

In the International Crimes Tribunal-1, Bangladesh  
Old High Court Building,  
Dhaka-1000.

Order No.25

Order dated 13.05.2012

ICT-BD Case No.06 of 2011

Chief Prosecutor

Vs

Professor Golam Azam, son of late Moulana Golam Kabir of village Birgaon, Police Station Nabinagar, District-Brahmanbaria, at present 119/2 Kazi Office Lane, Mogbazar, Police Station- Ramna, District-Dhaka.

Accused Professor Golam Azam has been produced in this Tribunal by the prison authority. Today is fixed for passing order on charge matter and as such the record is taken up for order. Before passing the order we want to provide a brief background and context of the case, its history and the arguments put forward by both the prosecution and defence before this Tribunal.

Introduction:-

International Crimes Tribunal-I (hereinafter referred to as the "Tribunal") was established under the International Crimes (Tribunals) Act, 1973 (Act No. XIX of 1973) (hereinafter referred to as the "Act") to provide for the detention, prosecution and punishment of persons for genocide, crimes against humanity, war crimes, and crimes under international law committed in the territory of Bangladesh. This Act was enacted to try the international crimes committed in Bangladesh in 1971 by Pakistan Army and auxiliary forces. This is a case bearing considerable significance for the people of Bangladesh as well as for the victims of international crimes committed in Bangladesh during the Liberation War, particularly between 25th March and 16th December 1971. As such, it is

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a significant moment in the legal history of Bangladesh when we are entrusted with the task to address the matter of framing the charge involving international crimes under Section 3(2) of the Act.

**Historical Context:**

In August, 1947 the partition of British India based on two-nation theory, gave birth to two new states, a secular state named India and the other the Islamic republic of Pakistan. The two-nation theory was propositioned on the basis that India will be for Hindus while Pakistan will be a state for the Muslims. This theory culminated into the creation of Pakistan which was comprised of two geographically and culturally separate areas to the east and the west of India. The western zone was eventually named West Pakistan and the eastern zone was named East Pakistan, which is now is Bangladesh.

Ever since the creation of Pakistan, the Government adopted discriminatory policies backed by its bureaucracy and Army to rule over the people of East Pakistan that caused great disparity in every field including, economy, education, welfare, health, armed services, civil bureaucracy and social developments. One of the first patently discriminatory and undemocratic policies of the Government of Pakistan was manifested in 1952 when the Pakistani authorities attempted to impose Urdu as the only State language of Pakistan ignoring Bangla, the language of the majority population of Pakistan. The people of the then East Pakistan started movement to recognise Bangla also as a state language that marked the beginning of historic language movement that eventually turned to the movement for greater autonomy and self-determination through the 6-point and 11-point movements and eventually the independence. Numerous Bangalees sacrificed their lives during these movements.

In the general election of 1970, the Awami League under the leadership of Bangabandhu Sheikh Mujibur Rahman won 167 seats out

of 300 seats of the National Assembly of Pakistan of which 169 belonged to East Pakistan, and thus the Awami League became the majority party of Pakistan. Despite this overwhelming majority, Pakistan Government did not hand over power to the leader of the majority party Bangabandhu Sheikh Mujibur Rahman as democratic norms required. As a result, a populist movement started in East Pakistan to realise the mandate of the people given through the historic ballot. Bangabandhu Sheikh Mujibur Rahman in a historic speech of 7th March, 1971 called on the people of Bangladesh to struggle for freedom and independence if the people's verdict was not respected and power not handed over to the leader of the majority. The Pakistan Government did not accept the demands of the majority leader and instead on 25th March, the Pakistani Armed Forces launched an all out attack on the Bengali police, East Pakistan Rifles, Bengali members of the Army, students and on the civilian population and others under the code name 'Operation Searchlight'. Bangabandhu Sheikh Mujibur Rahman declared the independence of Bangladesh on 26th March just before his arrest by the Pakistani authorities.

Pursuant to Bangabandhu's Declaration of Independence, a provisional government-in-exile was formed on April 17, 1971 in Mujibnagar with Bangabandhu as the President of Bangladesh. In his absence, Syed Nazrul Islam was the Acting President and Tajuddin Ahmed was the Prime Minister who led the ensuing Liberation War to expel the occupying Pakistani armed forces, and to liberate Bangladesh.

With the Declaration of Independence, the war to liberate Bangladesh from the occupation of Pakistani armed forces began that ended on the 16th of December, 1971 with the surrender of all Pakistani military personnel occupying Bangladesh before the Joint Indian and Bangladeshi forces in Dhaka. In the war of liberation, almost all the

people of Bangladesh wholeheartedly supported and participated in the call to free Bangladesh but a small number of Bangalees, Biharis, other pro-Pakistanis, as well as members of a number of different political parties joined and/or collaborated with the Pakistani military authorities to actively oppose the independence of Bangladesh. Except those who opposed, the civilians, political leaders, Hindus, students, intellectuals and others who supported the the Liberation War drew particular wrath of the Pakistani military and their local collaborators, as perceived pro-Indian and were made targets of attacks, killing, persecution, extermination and deportation etc.

To prosecute their policy of occupation and repression, and in order to crush the aspiration of the freedom-loving people of an independent Bangladesh, some political parties including the Jamaat-e-Islami, Muslim league (both Convention and Council), Pakistan Democratic Party (PDP) and other small parties, supported the actions of the Pakistani Government. A number of Auxiliary forces such as the Peace Committee, Razakars, Al-Badar, Al-Shams, etc. were set up to assist the Pakistani military in eliminating all those who supported or 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, Bengali intellectuals and civilian population of Bangladesh. Not only did these auxiliary forces collaborate in the crimes committed by the occupying Pakistani army, they themselves were also directly and actively involved in executing most of the alleged international crimes under the Act. The truth about the nature and extent of the atrocities and crimes perpetrated during the period by the Pakistani military and their allies came to attention of the wider world through numerous independent

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reports in the foreign media, reports by various international agencies, and dispatches sent home by the diplomatic officials stationed in Dhaka.

The road to freedom for the people of Bangladesh was arduous and tortuous, smeared with blood, toil and sacrifices. In the contemporary world history, perhaps no nation paid as dearly as the Bengalees did for their freedom and independence. In this process, an estimated 3 million (thirty lacs) people were killed, more than 2,00,000 (two lacs) women raped, about 10 million (one crore) people deported to India as refugees and million others were internally displaced. It also saw unprecedented destruction of properties all over Bangladesh.

In order to bring to justice the perpetrators of the crimes committed in 1971, the International Crimes (Tribunals) Act, 1973 was promulgated. Due to political reasons, the Pakistani Prisoners Of War were allowed to return to Pakistan upon the understanding that the Pakistan Government would try them which is yet to be done. During the liberation war, the Government of Bangladesh declared that perpetrators and collaborators of the crimes would be tried and punished after the liberation war and warned people not to take law in their own hands, and in compliance of the said declaration and in order to bring to justice the perpetrators of the crimes committed in 1971, the International Crimes (Tribunals) Act 1973 was promulgated although no Tribunal was set up pursuant to the Act until 25.03.2010.

In Bangladesh, for decades, the demand from all sections of the population, had always been an overwhelming one to ensure accountability, establish rule of law and end impunity. Responding to this overwhelming demand for justice, the Awami League incorporated in its Election Manifesto the pledge to initiate the long overdue justice process, which made all the difference in the General Election that followed, resulting in a landslide victory of the party. Then, the

government established this International Crimes Tribunal on 25.03.2010 under the Act in order to prosecute the international crimes that were committed in 1971, through a process of investigation of individuals alleged to have committed these crimes regardless of their affiliations, political or otherwise.

**The Accused:**

The Accused Professor Golam Azam was born in village Birgaon, Police Station Nabinagar, District-Brahmanbaria on 07.11.1922. In his early life he studied in madrassa and later obtained Masters degree in Political Science from the University of Dhaka in 1950. He taught at Rangpur Carmichael College in 1950-1955. He joined Jamaat-e-Islami in 1954 and was Secretary of that party from 1957-1960 and was Ameer (Head) of the said party from 1969-1971.

At the time of the liberation war in 1971, under his leadership, all the leaders and workers of Jamaat-e-Islami and its student wing Islami Chatra Sangha opposed the liberation movement. At that time Jamaat-e-Islami became an auxiliary force under the Pakistan Army and since he was the Amir of Jamaat-e-Islami, he not only controlled the organizational framework of Islami Chatra Sangha but played the pivotal role in forming the Shanti Committee, Razakars, Al-Badar, Al-Shams etc. He was also elected uncontested as a Member of the National Assembly from Tangail District through a sham election held in 1971. He went to Pakistan on 22nd November 1971. After the liberation of Bangladesh on 16th December 1971, in the first part of 1972 he formed a committee named 'Purbo Pakistan Punoruddhar Committee' (East Pakistan Restoration Committee) as part of his campaign to restore East Pakistan. As a leader of this committee upto March 1973 he tried to create sentiments against Bangladesh in the Islamic countries of the Middle East and campaigned internationally against recognizing Bangladesh as an independent and sovereign State. He left Pakistan for London in the

middle of 1973 and set up the head office of the 'Purbo Pakistan Punoruddhar Committee' there. He also published a weekly newspaper named 'Shonar Bangla' in London which propagated against Bangladesh. His citizenship was cancelled by the Bangladesh Government on 18th April, 1973. He visited Saudi Arabia in March 1975 and met King Faisal where he also canvassed against Bangladesh. He told the king that Hindus had captured East Pakistan, Qurans had been burned, Mosques had been destroyed and converted into Mondirs and many Muslims had been killed. On the basis of this propaganda he collected funds from the Middle East in the name of re-establishing mosques and Madrashes. Following the assassination of the Father of the Nation Bangabandhu Sheikh Mujibur Rahman, on 11th August, 1978 he came to Bangladesh with a Pakistani passport and since then he resided in this country. He got back his citizenship and reassumed the office of Amir of Jamaat-e-Islami that he continued till Mr. Motiur Rahman Nizami was elected Amir of Jamaat-e-Islami.

**Procedural History:-**

The Investigation Agency established under the Act began investigating the accused for crimes committed in 1971 on the basis of the complaint registered as serial no. 5 dated 01.08.2010. After the completion of the investigation, the concerned Investigation Officer submitted the Investigation Report to the Chief Prosecutor and on the basis of that Investigation Report, evidence of witnesses and documents received and collected during investigation, the Prosecutors prepared the Formal Charge and submitted the same on 12.12.2011 to this Tribunal. Upon receipt of the Formal Charge the Tribunal fixed 26.12.2011 for consideration of the cognizance matter. Observing that the Formal Charge submitted was not in form and orderly, this Tribunal returned the Formal Charge to the Prosecution for re-submission in a systematic form after doing the needful and the Formal Charge was re-submitted

before this Tribunal on 05.01.2012. Upon perusal of the Formal Charge, the Tribunal took cognizance on 09.01.2012 against the accused Professor Golam Azam under section 3(2), 4(1) and 4(2) of the Act and directed the accused to appear before the Tribunal on 11.01.2012. In compliance of the direction, the accused appeared before the Tribunal on 11.01.2012, when he was sent to custody after his prayer for bail was rejected. After the accused was sent to jail, he was taken to Bangabandhu Sheikh Mujib Medical University Hospital to ensure constant medical supervision given considering his advanced age, where he is still being detained. Upon a prayer for supplying home cooked food to the accused, this Tribunal ordered in favour of supplying food from his house subject to some conditions and the Defence had not complied with the conditions and as such food is currently not being served from the house of the accused.

**Submissions by the Prosecution and the Defence:-**

The Chief Prosecutor Mr. Golam Arif Tipu with Prosecutor Mr. Zead-Al-Malum made elaborate submissions on the charge matter in favour of framing of charge against the accused. The defence counsel Mr. Md. Abdur Razzak with Mr. Tajul Islam filed an application for discharge and made elaborate submissions in support of that and against the framing of charge. In the following paragraphs we summarise the submissions with the views of the Tribunal on the point whether charges will be framed against the accused and if framed, then on which counts.

The learned prosecutor Mr. Zead-Al-Malum at the outset of his submissions drew our attention to atrocities and crimes committed by the Pakistan Army, its auxiliary forces and supporters including the members of different political parties, who actively collaborated with the Pakistan Army during the liberation war of 1971 in Bangladesh. It was submitted that the accused was the Amir of Jamaate Islami and that he was personally involved in conspiracy and planning as well as in



incitement and complicit to commit international crimes, and in crimes against humanity proscribed under section 3(2) of the Act. As Amir, he had superior status over the leaders, members and followers and also gave orders, permissions or acquiesced in commission of crimes. He was involved in planning to perpetrate crimes and execution thereof with the leaders of Pakistani Army and authority. Moreover, he failed to discharge his superior status obligations to maintain discipline or exercise control or supervise the actions of subordinates while they committed such crimes and failed also to take necessary measures to prevent the commission of such crimes. Instead, he incited those acting under his authority, followers and others, to commit further crimes. He never restrained his followers and took any effective step to halt the crimes unleashed.

It was also submitted that the documents collected during investigation and statement of witnesses establish beyond reasonable doubt that the allegations narrated in the Formal Charge were indeed committed by the accused, and in proving the same, they have ocular, documentary and other evidences to establish the offences mentioned therein committed during independent war of 1971. The offences of which the accused is liable to be charged and his superior status liability are adequately defined in the Act in sections 3(2), 4(1) and 4(2) and that the accused should be charged accordingly.

On the contrary, the learned counsel for the accused Mr. Abdur Razzak, by filing an application on 22.03.2012 to discharge the accused emphatically argued that the purpose to enact the Act and establish the Tribunal was to prosecute only 195 prisoners of war who were all members of Pakistan Army, while for the trial of others, the Collaborators Order 1972 was promulgated pursuant to which many alleged collaborators were arrested, some of them tried and convicted.

He submitted, that the said 195 prisoners of war, subject of the Act and the Tribunal, were given clemency by the government of Bangladesh, released and sent to Pakistan. When the principal and original offenders had been let go, he argued, that others who supported, collaborated, abetted cannot thus be tried for the commission of the same offence. It was further argued that the prosecution of Professor Golam Azam has been for *mala fide* purpose in that only when Jamate Islami did not extend political support to the present government, did the government moved against the Jamate Islami leaders including the accused. As such he contended its being a clear case of *mala fide* and for collateral purposes and therefore the proceedings against Professor Golam Azam is not sustainable in law. It was further contended that they have observed executive interferences affecting the trial because of which the process cannot continue. Moreover, trial also cannot proceed because the prosecution has not furnished reasoning as to why it has taken 40 years to start the proceedings, and in absence of such statement explaining the reasons for delay, fair trial demand that proceedings should not be allowed to continue. Mr. Abdur Razzak further submitted that in the Formal Charge, 61 counts of charges have been mentioned but on perusal of all the charges, it is clear that no prima facie case has been made therein and no relevant evidence has been provided with respect to any accusation, and maintained that not a single count speaks of an offence as such the accused should be discharged. He then placed before us that they do not deny that international crimes were committed during the war of liberation in 1971 but they assert that accused Professor Golam Azam did not commit any of such crimes.

Finally, Mr. Razzak assailed holding of the trial under the Act on the ground of established principle of criminal law; the principle of non-retrospectivity, in that he submitted the offence was allegedly committed

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in 1971 whereas the Act was enacted in 1973, after alleged commission of crimes, and as such, the whole trial process is barred by law. The trial should have been held under laws which were prevailing in 1971 since the alleged crimes were committed in that year.

In response, the learned prosecutor submitted that at this stage of the process, as to whether charges will be framed or not, the submissions of the learned counsel of the accused are not relevant. He maintained that the Tribunal has to consider the Formal Charge, the statement of witnesses and other materials to decide as to whether there are materials to frame charge. Upon perusal of the Formal Charge, statements of the witnesses recorded by the investigation agency and the documents submitted therewith, if the Tribunal is of the opinion that there are sufficient materials that the accused has committed an offence under the Act, only then the charge will be framed, otherwise the accused shall be discharged. He further submitted that the offences being adequately defined and the allegations made in the Formal Charge being not vague, rather definite and clear, a prima facie case against the accused person has thus been established. He further submitted that on perusal of the Act, it cannot be said that it was enacted to try and prosecute only 195 prisoners of war. Even if this argument is accepted that the Act was promulgated for trial of 195 prisoners, still then there are no bar to try any other persons under the Act since section 3 (1) categorically states that "A Tribunal shall have power to try and punish any individual or group of individuals, or any member of any armed, defence or auxiliary forces irrespective of his nationality, who commits or has committed in the territory of Bangladesh, whether before and after the commencement of this Act, any of the crimes mentioned in sub-section 2". He said, the amendment made in the Act in 2009 extending its jurisdiction to individual or group of individuals have been added which

has further made it clear that not only the 195 prisoners of war but anyone who has committed the said offences as mentioned in section 3(2) of the Act would come under the purview of the section 3(1) of the Act and can be tried by this Tribunal. He maintained the trial has to be concluded on the basis of the Act as it stands today.

He further submitted that Collaborators Order was for trial of persons who allegedly collaborated with the Pakistan Army during 1971 liberation war. All offences mentioned in the schedule therein are offences of Penal Code but this Tribunal has to try those persons who have allegedly committed offence of section 3(2) of the Act, which are not offences of the Penal Code and as such there is no bar holding trial of this accused under the Act. He argued when the Tribunal has duly taken cognizance based on prima facie evidence found against the accused, the Tribunal should proceed to charge the accused. He further submitted that the question of clemency of 195 prisoners of war has no bearing to this process and cannot act in any way to bar the trial of this accused and as such this argument also does not stand. Then he submitted that whether the accused is the principal or main offender or that he only abetted has to be settled in trial and therefore the submission that when main accused have been released, the trial of the abettors cannot be held also does not stand. Moreover, abetment itself is an independent offence in this Act. He further submitted that the prosecution of Professor Golam Azam is not at all malafide and/ or for political purpose as the prosecution has proceeded only after completion of investigation by the Investigation Agency that found materials of his involvement in the atrocities committed during 1971 and submitted report to the prosecution. The prosecution then submitted the Formal Charge on the basis of the investigation report and other materials. He submitted, the question of malafide is a mixed question of fact and law

and before examining witness, the accused cannot be discharged on the ground of mala fide at this stage. He pointed out that the question of non-retroactivity having been discussed and decided by this Tribunal in two earlier cases of Delwar Hossain Sayeedi and Salahuddin Qader Chowdhury resulting in rejection of the pleas of the accused persons, the same pleas cannot be considered as the issue has been conclusively decided. Finally, he submitted that the 61 counts submitted by the prosecution in the formal charge are all well founded allegations and whether there are evidence or not in support of those counts is a matter of evidence and cannot thus be decided at this moment, and therefore the discharge petition filed by the accused is liable to be rejected and charge may be framed against the accused. He urged the Tribunal to frame charge against the accused upon perusal of the Formal Charge, the statement of witness and other materials submitted.

We have heard the learned counsel for the accused and also the learned prosecutor and perused the materials on record. As regards the submission that Act was enacted to try 195 Pakistani prisoners of war and Collaborators Order was promulgated for trial of other persons, and that as such the trial under the Act for a non-military person is not legal; we are of the view that the Act is very clear in this regard. It was enacted to provide for detention, prosecution and punishment of persons for genocide, crimes against humanity war crime and other crimes under international law and that any individual or group of individuals, or any member of any armed defence or auxiliary forces, irrespective of his nationality, who commits or has committed in the territory of Bangladesh whether before or after the commencement of this Act, any of the crimes mentioned in the Act, could be tried. It is a fact that initially 195 prisoners of war were screened out for trial but the Act does not indicate that other persons who committed the said offences cannot

be tried. After the amendment made in 2009, where individual or group of individuals were brought under the Act's jurisdiction, making it further clear that any person who is alleged to have committed offences could be tried under this Act and as such, on this basis, the trial can be held under the Act. The Collaborators Order, on the other hand, was promulgated to try the collaborators for committing different offences of Penal Code. And as such it cannot be said that the accused being a Bengali cannot be tried under this Act as the allegations are clear and comes under the purview of section 3(2) of the Act and not under the Penal Code under Collaborator's Order.

With regard to the clemency extended to the 195 prisoners of war, it is stated that the said clemency, if at all, apply only to the said prisoners of war, and not to others. Moreover, this clemency given to the prisoners of war does not in any way debar the trial of the present accused in any manner. And in regard the submission that when principal perpetrators have been released, the associates cannot be tried does not also stand because it is evidence and evidence alone that will determine who was the principal offender and who was an associate. Moreover, abetment has been made a specific and independent offence in the Act and on this ground alone, the preferred argument on this point also does not stand. Mr. Razzak further argued that the proceeding against the accused Professor Golam Azam is malafide and for political purpose. In this case, there is no allegation that the accused is being tried as Amir of Jamaate-Islami. Rather we are trying to determine whether the accused Professor Golam Azam has committed any offence under section 3(2) of the Act. On the question of this case being malafide, which is a combination of both fact and law, this cannot be determined without taking evidence. If on evidence it is found that this proceeding is a malafide proceeding then the accused will be released but it cannot be

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said at this stage that the proceeding is a malafide one and the accused is to be released. Mr. Razzak also submitted that the proceeding has being interfered by the executive and since it is being held after 40 years, he cannot be tried. In criminal proceedings, time is not a bar. We are to find only if the accused has committed any offence under this Act 40 years ago and that is dependent on evidence. Regarding the executive interference, we note here that we are receiving news reports from different corners in favour as well as against the proceedings but such reports do not and cannot in any way influence this Tribunal and as the Tribunal is an independent entity and is proceeding with this case independently and without any influence from any quarter, this point cannot come in aid of the defence. Mr. Razzak then submitted that in 61 counts mentioned in the formal charge, no prima facie case is made out. We have gone through the different counts and cannot find that the submission of Mr. Abdur Razzak possesses any substance. The allegation against the accused is that he has conspired with the occupation forces, planned, incited and was also complicit and responsible for the commission of crimes in 1971 by making speeches, giving directions, making press comments and by meeting with heads of different civilian and army administration and thus the submission that no prima facie case is available does not carry any weight.

With regard to retrospectivity of the offence, in the earlier orders passed in the case of Mr. Delowar Hossain Sayeedi and Mr. Salahuddin Qader Chowdhury, we discussed elaborately on this particular issue and concluded that the trial can be held for offences committed in 1971 under this Act. And now we do not intend to repeat those discussions in this order. As such Professor Golam Azam can also be tried under this Act of 1973 for commission of offence in 1971. The word individual or group of individuals were included in 2009. We determined in the case of

Salahuddin Qader Chowdhury that if a person can be tried for the offence committed in 1971 by the Act of 1973 then he can also be tried for the offence committed in 1971 by the Act of 1973, amended in 2009. As such the question of retrospectivity does not arise here for the purpose of debarring the trial of Professor Golam Azam under the Act. Mr. Razzak has further placed some reported decisions of our national courts as well as from the foreign jurisdiction in support of his submissions. Those decisions or similar decisions have been considered by this Tribunal earlier and we arrived at those findings in the case of Delowar Hossain Sayeedi and Salahuddin Qader Chowdhury. Moreover, we have observed that if after taking of evidence we find that it requires reconsideration of all these findings, then, we will consider them. We have already found in the two earlier cases that the definitions of the crimes in this Act are quite clear and complete without any ambiguity. The crimes under the Act are adequate in all respect and therefore it is not necessary to visit with recent notions developed by the statutes of various international Tribunals. As regards nexus between armed conflict and crimes against humanity, we are of the view that the notion of armed conflict with crimes against humanity is not required under the Act.

In view of the above discussion, we are of the opinion that the discharge petition filed by the accused Professor Golam Azam bears no merit in the eye of law and thus is liable to be rejected.

We have perused the Formal Charge, other documents and statements of witnesses upon which the prosecution intends to rely upon and considered the submissions made by both the sides on those materials, and thus, we are of the opinion that there are sufficient grounds to presume that the accused Professor Golam Azam has committed offences under section 3(2), 4(1) and 4(2) of the Act and as

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we find that there is a prima facie case against the accused, charges will be framed against him in the following manner:

**Charges:**

We Justice Md. Nizamul Huq, Chairman, Justice Anawarul Haque and A.K.M Zaheer Ahmed, Member of the International Crimes Tribunal-1, hereby charge you Professor Golam Azam, son of late Moulana Golam Kabir of village Birgaon, Police Station Nabinagar, District- Brahmanbaria, at present 119/2 Kazi Office Lane, Mogbazar, Police Station- Ramna, District-Dhaka as follows:

**Charge Number 1:**

That on 04.04.1971, you as part of a team of 12 persons composed of Nurul Amin, Maulavi Farid Ahmed, Khawaja Khayer Uddin, AKM Shafiqul Islam, Maolana Nuruzzaman, Hamidul Huq Chowdhury, Mohsinuddin Ahmed, Advocate AT Sadi and others met with Lt. General Tikka Khan, the Chief Martial Law Administrator of the "Kha" Zone of occupied Bangladesh at the Governor House of Dhaka. During this meeting, you discussed, planned and decided the means to enforce the evil designs of the occupying Pakistan Army. It was as per the decisions taken during this meeting that various crimes were subsequently committed on a large scale, and number of auxiliary forces and the mode of action of such forces were decided. In this light, the creation of an organization named the 'Nagorik Committee' was discussed which was subsequently named the 'Nagorik Shanti Committee' which later on became widely known as the 'Shanti Committee'. You thus conspired with others to commit above-mentioned crimes in Bangladesh.

And,

On 06.04.1971, two days after the meeting held on 04.04.1971, you and several other political leaders again met Lt. General Tikka Khan at the Governor House as part of the conspiracy mentioned earlier. In this

meeting also, various ways to assist the occupying Pakistan Army were discussed along with the topic of forming auxiliary forces. You expressed the intent to bring the then existing situation under control with the assistance of the auxiliary forces. Apart from you, Hamidul Huq Chowdhury, Mohsinuddin Ahmed, Advocate AT Sadi also separately met with Lt. General Tikka Khan in this respect. You thus conspired with others to commit above-mentioned crimes in Bangladesh.

And,

In continuation of the conspiracy, on 14.04.1971, you took part in a meeting as a member of the 'Peace and Welfare Steering Committee'. All participants of the meeting pledged to protect Islam and preserve the unity and sovereignty of Pakistan. During this conspiratorial meeting, with the goal of gaining the confidence of people and establishing so-called 'peace' and fighting against the so-called 'Indian plans and aggression', various policies and plans were agreed upon to organize the people. You thus conspired with others to commit above-mentioned crimes in Bangladesh.

And,

On 19.06.1971, you for the third time took part in a high-level meeting in continuation of the above stated conspiracy. On this day, you met with President of Pakistan General Agha Mohammed Yahya Khan at Rawalpindi and informed him of the latest situation in East Pakistan. In the meeting, the activities of the previous three months were evaluated and decisions taken to facilitate upcoming activities, especially, in various ways to contain the resistance of the common people of East Pakistan through the usage of armed force. Furthermore, the plans to effectively control the civilian population by unifying those who believe in the ideal of Pakistan were also discussed and decisions were taken in this regard. You thus conspired with others to commit above-mentioned crimes in Bangladesh.

And,

You met with All Pakistan Jamaate-Islami Chief Syed Abul Ala Moududi on 20.06.1971, as part of the on going conspiracy. During this meeting, you and Syed Abul Ala Moududi reviewed the activities and party policies of Jamaate-Islami and discussed the party's plans and activities and the implementing of those plans.

And,

On 01.12.1971, you took part in a 70-minute long conspiratorial meeting with President Yahiya Khan at Rawalpindi, where you discussed in confidence the overall situation. You demanded increasing the membership of the Razakar forces and urged the Pakistan Government to supply arms to those people who believed in the ideal and unity of Pakistan in order to confront the common people of East Pakistan, whom you referred to as 'dushkritikari'. You, seeing the reduction of the sphere of influence of the auxiliary forces over the territory of occupied Bangladesh and also sensing inevitable defeat, decided to murder the intelligentsia of Bangladesh on a large and indiscriminate scale, as part of a 'final solution', which from the date of the concerned meeting till the liberation of Bangladesh from occupying forces on December 16, 1971, was carried out by members of Jamaate-Islami, Peace Committee, Razakars, Al-Badr and Al-Shams. You thus conspired with others to commit above-mentioned crimes in Bangladesh.

Through your above acts and commissions, you conspired to commit crimes specified in Section 3(2) of the Act, and as a result of which crimes mentioned in section 3 (2) of the Act were committed in all-over Bangladesh, and therefore you are charged under section 3 (2) (g) read with section 4 (1) and section 4 (2) of the Act for commission of the crime of conspiracy to commit crimes specified in section 3 (2) of the Act, which is punishable under section 20 (2) of the Act.

Charge Number 2:

That on 04.04.1971 you and others planned to form an organization named 'Nagorik Committee' in order to support the occupying Pakistani forces and on the same day placed this plan before Lt. General Tikka Khan. The said organization committed above-mentioned crimes in all-over Bangladesh and you are liable to plan for the commission of the said crimes.

And,

On 09.04.1971, with the goal to commit the above mentioned crimes, you and others in a united and planned manner formed the 'Shanti Committee' and nominated Khawaja Khayer Uddin as the Convenor of the committee. As part of the plan, you decided to form Shanti Committees in various parts of cities, Unions and Mohallas and it was decided that those Shanti Committees would operate as per the directions of the Central Shanti Committee. The said organization committed above-mentioned crimes in all-over Bangladesh and you are liable to plan for the commission of the said crimes.

And,

You participated and took decisions in a planning meeting on 04.05.1971 for the purpose of forming units of the 'Shanti Committee' at various Unions of the Dhaka city. This meeting which was held at the residence of A.Q.M Shafiqul Islam at Elephant Road, was also attended by Khawaja Khayer Uddin, A.Q.M. Shafiqul Islam, Abdul Jabbar Khaddar etc. The said organization committed above-mentioned crimes in all-over Bangladesh and you are liable to plan for the commission of the said crimes

Through your above acts and commissions, you planned to commit crimes specified in Section 3(2) of the Act, and as a result of which crimes mentioned in section 3 (2) of the Act were committed in all-over Bangladesh, and therefore you are charged under section 3 (2) (f)

read with section 4 (1) and section 4 (2) of the Act to plan to commit crimes specified in section 3 (2) of the Act, which is punishable under section 20 (2) of the Act.

**Charge Number 3:**

On 07.04.1971, you as Ameer of the Jamaate-Islami with other leaders of the same party issued a joint statement urging the 'deshpremik' people meaning thereby organizations such as Jamaat-e-Islami, Shanti Committee, Razakars, Al-Badr, Al-Shams, Al-Mujahid etc. which were all organizationally or in one way or the other subordinate to you or was under your direct or indirect control, to destroy the 'Bharotiyon onuprobeshkari' meaning thereby Hindus, supporters of the Awami League and in essence all Bengalis who had sided with an independent Bangladesh who wanted to liberate their nation from the occupying Pakistani forces, on sight. Therefore, your call to destroy on sight an identifiable group of persons encompassed under the phrase 'Bharotiyon onuprobeshkari' indicates the incitement to the above-mentioned crimes.

And,

You as Ameer of the Jamaat-e-Islami on 10.04.1971 gave an inciting speech before the nation at the Dhaka centre of Radio Pakistan. In your speech you threatened against the over-enthusiastic leaders of India to play with the fate of seven crore people of East Pakistan and stated that India was always involved in conspiracies to destroy Pakistan. You also stated that by sending in 'shoshosro onuprobeshkari', India had in fact challenged the patriotism of 'East Pakistanis'. During your speech you also expressed belief that the 'onuprobeshkari' would not get any assistance whatsoever from 'Purbo Pakistaner Musolman'. The phrases 'shoshosro onuprobeshkari/onuprobeshkari' used by you during your speech in reality referred to Hindus, supporters of the Awami League and in essence all Bengalis who had sided with an independent

Bangladesh. Furthermore, the phrase 'Purbo Pakistani Musolman' actually meant members of organizations such Jamaat-e-Islami, Shanti Committee, Razakars, Al-Badr, Al-Shams, Al-Mujahid etc. who were all organizationally or in one way or the other subordinate to you or was under your direct or indirect control or influence. Therefore, your inciting threat against the attempt by India to destroy Pakistan by the sending of 'shoshosro onuprobeshkari' amounted to calling for the destruction of Hindu people, supporters of the Awami League and in essence all unarmed Bengalis who had sided with an independent Bangladesh, which indicates the incitement to the above-mentioned crimes.

And,

On 22.04.1971, you as Ameer of the Jamaate-Islami and part of the Central Shanti Committee called upon all 'patriotic citizens' to 'resist' the 'destructive activities' of 'rashtrobirodhi' personalities and assist the members of the Pakistan Army in all possible ways. You also advised the Committee that all 'deshpremik nagorik' greet members of the Pakistan Army with the national flag and offer assistance in those areas where such members visited. Your call to destroy 'rashtrobirodhi' persons which was directed towards the common citizens of the country who were against the attack and torture of the occupying Pakistani Army and who were perceived by the Pakistan Army and all organizations under your control as enemies of the State, amounted to inciting attack against such persons and commit crimes against them. This call made by you amounts to incitement to the above-mentioned crimes.

And,

During a party meeting of the Jamaate-Islami held at the Dhaka city office on 02.05.1971, you urged activists of the Jamaate-Islami to take 'shombhabbo shokol prokar uddeg' to re-establish 'purno shabhabik o shantipurno karjokrom'. Your call to your party activists to bring back

'purno shabhabik' amounts to incitement as activists of the Jamaate-Islami had already been attacking the common citizens by working on behalf of their party in connivance with the Pakistan Army to bring back the so-called state of complete normalcy. This demonstrates incitement on your part to commit above-mentioned crimes.

And,

On 17.05.1971, in your presence, during a meeting held at Dhaka, steps taken by the Pakistan Army to save the nation from the grave crisis created by the 'rashtrobirodhi karjokolap' of the banned Awami League was lauded. The meeting urged the Pakistan Government to take severe measures against 'Pakistaner bisshashghatok' and indestructible unity between the Islamic forces of East Pakistan was agreed upon with the goal to offer assistance to the holy duties of the Pakistan Army. During this meeting, emphasis was also placed on finding 'dushkritikari' and the need of all patriotic citizens to relentlessly work without any hope of personal gain to re-establish complete normalcy in the province. In light of the extension in the nature of the committees activities, a proposal was placed to change the name of the 'Shanti Committee' to 'Shanti and Shanghati Committee'. The call to find the so-called 'dushkritikari' and to take strong steps against the so-called 'Pakistaner bisshashghatok' in reality amounted to inciting to destroy those persons who had sided with the independence of Bangladesh, the Hindus and others. This demonstrates incitement on your part to commit above-mentioned crimes.

And,

On or around third week of May 1971, you as part of your program to visit various parts of Bangladesh, met leaders and followers at Jessore, Khulna and in some parts of Dhaka, which included Mirpur, Lalbagh, Chawk, Lalmatia and Thataribazaar, where you held series of meetings and gave speeches. During those meetings, you and other

leaders of the Jamaate-Islami urged all quarters of Pakistan to protect the nation against evil designs of the banned Awami League and its Indian associates. These speeches made by you not only clearly amount to urging the Jamaate-Islami, its subordinate organizations and other auxiliary forces to assist the Pakistan Army even more actively, but also amounts to inciting the commission of various crimes against the Hindu people, supporters of the Awami League, supporters of an independent Bangladesh and the unarmed population of other progressive forces of Bangladesh. This demonstrates incitement on your part to commit above-mentioned crimes.

And,

In June 1971 in an interview with Pakistan Daily Jasarat you urged that people not be confused by the propagations of the political forces supporting the independence of Bangladesh. You also described the Awami League, the political force unanimously elected by the all out support of the common masses of the country, as a quarter focusing on its self-interest and a fascist power against democracy. You identified them as enemies. This statement made by you is clear incitement aimed at the auxiliary forces and the activists of your own political party to take crushing steps and conduct criminal activities against such so-called 'enemies'. This demonstrates incitement on your part to commit above-mentioned crimes.

And,

On 22.06.1971 at a press conference, you urged all concerned to effectively oppose those who are, according to you, 'dushkritikari' and 'rashtrobirodhi' with the goal to re-establish the so-called faith in the minds of the common people. During your speech you eulogized the Pakistan Army for engaging in preventing the destruction of Pakistan. You also stated that everyone should offer effective assistance and support the ruling Pakistani authorities in the effort of returning to a