

International Crimes Tribunal-1

**Old High Court Building, Dhaka, Bangladesh
ICT- BD [ICT-1] Case No. 01 of 2015**

The Chief Prosecutor

vs.

- (1) Shamsuddin Ahmed**
- (2) Gazi Md. Abdul Mannan [absconded]**
- (3) Nasiruddin Ahmed @ Md. Nasir @ Captain ATM Nasir [absconded]**
- (4) Md. Hafizuddin [absconded], and**
- (5) Md. Azharul Islam [absconded]**

Present:

**Justice Anwarul Haque, Chairman
Justice Md. Shahinur Islam, Member
Justice Md. Shohrwardi, Member**

Order No. 13

Dated 12.10. 2015

Mr. Sultan Mahmud, Prosecutor

..... For the prosecution

Mr. Abdus Shukur Khan, State Defence Counsel.

..... For all the five accused persons.

[Decision on charge framing matter]

The record is taken up for rendering decision on charge framing matter. Out of five [05] accused persons four [04] accused persons have been remaining absconded. The said four absconding accused persons including accused Shamsuddin Ahmed, who is now in detention in prison, are being defended by Mr. Abdus Shukur Khan as State defence counsel appointed by the Tribunal at the cost of the government. The hearing on charge framing matter thus took place in presence of accused Shamsuddin Ahmed only who has been brought today before this Tribunal from prison.

The case involves the criminal acts forming part of systematic attack constituting the offences as enumerated in the International Crimes (Tribunals) Act, 1973 perpetrated in 1971 during the war of liberation of Bangladesh. The accused persons are alleged to have committed many such offences around the localities under Police Station Karimganj of the then Kishoreganj Sub-Division. We deem it expedient to provide a brief context of the case, succinct arguments

put forward by the prosecution and defence before this Tribunal, before we render decision on charge framing matter.

1. Introductory words

This International Crimes Tribunal-1 [hereinafter referred to as the “**Tribunal**”] has been set up under the International Crimes (Tribunals) Act enacted in 1973 (hereinafter referred to as the “Act”) by Bangladesh Parliament. The Act No. XIX enacted in 1973 which is meant for the detention, prosecution and punishment of persons for crimes against humanity, genocide, war crimes and other crimes under international law is *ex-post facto* legislation. It is to be noted that the ICTY, ICTR and SCSL the Adhoc Tribunals backed by the United Nations (UN) have been constituted under their respective retrospective Statutes. Only the International Criminal Court [ICC] is founded on prospective Statute [Rome Statute]. The 1973 Act of Bangladesh has the merit and means of ensuring the standard of safeguards recognized universally to be provided to the person accused of crimes against humanity, genocide, war crimes and other crimes under International law.

2. Brief Historical Background

The dreadful systematic events of attacks constituting the offences of crimes against humanity as narrated in the formal charge allegedly occurred in the localities under the Police Station Karimganj of the then Kishoreganj Sub-Division reflect a mere part of horrific systematic atrocious activities carried out in 1971 across the country during the war of liberation directing the unarmed pro-liberation civilians by the occupation Pakistani army and their local collaborators and the auxiliary forces, in furtherance of common plan and design of Pakistani occupation army.

The undisputed history says that the atrocious and dreadful crimes committed during the nine-month-long war of liberation in 1971 resulted in killing some three million people, rape upon nearly a quarter million women and forcible deportation of over 10 million people. In exchange of such unprecedented and huge sacrifice the nation eventually saw the birth of an independent Bangladesh.

The history goes on to portray that in the general election of 1970, the Awami League under the leadership of Bangabandhu Sheikh Mujibur Rahman became the majority party of Pakistan. But defying the democratic norms Pakistan government did not care to respect this overwhelming majority. As a result, movement started in the territory of this part of Pakistan and Bangabandhu Sheikh Mujibur Rahman in his historic speech of 7th March, 1971, called on the Bangalee nation to struggle for independence if people's verdict is not respected. In the early hour of 26th March, 1971 following the onslaught of "Operation Search Light" by the Pakistani Military on 25th March, Bangabandhu declared Bangladesh independent immediately before he was arrested by the Pakistani authorities.

The 'operation' was designed to disarm and liquidate Bengali policemen, soldiers and military officers, to arrest and kill nationalist Bengali politicians, soldiers and military officers, to arrest and kill and round up professionals, intellectuals, civilians belonging to Hindu community and students. Afterwards, actions in concert with its local collaborators belonging to Razakar, Al-Badar and the key pro-Pakistan political organisation Jamat-E-Islami (JEI) , Nejam-E-Islami were intended to stamp out the Bengali national liberation movement and to mash the national feelings and aspirations of the Bangalee nation.

The Pakistan government and the military formed 'Peace Committee' as an 'associate organization' and number of auxiliary forces, such as, the Razakars, the Al-Badar, the Al-Shams, etc, essentially to act as collaborating teams with the Pakistani occupation army in identifying and eliminating all those who were perceived to be pro-liberation, individuals belonging to minority religious groups especially the Hindus, political groups belonging to Awami League and Bangalee intellectuals and unarmed civilian population of Bangladesh.

Incontrovertibly the ways to self-determination for the Bangalee nation was strenuous, swabbed with enormous blood, strive and sacrifices. In the present-day world history, conceivably no nation paid as extremely as the Bangalee nation did for its self-determination. The events alleged in the formal

charge constituting the offences of crimes against humanity occurred in the localities under Karimganj Police Station of the then Kishoreganj Sub-Division mirror a mere partial portrayal of totality of untold horrendous activities accomplished in violation of customary international law with the culpable facilitation and assistance provided by the local collaborators and the infamous people belonging to Razakar Bahini, an auxiliary force..

3. Brief account of accused persons

(1) Shamsuddin Ahmed

Accused **Shamsuddin Ahmed**[60] son of late Abdur Razzak Munshi and late Safurennesa @ Lutfor Nahar Lata was born on 12.7.1956[according to school record]of village Karimganj Modhopara (Dulipara) under Police Station Karimganj of the then Kishoreganj Sub-Division, at present 411/1, Banani Morh, Chorsholakia, Police Station and District Kishoreganj. He obtained his B.A. degree in 1982, LL.B degree in 1991 and B. Ed. degree in 1995 from Mymensingh Teachers Training College. He also served as an Assistant teacher in Neamotpur Government Primary School since 21.10.1985. He continued to serve as a teacher in Tamoni Bhuiyan Para Government Primary School till 11.12.2003 and went on retirement on 15.2.2004. Then he got enrolled in Mymensingh District Bar Association as an Advocate. He joined the Razakar Bahini in 1971 and he and his brother accused Nasiruddin Ahmed @ Md. Nasir @ Captain ATM Nasir [absconded] got involved with the atrocious activities constituting offences of crimes against humanity, prosecution alleges. After independence, he went into hid from the locality.

(2) Gaji Md. Abdul Mannan [absconded]

Accused **Gaji Md. Abdul Mannan** [88] son of late Ibrahim and late Moharajer Ma of village Charpara under Police Station Karimganj of the then Kishoreganj Sub-Division was born on 04.05.1927[according to national ID card]. He studied up to class VIII. He was the commander of local Razakar Bahini and was involved with the atrocious activities constituting the offences of crimes against humanity in 1971 in the localities under Police Station Karimganj, prosecution alleges.

(3) Nasiruddin Ahmed @ Md. Nasir @ Captain ATM Nasir [absconded]

Accused **Nasiruddin Ahmed @ Md. Nasir @ Captain ATM Nasir [62]** son of late Abdur Razzak and late Safurenessa @ Lutfor Nahar Lata of village Karimganj Modhopara (Dulipara) under Police Station Karimganj of the then Kishoreganj Sub-Division, at present 270, Charsholakia (Zenith View Bananir Morh) under Police Station Karimganj of the then Kishoreganj Sub-Division was born on 09.02.1954[according to school record]. He is the elder brother of accused Shamsuddin Ahmed. He studied in Karimganj Subhania Madrasa and passed SSC Examination in 1971 from *Jangal Bari* High School. He went to forced retirement from Bangladesh Army on 13.01.2002 on allegation of moral turpitude. He and his brother Shamsuddin Ahmed allegedly joined the Razakar Bahini and received training under Razakar commander accused Gazi Md. Abdul Mannan [co-accused] and got involved actively in carrying out atrocious activities constituting the offences of crimes against humanity directing the pro-liberation civilians around the locality of Karimganj Police Station in 1971 during the war of liberation. After the independence, he went into hid from the locality, prosecution alleges.

(4) Md. Hafizuddin [Absconded]

Accused **Md. Hafizuddin [66]** son of late Ismat Ali and late Mosammat Fulbanu of House No. 129, Village- Khudir Jangal, Police Station- Karimganj of the then Kishoreganj Sub-Division was born on 08.03.1949[according to national ID card]. He studied in Madrasa. In 1971, during the war of liberation, he joined the local Razakar Bahini and had played a culpable role, prosecution alleges.

(5) Md. Azharul Islam [Absconded]

Accused **Md. Azharul Islam [60]** son of late Md. Abdur Rahim and late Mosammat Umme Saleh of village Haidhonkhali under Police Station Karimganj of the then Kishoreganj Sub-Division was born on 01.03.1956[according to national ID card]. He studied in Madrasa. In 1971, during the war of liberation, he joined the local Razakar Bahini and had played a culpable role, prosecution alleges.

4. Brief Procedural History

Chief Prosecutor submitted 'formal charge' on having considered the report and documents submitted therewith by the Investigation Agency. Out of five accused persons only accused Shamsuddin Ahmed has been in detention since pre-trial stage. The other four accused persons neither could have been arrested nor did they surrender.

On 13.05.2015 this Tribunal-1 took cognizance of offences, perpetration of which has been unveiled in course of investigation and also ordered publication of notice in two daily news papers as required under rule 31 of the ROP, 2010 against the four absconding accused **(1) Gaji Md. Abdul Mannan, (2) Nasiruddin Ahmed @ Md. Nasir @ Captain ATM Nasir, (3) Md. Hafizuddin, and (4) Md. Azharul Islam** as the execution of warrant of arrest issued against them earlier was found unserved.

Accordingly, despite publication of the notice in the 'Daily Janakantha' and the 'Daily Sun' on 04.06.2015 the four absconding accused persons did not make them surrendered, and as such the Tribunal ordered for holding trial in *absentia* against them and appointed Mr. Abdus Shukur Khan to defend them as State defence counsel. The Tribunal also ordered the prosecution for furnishing documents it relies upon to the State defence counsel and fixed 13.09.2015 for hearing the charge framing matter.

On 13.09.2015 the Tribunal heard the charge framing matter and fixed 21.09.2015 for decision on it. But meanwhile, by a government notification dated 15.09.2015 the Tribunal-1 has been reconstituted, and as such, instead of rendering decision on charge framing matter, it fixed 22.09.2015 for hearing the charge framing matter afresh.

On 22.09.2015 prosecution and the learned State defence counsel placed their respective submissions and on oral prayer seeking adjournment on part of the accused Shamsuddin Ahmed, 28.09.2015 was fixed for further hearing on the matter. But on 28.09.2015, accused Shamsuddin Ahmed, present on dock, informed the Tribunal that his engaged counsel shall not continue to conduct proceedings on behalf of him and thus he needed to appoint a counsel afresh.

Accordingly, having regard to the submission of his own, the matter was adjourned and 04.10.2015 was fixed for hearing submission, on behalf of him, in respect of charge framing matter.

On 04.10.2015 due to failure of appointing counsel afresh, the Tribunal appointed Mr. Abdus Shukur Khan as State defence counsel to represent him who having due consultation with the accused Shamsuddin Ahmed made submission seeking his discharge. Thus the hearing on charge framing matter concluded.

5. Submission of both sides

Mr. Sultan Mahmud, the learned prosecutor made his submission, drawing our attention to the documents and statement of witnesses collected during investigation. He submitted that all the five accused persons belonged to local Razakar Bahini and of them accused Gazi Md. Abdul Mannan was in commanding position of Karimganj Razakar Bahini. They along with their accomplices belonging to infamous Razakar Bahini had systematically and deliberately carried out atrocious activities directing pro-liberation civilians around the localities under Karimganj Police Station. Role of all accused persons in accomplishing the alleged crimes in 1971 during the war of liberation was culpable and in furtherance of common plan and design of the Pakistani occupation army. Three of seven events of attacks as demonstrated in the formal charge[event nos. 1, 3 and 4] involve the killing of unarmed pro-liberation civilians and all the five accused persons actively participated, abetted and facilitated the commission thereof.

The learned prosecutor further submitted that accused Gazi Md. Abdul Mannan was actively involved in perpetration of the offences as narrated in the event nos. 6 and 7 along with a group of Razakars. The event no. 2 involving the offence of killing as narrated in the formal charge discloses only accused Nasir's participation and abetment by accompanying the 'group' formed of Razakars while the event no.5 as narrated in the formal charge arraigns the accused Shamsuddin Ahmed who accompanied the group of armed Razakars and thereby he participated and abetted the commission of the offence of killing.

The learned prosecutor went on to submit that the accused persons were the members of local infamous Razakar Bahini, an auxiliary force of Pakistani occupation army and in 1971 the Razakar Bahini was formed intending to collaborate with the Pakistani army in carrying out horrific atrocious activities in furtherance of common plan and design of annihilating the pro-liberation Bengali civilians and freedom fighters. The accused persons need to be indicted for the offences they had committed in the context of war of liberation in 1971 in the territory of Bangladesh.

Mr. Abdus Shukur Khan, the learned State defence counsel for the four absconding accused persons conversely submitted that the accused persons did not belong to Razakar bahini and the document relied upon in this regard is a recently and locally prepared list which is not sourced and authoritative. Some of the accused persons were minors in 1971. None of the four accused persons had involvement with the commission of alleged offences in any manner. They could have been prosecuted under the Collaborators Order 1972 if really they had complicity in committing any such alleged offences. But there has been nothing to show that they were so prosecuted on the allegation of their involvement with the commission of any of alleged offences. Therefore, the accused persons are liable to be discharged. Delayed prosecution also makes accused persons' alleged involvement with the commission of offences doubtful.

The learned State defence counsel Mr. Abdus Shukur Khan also representing the accused Shamsuddin Ahmed submitted that the said accused was minor in 1971 and he was not involved with any of alleged atrocious events in any manner. It has also been submitted that the accused Shamsuddin Ahmed did not belong to Peace Committee and the prosecution has failed to substantiate it by any relevant document. And as such he deserves to be discharged.

6. Deliberation and decision with reasoning

We have meticulously gone through the formal charge, statement of witnesses and the documents submitted. It appears that prosecution by submitting formal charge alleges that the accused persons participated, facilitated, abetted and substantially contributed to the commission of crimes as

enumerated in the Act of 1973, by their acts and conducts forming a part of systematic attack directing civilian population in 1971 during the war of liberation in the localities under Police Station Karimganj of the then Kishoreganj Sub-Division.

In all five accused persons have been proposed to be indicted for the alleged events of attacks constituting the offences of crimes against humanity as narrated in the formal charge. Out of five accused persons four have been absconding and proceeding is going on in their *absentia* in compliance with legal requirements as contemplated in the Act and the ROP, 2010.

The allegations brought do not constitute isolated crimes. Those are alleged to have been committed in war time situation directing civilians in systematic manner. The undeniable context prevailing in 1971 in the territory of Bangladesh is itself sufficient to the unerring inference of a 'widespread and systematic attack' on Bangladeshi self-determined population. Therefore, the offences committed under this context and in violation of customary international law during 1971 independence war, patently demonstrate that those were of course consequence of part of a 'widespread' or 'systematic' attack directed against the unarmed civilian population. Under section 19(1) of the Act of 1973, the Tribunal can take judicial notice of the above context that must prompt a person of common prudence that the offences of crimes against humanity as mentioned in section 3(2)(a) were inevitably the effect of part of widespread or systematic attack.

Prosecution, at this stage, alleges that the accused persons belonging to local Razakar Bahini accompanied the group of armed Razakars which had caused civilians' death by gunning them down, in conjunction with the attack. *Prima facie* the formal charge, statement of witnesses and documents submitted demonstrate accused persons' culpable complicity, act and conduct with the perpetration of offences alleged. But however, culpability and role of them or any of them can be well adjudicated only on holding trial. And till then they shall be presumed innocent.

It is now settled that the offence of crimes against humanity is considered as 'group crime' and it is not perpetrated by a single individual. But however, an

individual may participate to the actual commission of the principal crime by his act or conduct, before or midst or after the crime committed. In this regard, the Tribunal notes that in adjudicating culpability of the person accused of offences, context and situations prevailing at the relevant time i.e the period of war of liberation in 1971[March 25 to December 16, 1971] together with his acts, conducts, attitude and association of any organization, if any, are to be considered. It may be well resolved on evaluation of evidence to be presented during trial.

The learned State defence counsel submitted that the accused persons are liable to be discharged as they could have been prosecuted under the Collaborators Order 1972 if really had they any complicity or involvement with the commission of alleged offences in any manner. But we are not inclined to agree with the argument that merely for the reason that since the accused persons were not brought to justice under the Collaborators Order, 1972 now they are immune from being prosecuted under the Act of 1973.

We are not with the submission extended by the learned State defence counsel on point of delay in prosecuting the accused persons. As regards delay in prosecuting the suspect offenders we reiterate that the victims of systematic and organised diabolical atrocities committed in 1971 within the territory of Bangladesh in violation of customary international law need justice to heal. State has an obligation to remedy serious human rights violations. Bangladesh recognizes Article 8 of the Universal Declaration of Human Rights [UDHR] and Article 2(3) of the International Covenant of Civil and Political Rights [ICCPR] which ensure the right to an effective remedy for the violation of human rights. And in providing effective remedy to the victims and their families, delay itself cannot stand as a bar in prosecuting an individual offender under the Act of 1973.

At this stage, it cannot be determined conclusively whether the accused persons belonged to local Razakar Bahini or local Peace Committee. It is a question of fact that can be effectively resolved only on trial and considering the totality of evidence to be provided by the prosecution. Besides, it would be

relevant to reiterate that the Act of 1973 is meant to prosecute and punish not only the armed forces and the perpetrators who belonged to ‘auxiliary forces’, but also to prosecute and punish an ‘individual’ or member of ‘group of individuals’ who committed the offences enumerated in the Act of 1973. It is quite manifested from section 3(1) of the Act of 1973 that even any person (individual or member of group of individuals), if he is *prima facie* found individually criminally responsible for the offence(s), can be brought to justice under the Act of 1973. Already it has been well resolved.

It is settled that mere framing charge does not prove one’s guilt. The accused persons shall be presumed innocent until they are found guilty of the offences alleged. However, now, we are convinced, on going through the statement of witnesses and materials on record, to *prima facie* conclude that there have been sufficient grounds of proceeding.

At this stage, the formal charge and the statement of witnesses *prima facie* demonstrate that the accused persons enthusiastically sided with the policy and plan of the Pakistani occupation army and had allegedly carried out horrific activities of killing of non combatant pro-liberation civilians, wanton destruction and other inhuman acts, and as such, the applications seeking discharge of all the accused persons do not deserve consideration, and therefore, the same are hereby rejected.

Accordingly, now we proceed to read out the charges framed. On perusal of the formal charge, statement of witnesses along with other documents submitted by the prosecution we are of the view that there are sufficient and substantial materials and grounds before the Tribunal to frame charges against accused **(1) Shamsuddin Ahmed (2) Gazi Md. Abdul Mannan[absconded] (3) Nasiruddin Ahmed @ Md. Nasir @ Captain ATM Nasir[absconded] (4) Md. Hafizuddin[absconded], and (5) Md. Azharul Islam[absconded]** for the offences allegedly committed during the war of liberation in 1971 as specified under section 3(2)(a)(g)(h) of the Act of 1973 for which they are alleged to be criminally liable under sections 4(1) of the said Act. The charges are thus framed against them in the following manner:

Charges

We,

Justice Anwarul Haque, Chairman
Justice Md. Shahinur Islam, Member
Justice Md. Shohrwardi, Member

Of the International Crimes Tribunal -1

Hereby charge you,

(1) Shamsuddin Ahmed son of late Abdur Razzak Munshi and late Safurennesa @ Lutfor Nahar Lata of village Karimganj Modhopara (Dulipara) under Police Station Karimganj, District Kishoreganj, at present 411/1 Banani Morh, Charsholakia, Police Station and District Kishoreganj,

(2) Gazi Md. Abdul Mannan [absconded] son of late Ibrahim and late Moharajer Ma of village Charpara under Police Station Karimganj, District Kishoreganj,

(3) Nasiruddin Ahmed @ Md. Nasir @ Captain ATM Nasir[absconded] son of late Abdur Razzak and late Safurennesa @ Lutfor Nahar Lata of village Karimganj Modhopara(Dulipara) under Police Station Karimganj, District Kishoreganj, at present 270, Charsholakia(Zenith View Bananir Morh) under Police Station Karimganj, District Kishoreganj ,

(4) Md. Hafizuddin[absconded] son of late Ismat Ali and late Mosammat Fulbanu of House No. 129, Village- Khudir Jangal, Police Station- Karimganj, District Kishoreganj, and

(5) Md. Azharul Islam[absconded] son of late Abdur Rahim and Mosammat Umme Saleh of village Haidhonkhali under Police Station Karimganj, District Kishoreganj, **as follows:-**

Charge No. 01

[Event 01: Killing of 08 civilians of villages Ayla and Bidyanagar and other inhuman acts]

That on 12 November 1971 in between 01:00 pm and 05:00 pm, a group formed of 80/90 armed Razakars including you accused **(1) Shamsuddin Ahmed (2) Nasiruddin Ahmed @ Md. Nasir @ Captain ATM Nasir [absconded] (3) Md. Hafizuddin [absconded] and (4) Md. Azharul Islam [absconded]** led by local Razakar commander accused **(5) Gaji Md. Abdul Mannan [absconded]** had carried out atrocious activities by launching attack

directing the villages **Ayla and Bidyanagar** and neighbouring localities under Police Station Karimganj of the then Kishoreganj Sub-Division.

In conjunction with the said attack, at about **01:00 pm / 01:30 pm** you accused Nasiruddin Ahmed @ Md. Nasir @ Captain ATM Nasir [absconded] and you accused Shamsuddin Ahmed dragged Abdul Barek and his son Mozibur Rahman Mongol out of their house at village **Bidyanagar** on order of you accused Gaji Md. Abdul Mannan[absconded] and they were forcibly brought towards the road in front of their house where they were subjected to torture and afterwards you accused Nasiruddin Ahmed @ Md. Nasir @ Captain ATM Nasir[absconded] gunned down **Abdul Barek** to death there.

You the accused persons accompanying the group of armed Razakars, in conjunction with the attack, forcibly dragged Abdul Barek's neighbours **Sheikh Chand Mia, Sheikh Malek @ Malu**, their domestic servant **Aftabuddin, Serajuddin** a maid of Abdul Mazid and **Sheikh Hasu**, on capture, at a place behind the house of Sheikh Chandu Mia and gunned them down to death there excepting Sheikh Hasu who luckily survived despite sustaining bullet injury.

Afterwards, at about **02:00 / 02:30 pm** on the same day and in conjunction with the same transaction of the attack launched, you the accused persons accompanying the group of armed Razakars had killed **Md. Habib Ullah**, a civilian by gun shot on apprehending him from a place known as *Fatergope Beel*. You the accused persons accompanying the group of armed attackers at about 03:00 pm also gunned down **Abdul Majid** to death by apprehending him from a seed-bed adjacent to village **Bidyanagar**.

At about **04:00 pm**, on the same day and in conjunction with the same attack you the accused persons and your cohorts Razakars gunned down **Md. Abdul Jabbar** to death by apprehending him from Kiraton Beel of village **Ayla** and you the accused persons and your accomplices had carried out the act of plundering houses and properties of civilians and caused torture to civilians of villages Ayla and Bidyanagar, in conjunction with the total attack.

Thereby you accused (1) **Shamsuddin Ahmed** (2) **Gaji Md. Abdul Mannan [absconded]** (3) **Md. Nasiruddin Ahmed @ Md. Nasir @ Captain ATM Nasir [absconded]** (4) **Md. Hafizuddin [absconded]** and (5) **Md. Azharul Islam [absconded]** are hereby charged for participating, facilitating,

abetting and substantially contributing and also for ‘complicity’ to the commission of offences of ‘**murder**’, **abduction**, **torture** and ‘**other inhuman acts**’ as crimes against humanity as part of systematic attack directing unarmed civilians as specified 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 for which you the accused persons have incurred liability under section 4(1) of the Act.

Charge No. 02

[Event: 02: Killing of defenceless civilian Md. Mia Hossain of village Ayla]

That on 13 November 1971 at about 02:00 pm a group of 10/15 armed Razakars led by accused **Nasiruddin Ahmed @ Md. Nasir @ Captain ATM Nasir [absconded]** by launching attack at village Ayla under Karimganj Police Station of the then Kishoreganj Sub-Division gunned down one farmer **Md. Miah Hossain** to death when he, being frightened, was about to flee running towards the village Bidyanagar, sensing the attack at a place nearer to the house of Mannan Mohajan and at the front side of village Bidyanagar.

Thereby accused **Nasiruddin Ahmed @ Md. Nasir @ Captain ATM Nasir [absconded]** is hereby charged for facilitating, abetting and substantially contributing and also for ‘complicity’ to the commission of offence of ‘**murder**’ as crime against humanity as part of systematic attack directing unarmed civilians as specified 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 for which the said accused has incurred liability under section 4(1) of the Act.

Charge No. 03

[Killing of Md. Abdul Gafur of village Kolatoli]

That on 26 September 1971 at about after 10:00 pm a group formed of 8/10 armed Razakars including you accused (1) **Shamsuddin Ahmed** (2) **Gaji Md. Abdul Mannan [absconded]** (3) **Nasiruddin Ahmed @ Md. Nasir @ Captain ATM Nasir [absconded]** (4) **Md. Hafizuddin [absconded]** and (5) **Md. Azharul Islam [absconded]** by launching attack abducted **Md. Abdul Gafur** from his house at village *Kolatoli* under Police Station Karimganj of the then Kishoreganj Sub-Division and took him to *Khudir Jangal* bridge on forcible capture and gunned him down to death there.

Thereby you accused (1) **Shamsuddin Ahmed** (2) **Gaji Md. Abdul Mannan [absconded]** (3) **Nasiruddin Ahmed @ Md. Nasir @ Captain ATM Nasir [absconded]** (4) **Md. Hafizuddin [absconded]** and (5) **Md. Azharul Islam [absconded]** are hereby charged for participating, facilitating, abetting and substantially contributing and also for ‘complicity’ to the commission of offences of ‘**abduction**’ and ‘**murder**’ as crimes against humanity as part of systematic attack directing unarmed civilians as specified in section 3(2) (a)(g) (h) of the Act which are punishable under section 20(2) read with section 3(1) of the Act of 1973 for which you the accused persons have incurred liability under section 4(1) of the Act.

Charge No. 04

[Killing of Md. Fazlur Rahman of village Atkapara]

That on 23 August 1971, on instruction of you accused (1) **Gaji Md. Abdul Mannan [absconded]**, the local Razakar commander, a group of Razakars formed of you accused (2) **Shamsuddin Ahmed** (3) **Nasiruddin Ahmed @ Md. Nasir @ Captain ATM Nasir [absconded]** (4) **Md. Hafizuddin [absconded]** and (5) **Md. Azharul Islam [absconded]** went to Karimganj Bazaar ghat and lied in wait for **Md. Fazlur Rahman**, a supporter of war of liberation, an inhabitant of village *Atkapara* under Karimganj Police Station of the then Kishoreganj Sub-Division on information about his[Md. Fazlur Rahman] coming to bazaar. When Md. Fazlur Rahman came out of bazaar at about 12:00 noon, you the accused persons apprehended him and forcibly took him away to Karimganj Dukbanglow torture cell where he was subjected to brutal torture. On the next day he was taken to Kishoreganj Dukbanglow torture cell wherein he was again subjected to torture. Afterwards he [captured Md. Fazlur Rahman] was taken to an unknown place and was killed. His dead body could not be traced even.

Thereby you accused (1) **Shamsuddin Ahmed** (2) **Gaji Md. Abdul Mannan [absconded]** (3) **Nasiruddin Ahmed @ Md. Nasir @ Captain ATM Nasir [absconded]** (4) **Md. Hafizuddin [absconded]** and (5) **Md. Azharul Islam [absconded]** are hereby charged for participating, facilitating, abetting and substantially contributing and also for ‘complicity’ to the commission of offences of ‘**abduction**’, ‘**torture**’ and ‘**murder**’ as crimes against humanity as

part of systematic attack directing unarmed civilians as specified 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 for which you the accused persons have incurred liability under section 4(1) of the Act.

Charge No. 05

[Killing of Paresh Chandra Sarker of village Ramnagar]

That on 07 September 1971 at about 10:00 am while you accused **Shamsuddin Ahmed** along with your cohort Razakars were on way towards Tarail with a box of ammunition, one Paresh Chandra Sarker of village Ramnagar under Police Station Karimganj of the then Kishoreganj Sub-Division was shot to death, as instructed by you accused Shamsuddin Ahmed when he was working in a field situated on the bank of river in front of his house. Later on his dead body was buried behind his house.

Thereby you accused **Shamsuddin Ahmed** is hereby charged for participating, facilitating, abetting and substantially contributing and also for 'complicity' to the commission of offence of '**murder**' as crime against humanity as part of systematic attack directing unarmed civilians as specified in section 3(2) (a)(g)(h) of the Act which are punishable under section 20(2) read with section 3(1) of the Act for which you the accused has incurred liability under section 4(1) of the Act.

Charge No. 06

[Abduction, torture and killing of Abu Bakar Siddique and Rupali Mia]

That on 25 August 1971 at about 06:00 am you accused **Gazi Md. Abdul Mannan[absconded]** accompanied the group formed of armed Razakars in launching attack abducted a college student **Abu Bakar Siddique** from his house at village *Nobaid* [Kalipur] under Police Station Karimganj of the then Kishoreganj Sub-Division and at about 10:00 / 11:00 am , in conjunction with the same attack, on instruction of you accused Gazi Md. Abdul Mannan, your accomplices including Khorshed master[now dead] also abducted **Rupali Mia** from his house at village *Molamkharchar* under same Police Station and forcibly took both the captured civilians to a place nearer the bridge of *Patnibari*

where they were subjected to torture by you and your cohorts. Afterwards, they were taken to Kishoreganj and since then they could not have been traced.

Thereby you accused **Gazi Md. Abdul Mannan[absconded]** is hereby charged for participating, facilitating, abetting and substantially contributing and also for ‘complicity’ to the commission of offences of ‘**abduction**’ ‘**torture**’ and ‘**murder**’ as crimes against humanity as part of systematic attack directing unarmed civilians as specified 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 for which you the accused has incurred liability under section 4(1) of the Act.

Charge No. 07

[Wanton destruction by arson constituting the offence of other inhuman act]

That on 15 September 1971 at about 10:00 am you accused **Gazi Md. Abdul Mannan[absconded]** accompanied the group formed of armed Razakars in launching attack, in furtherance of a common plan and design to annihilate the pro-liberation civilians and the civilians belonging to Hindu community at village *Atkapara* under Police Station Karimganj of the then Kishoreganj Sub-Division and on your direction your accomplice Razakars destroyed 20/25 houses including that of Shahed Fakir, Abu Anis Fakir and Ali Akbar Master by setting those on fire.

Thereby you accused **Gazi Md. Abdul Mannan[absconded]** is hereby charged for participating, facilitating, abetting and substantially contributing and also for ‘complicity’ to the commission of offence of ‘**other inhuman act**’ as crime against humanity as part of systematic attack directing unarmed civilians as specified 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 for which you the accused has incurred liability under section 4(1) of the Act.

Thus you the five 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 3(1) of the Act of 1973 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.

You accused **(1) Shamsuddin Ahmed** has heard and understood the aforesaid charges which have been read out in the open court in your presence.

Question: Do you plead guilty or not ?

Answer:

The charges so framed [charge nos. 1,3,4 and 5] have been read over in English and explained in Bengali to the accused **(1) Shamsuddin Ahmed**, present on dock, to which he pleaded not guilty and claimed to be tried.

The four other accused persons --**(2) Gazi Md. Abdul Mannan (3) Nasiruddin Ahmed @ Md. Nasir @ Captain ATM Nasir (4) Md. Hafizuddin** and **(5) Md. Azharul Islam** have been in absconsion and as such they could not be asked whether they plead guilty or not, after reading over the charges framed against them[charge nos. 1,2,3,4, 6 and 7] in open court.

Let **04.11.2015** be fixed for opening statement and examination of prosecution witnesses. The trial shall be continuing on every working day until further order. 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. At the same time the defence counsel is directed 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 of 1973 on or before the date fixed.

(Justice Anwarul Haque, Chairman)

(Justice Md. Shahinur Islam, Member)

(Justice Md. Shohrowardi, Member)