station- Dumuria of District-Khulna]

Charge: That on 05.07.1971, at about 12.00P.M, boatman Ali Box Sheikh was on a small boat on the Bhadra river alongside Bhadradia village and farmer Lalit Mohan Mallik and his son Sree Gobinda Chandra Mallik were working at their land beside Bhadra river and Sree Dhiraj Chandra Mallik, Shudhir Rokhkhith and Jotir Biswas were also working there, when you the accused persons(1) Sheikh Abdur Rahim, (2) Shamsur Rahman Gazi alias Maiza Bhai, (3)Md. Omar Ali Fakir (4) Jahan Ali Biswas, (5) Nazer Ali Fakir, (6) Md. Shahjahan Sardar, (7) Abdul Karim Sheikh @ Abdul Member, (8) Md. Abu Bakkar Sardar, (9) Md. Royshan Ali Gazi @ Royshan Mollik and (10) Md. Shorab Hossain Sardar @ Md. Abdul Hamid @ Khulnar Hujur, along with 20/25 Razakars arriving there forcibly captured them and took them away towards Kharnia and after

sometime detainees Shudhir Rokhkhit, Jotir Biswas and Sree Gobinda Chandra Mallik were made freed.

Thereafter, you the accused persons and your cohorts tied-up detainees Lalit Mohan Mallik and Ali Box Sheikh and killed them by taking them on a boat and threw them into the middle of the river.

On the next day, i.e. on 06.07.1971 at about 10.00 A.M. Md. Abul Kashem, son of detainee Ali Box Sheikh searched his father's dead body at Kharnia ferry ghat when you the accused persons and your cohorts came there and shot him to death and threw his death body into the river.

Therefore, you the accused(1) Sheikh Abdur Rahim, (2) Shamsur Rahman Gazi alias Maiza Bhai, (3)Md. Omar Ali Fakir (4) Jahan Ali Biswas, (5) Nazer Ali Fakir, (6) Md. Shahjahan Sardar, (7) Abdul Karim Sheikh @ Abdul Member, (8) Md. Abu Bakkar Sardar, (9) Md. Royshan Ali Gazi @ Royshan Mollik and (10) Md. Shorab Hossain Sardar @ Md. Abdul Hamid @ Khulnar Hujur are hereby charged for actively participating, facilitating, abetting and substantially contributing 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 05: [10 accused indicted]

[Offences of ‘abduction’, ‘confinement’, ‘torture’ and ‘murder’ of 08 [eight] civilians on forcible capture from the village-Shovna under Police Station- Dumuria of District-Khulna].

Charge: That on 15.07.1971, at about 9 A.M, 09 (nine) innocent, unarmed, pro-liberation people [as named in the formal charge] started moving to India with intent to take training to join in the liberation war and at about 10.00 A.M, of the same day they crossed the Bhadra river by a boat. Thereafter, they reached at Boratia village and were walking through a road when you the accused(1) Sheikh Abdur Rahim, (2) Shamsur Rahman Gazi alias Maiza Bhai, (3)Md. Omar Ali Fakir (4) Jahan Ali Biswas, (5) Nazer Ali Fakir, (6) Md. Shahjahan Sardar, (7) Abdul Karim Sheikh @ Abdul Member, (8) Md. Abu Bakkar Sardar, (9) Md. Royshan Ali Gazi @ Royshan Mollik and (10) Md. Shorab Hossain Sardar @ Md. Abdul Hamid @ Khulnar Hujur along with 20/25 cohort Razakars arriving there unlawfully captured them [09 (nine) civilians]and started causing brutal torture upon them and took them away, by a truck, to the Pakistani occupation army camp at Khulna circuit house terming them Mukti (Freedom Fighters) and thus Pakistani occupation army officer rewarded you the accused persons.

On the same day, at about 5.00 P.M, you the accused persons took the confined 09(nine) persons at the Badhdhavumi [killing site] in Khulna and shot them to death and threw their bodies into the river

but fortunately one detainee Nowab Ali Tarafdar got survived despite receiving bullet hit injury on his leg.

Therefore, you the accused(1) Sheikh Abdur Rahim, (2) Shamsur Rahman Gazi alias Maiza Bhai, (3)Md. Omar Ali Fakir (4) Jahan Ali Biswas, (5) Nazer Ali Fakir, (6) Md. Shahjahan Sardar, (7) Abdul Karim Sheikh @ Abdul Member, (8) Md. Abu Bakkar Sardar, (9) Md. Royshan Ali Gazi @ Royshan Mollik and (10) Md. Shorab Hossain Sardar @ Md. Abdul Hamid @ Khulnar Hujur are hereby charged for actively participating, facilitating, abetting and substantially contributing 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 06: [10 accused indicted]

[Offences of ‘abduction’, ‘confinement’, ,torture’, ‘looting’ and ‘murder’ of Iman Ali Fakir of village-Gobindakathi under Police Station- Dumuria of District-Khulna].

Charge: That on 27.07.1971, at about 10.00 A.M, you the accused (1) Sheikh Abdur Rahim, (2) Shamsur Rahman Gazi alias Maiza Bhai, (3)Md. Omar Ali Fakir (4) Jahan Ali Biswas, (5) Nazer Ali Fakir, (6) Md. Shahjahan Sardar, (7) Abdul Karim Sheikh @ Abdul Member, (8) Md. Abu Bakkar Sardar, (9) Md. Royshan Ali Gazi @ Royshan Mollik and (10) Md. Shorab Hossain Sardar @ Md. Abdul

Hamid @ Khulnar Hujur being accompanied by 10/12 armed Razakars by launching attack at village-Gobindakathi forcibly captured Md. Iman Ali Fakir from his house and was subjected to brutal torture, looted valuables and taking the detainee outside the house and shot him to death. The local people buried the dead body after you the accused persons and your accomplices had left the site.

Therefore, you the accused(1) Sheikh Abdur Rahim, (2) Shamsur Rahman Gazi alias Maiza Bhai, (3)Md. Omar Ali Fakir (4) Jahan Ali Biswas, (5) Nazer Ali Fakir, (6) Md. Shahjahan Sardar, (7) Abdul Karim Sheikh @ Abdul Member, (8) Md. Abu Bakkar Sardar, (9) Md. Royshan Ali Gazi @ Royshan Mollik and (10) Md. Shorab Hossain Sardar @ Md. Abdul Hamid @ Khulnar Hujur are hereby charged for actively participating, facilitating, abetting and substantially contributing to the commission of the offences of 'abduction', 'confinement', 'torture', 'looting' 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.

26. 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.

27. You accused (1) Sheikh Abdur Rahim, (2) Shamsur Rahman Gazi @ Maiza Bhai, (3) Jahan Ali Biswas, (4) Nazer Ali Fakir, (5) Md. Shahjahan Sardar, (6) Abdul Karim Sheikh @ Abdul Member, (7) Md. Abu Bakkar Sardar, (8) Md. Royshan Ali Gazi @ Royshan Mollik and (9) Md. Shorab Hossain Sardar @ Md. Abdul Hamid @ Khulnar Hujur 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: *Amg ibt`vP [cZ`K Amvgr etj b]*

I am innocent [each accused claims]

28. The charges so framed have been read over and explained to the accused (1) Sheikh Abdur Rahim, (2) Shamsur Rahman Gazi @ Maiza Bhai, (3) Jahan Ali Biswas, (4) Nazer Ali Fakir, (5) Md. Shahjahan Sardar, (6) Abdul Karim Sheikh @ Abdul Member, (7) Md. Abu Bakkar Sardar, (8) Md. Royshan Ali Gazi @ Royshan Mollik and (9) Md. Shorab Hossain Sardar @ Md. Abdul Hamid @ Khulnar Hujur to which they pleaded not guilty and claimed to be tried according to law.

29. One [01] accused (10) Md. Omar Ali Fakir has been absconding and as such the charges framed could not be read over and explained to him.

30. Let 07.07.2019 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.

31. 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