

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. A. (J) 17/2022

Sri Bablu Sukla Baidya,

son of Sri Parimal Sukla Baidya, resident of Duhaliya No. 2,
Patharkandi, P.S. Patharkandi, District- Karimganj, Assam

----Appellant

Versus

The State of Tripura

----Respondent

For Appellant(s)	:	Mr. S. Sarkar, Sr. Advocate Ms. P. Chakraborty, Advocate
For Respondent(s)	:	Mr. S. Debnath, Addl. PP
Date of hearing and delivery of Judgment & Order	:	09.08.2023
Whether fit for reporting	:	Yes / No

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE ARINDAM LODH**

JUDGMENT (ORAL)

(Amarnath Goud, J)

Heard Mr. S. Sarkar, learned senior counsel assisted by Ms. P. Chakraborty, learned counsel appearing for the appellant as well as Mr. S. Debnath, learned Additional PP appearing on behalf of the respondent-State.

2. This appeal arises out of the judgment of conviction and order of sentence dated 30.04.2021 passed in connection with case No. S.T. (T-1) 65 of 2019 by the learned Additional Sessions Judge, Court no.5, West Tripura, Agartala, whereby and whereunder the appellant has been convicted under Sections 307 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for life.

3. The prosecution case, in brief, is fact, on 29.01.2019 in the evening the appellant have inflicted dao blow upon Smt. Lucky Deb and her son Hrit @ Rith Saha at their rented house resulting which the victims received grievous injuries and were hospitalized.

4. The said complaint was registered as East Agartala Women PS case no. 06 of 2019 under Sections 498A/326/307 of the IPC. The matter was investigated by the investigating officer. During investigation, I.O. has visited the place of occurrence, prepared handsketch map of the PO with separate index and also examined the available witnesses, and thereafter submitted charge-sheet against the accused-appellant under Sections 498A/325/326/307/201 of the IPC. At the commencement of trial, the learned trial court had framed charge against the appellant under Section 307 IPC to which he pleaded not guilty and claimed to be tried.

5. During trial, the prosecution to establish the charge had adduced 17 witnesses and also one Smt. Rupali Majumder as CW-1 and brought on record some documents. After closure of recording evidences, the appellant was examined under Section 313 Cr.P.C. wherein he denied all the allegations leveled against him by the prosecution witnesses. After hearing arguments and on examining the evidences and materials on record, the learned trial court had convicted and sentenced the appellant for committing offence, as aforestated. Hence, this appeal before this court.

6. Mr. Sarkar, learned senior counsel for the appellant has submitted that the prosecution has miserably failed to establish the charge leveled against the convict-appellant. Learned senior counsel has urged that the versions given by the victims are not at all believable and have no credibility. Moreover, there is no independent witness to the alleged incident. Hence, learned senior counsel for the appellant has urged this court to set the appellant at liberty.

7. On the other hand, learned Additional PP appearing for the respondent-State has urged to maintain the findings of the learned trial court since there is no infirmity or illegality in the findings of the learned trial court.

8. We have considered the submissions for learned senior counsel appearing for the parties. We have also perused the evidences and materials on record and the judgment passed by the learned trial court. For purpose of appreciating the submissions of learned counsel, it would be pertinent to revisit the evidences let in by the relevant prosecution witnesses.

PW 1, 2 and 3 are the seizure witnesses.

PW-4, is the Medical Officer, who had examined the victim Rit Saha which history of trauma on head and bilateral hand and fore arm and other physical assault by his father and deposed that all the injuries were caused by sharp weapon and were severe in nature.

PW-5, is the informant of this case. He is the owner of 'Subhalagan' situated at Shivanagar near College Lake. PW-5 deposed that on 29.01.2019 he received a telephone call from his caretaker regarding some incident. On reaching there, he found his tenant, Lucky Dey and her son hrit Saha were lying with severe bleeding injuries in their room. Immediately they were taken to IGM hospital from where they were referred to GBP hospital. PW-5 also deposed that he came to learn from Lucky and Hrit that the accused Babul Sukla Baidya had assaulted them by dao blow which was meant for cutting vegetables.

PW-6, one of the victims, deposed that on 29.01.2019 at about 7 pm the accused by pushing/dashing the door had entered into her rented room and told her to take her to his house in Assam. When PW-6 refused to go with him, he started altercation with her and thereby the accused entered into her kitchen and took a dao used to cutting vegetables and made a blow on her head causing severe bleeding injuries as a result of which she felt down on the ground. PW-6 further deposed that thereafter the accused made successive blows with dao on her hand, fingers and face and she lost her

sense. She also deposed that the accused made dao blows to her shoulder beside neck and also on back side. PW-6 also deposed that when her son, Hrit resisted the accused, he also made successive blows to the hands, fingers and on the back side of head of her son. Thereafter, the accused made fist blow on her cheek and also another blow with some articles on her forehead for which she was unable to move or speak. PW-6 also deposed that she saw the accused started wiping the blood stains from the floor of her room with his wearing shirt and after wiping out the blood stains the accused laid her on the bed and went away by closing the door from outside. PW-6 further deposed that somehow she cried for help when the care takers rushed to her room by opening the door from outside and they also called Gopal Debnath over phone who immediately arrived there. PW-6 further deposed that she came to be acquainted with the accused through facebook and thereby the accused started requesting her to meet him. Accordingly, she met him at Agartala and thereafter the accused used to make attempt to stay with her but she did not allow and since thereafter the accused used to create pressure upon her either to go with her or to allow him to stay with her.

During cross examination, PW-6 deposed that her marriage was solemnized with Abhijit Saha of Maloynagarin the year 2008 and her son Hrit was born after one year of their marriage. PW-6 has also deposed that she has no contact with her husband and her marriage was dissolved with Abhijit Saha.

PW-7, Hrit Saha, another victim, deposed that on 29.01.2019 at about 6.30/7.00 pm one person entered their rented room by pushing the door and asked his mother to go with him in Assam but his mother refused and thereby the accused took the dao from their kitchen and made successive

blows on various parts of the body of his mother causing severe bleeding injuries and when he tried to save his mother, the accused also made successive blows on his both hands and on the back side of his head. PW-7 further deposed that his mother came to be acquainted with the accused through facebook. PW-7 also deposed that they were under treatment in hospital for about 15 days.

PW-8, resides nearer to the 'Subhalagan'. PW-8 deposed that on 29.01.2019 at about 8.30 pm while he was proceeding in front of Subhalagan at that time one lady from the fourth floor of 'Subhalagan' was shouting and crying for help. Immediately, he entered Subhalagan and asked Rabin Das, the care taker to inform Gopal Debnath and thereafter he accompanied with Rabin Das rushed to the fourth floor and found the door of the said lady was bolted from outside. They opened the door and found said lady and one child with severe bleeding injuries. PW-8 also deposed that on being asked said lady told them that one Bablu Sukla Baidya had assaulted them causing severe injuries by a dao. Gopal Debnath also reached there and they took the injured person to IGM hospital from where they were shifted to GBP hospital. PW-8 deposed that the lady and her son were the tenants in a room in the fourth floor of Subhalagan.

PW-9, deposed almost to the same tune to that of PW-8.

PW-10, deposed that the victim Lucky Deb is his younger sister and she has one son namely Hrit Saha. PW-10 also deposed that her marriage was dissolved and she used to reside in Subhalagan as tenant. PW-10 also deposed that on 30.01.2019 Nepal Saha informed him that Lucky and her son are admitted in hospital on being assaulted by Bablu Sukla Baidya by a dao and after assault the accused closed the door from outside. PW-10 further deposed that on receiving such information he rushed to GBP

hospital where he found Lucky and her son under treatment with severe injuries on various parts of their body and on query Lucky told him that accused Bablu Sukla Baidya created pressure upon her to go to Karimganj alongwith him and when she refused, the accused assaulted them by a dao.

During cross examination this witness admitted that his sister was married to Abhijit Saha and their son Hrit was born out of their wedlock and after birth of the son, Lucky came back to their paternal house.

PW-11 and 14, are seizure witnesses who seized dry blood sample of Lucky Deb and Hrit Saha by preparing seizure list at the Trauma Centre, GBP hospital.

PW-12, is another seizure witness who seized the original injury reports of the victims by preparing seizure list.

PW-13, is the Medical Officer who examined Lucky Deb with complaint of physical assault by her husband where he found ten injuries. As per PW-13, injuries no. 1 to 6 and 8 to 10 were caused by blunt and hard object and injury no. 7 was caused by sharp object.

PW-16, is the investigating officer who after investigation has submitted the charge sheet.

PW-17, is the Jr. Division cum JM, 1st class who has recorded the statement of the victims under Section 164(5) CrPC.

CW-1, Smt. Rupali Majumder is the Scientific Office who deposed as per desire of the court and while deposing she stated that she has done gel-diffusion test and confirmed that the blood samples are of human origin.

9. As can be noticed from the detailed appreciation of the deposition of various witnesses that right from the beginning, in the FIR, the details have been provided, which reveal that when and how the victims were being assaulted by the accused-appellant. PW-6 and PW-7 are the victims of the

instant case and their depositions are in corroboration to each other. PW-6, in her deposition stated that after sustaining injuries she raised hue and cry and hearing the same, the care-takers i.e. PWs 8 and 9 rushed to their room and rescued them. PW-6 also deposed that the care takers also called Gopal Debnath (PW-5) who shifted them to hospital and also that PW-5 lodged the complaint. PW-5, PW-8 and PW-9 in their deposition stated that the victim PW-6 had disclosed them that the accused-appellant had inflicted dao blow upon her and her son causing severe injuries. On meticulous scrutiny of the evidence of PW-7 and PW-8, it has come to fore that their deposition are in the same tune to that of the deposition of PW-6, the victim. It is also further evident that PW-8 had shifted them to hospital and also he lodged the complaint. Thus, the evidence of PW-5, 6, 7, 8 and 9 cannot be shaken by the defence. Further, medical evidence also proves that there was physical assault upon the victims by the accused. PW-4 and PW-13 in their deposition stated that the victims have stated that they have sustained injury due to physical assault by the accused. Nothing material has come out from the cross-examination of prosecution witnesses so as to disbelieve the prosecution story. Further, the PWs, 5, 6, 7, 9 and 16 have identified the accused-appellant in the dock by name and by face. The prosecution witnesses who supported the version of the victims are independent witnesses and there statements are corroborative to each other which clearly demonstrate that the accused-appellant had tried to murder the victims by assaulting them with sharp cutting weapon. Thus, from the entirety, it is aptly clear that the victims were assaulted by the accused-appellant with an intention to cause their murder.

10. It is to be noted that the alleged offences are of very serious nature. Section 307 relates to attempt to murder. It reads as follows:

“Attempt to murder.- Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if hurt is caused to any person by such act, the offender shall be liable either to (imprisonment for life), or to such punishment as is hereinbefore mentioned.”

11. From the evidence of PW-5, it is transpired that PW-5 was married with another person, but was residing with her son leaving her matrimonial residence and in course of such stay, she became acquainted with the accused-appellant, and the said fact is clear from the statement of the appellant recorded under Section 313 CrPC. After such acquaintance, as per deposition of PW-6, the accused-appellant used to create pressure upon her either to go to Assam with her to his place of residence or to allow him to stay with her, to which proposal, PW-6 had denied. Out of grudge from such denial made on the part of PW-6, the accused-appellant had committed the said offence by inflicting grievous hurt upon her and her son by means of sharp cutting weapon (dao). Thus, there is a clear view that the accused-appellant with a motive of causing grievous hurt leading to death to the victims had entered into their room by pushing the door and inflicted dao blows upon them. Thus, the offence committed by the accused-appellant falls within the ambit of Section 307 IPC which is a heinous and serious offence, and therefore, it is to be generally treated as crime against the society and not against the individual alone. Medical report in respect of injuries suffered by the victims if read conjointly with the depositions of the victims and PWs 5,8,9 and 10, the same can be the guiding factor for convicting the accused-appellant.

12. Thus, the conviction of the appellant under section 307 of the Indian Penal Code is confirmed and the punishment inflicted by the trial Court has not been interfered with.

13. Resultantly, this appeal fails and is accordingly dismissed. The judgment and order of conviction rendered by the learned Additional Sessions Judge,

Court no. 5, West Tripura, Agartala, dated 30.04.2021 in S.T.(T-1) 65 of 2019 stands confirmed.

Send down the LCRs.

JUDGE

JUDGE



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