

**HIGH COURT OF TRIPURA
AGARTALA
CRL.REV.P NO.35 OF 2023**

Sri Bimal Dey

.....**Petitioner(s)**

Versus

The State of Tripura

.....**Respondent(s)**

For the Petitioner(s) : Mr. R.G. Chakraborty, Advocate.

For the Respondent(s) : Mr. S. Ghosh, Addl. P.P.

Date of hearing and delivery of
Judgment & Order : 03.07.2024

Whether fit for reporting : NO.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
J U D G M E N T & O R D E R(ORAL)**

Heard Mr. R.G.Chakraborty, learned counsel
appearing for the petitioner as well as Mr.S. Ghosh, learned
Addl. P.P., appearing for the State-respondent.

2. This present criminal revision petition has been filed
by the petitioner herein under Section 401 read with Section
397 of Cr.P.C. seeking the following reliefs:-

"a. Admit this revision petition;

b. Call for the records;

c. Issue Notice upon the respondent and

*d. After hearing of the parties and on perusal of the
evidence on record be pleased enough to set aside/quash the impugned judgment
and order dated 12.05.2023 passed by the learned Sessions Judge, North Tripura,
Dharmanagar in Crl. Appeal No.13 of 2022 wherein and whereby the learned
Appellate Court has dismissed the appeal and arbitrarily upholding the orders of
conviction and sentence dated 14.09.2022 passed by the Ld. CJM, North Tripura,
Dharmanagar in Case No.PRC(WP)43 of 2015 wherein the learned Trial Court
convicted the petitioner under Section 448/326 of IPC.*

To pass any other appropriate order/orders as your Lordship may deem fit and proper for the interest of Justice."

3. The brief fact of this case is that the complainant- Paresh Dey lodged an ejahar on 21.11.2024 with Churaibari P.S. to the effect that on 20.11.2014 at about 1800 hours, the petitioner entered the house of the informant- Sri Paresh Dey looking for him. During that time, the victim, namely, Mithu Dey informed the petitioner that the informant was not present and asked the petitioner to leave the house. The petitioner during that time was carrying a 'dao' and he assaulted Mithu Dey with that 'dao' causing severe injuries on different parts of her body. The petitioner after the incident left the 'dao' at the place of occurrence and fled away. The victim was immediately shifted to Kadamtala PHC and from there to Dharmanagar Hospital for treatment. Subsequently, she was taken to Silchar for better treatment.

4. On the completion of the investigation of CRB P.S. Case No.52 of 2014, the charge sheet was submitted against the petitioner under Section 448/326 and 324 of IPC and Judicial Magistrate First Class, Dharmanagar North Tripura took cognizance of the offence and proceeded with the case. The prosecution to bring home the charge adduced as many as 14 witnesses.

5. The Learned Trial Court heard arguments of both sides and acquitted the petitioner from the case. Thereafter, a retrial was preferred in the Court of learned Chief Judicial Magistrate against the order of acquittal, and subsequently, the same was set aside and the petitioner was sentenced under Section 326 of the IPC to suffer rigorous imprisonment for three years and to pay a fine of Rs.20,000/- with default stipulation. Thereafter an appeal was preferred by the petitioner before the Courts of Sessions Judge, North Tripura, Dharmanagar vide Criminal Appeal No.13 of 2022, and the same was also dismissed. Hence this present petition has been preferred.

6. Heard Mr. R.G. Chakraborty, learned counsel appearing for the petitioner as well as Mr. S. Ghosh, learned Addl. P.P., appearing for the State-respondent.

7. Mr. R.G. Chakraborty, learned counsel appearing for the petitioner submits that the weapon of offence has not been examined properly by the prosecution and no prosecution witness deposed against the accused. Further, the petitioner has been suffering from mental disease. Learned counsel further urged this Court to consider the fact that the petitioner has family responsibilities and if convicted his social stature would be tarnished.

8. On the other hand, Mr. S. Ghosh, learned Addl. P.P. submits that the injuries of the victim and the deposition of the victim and medical witnesses establish the case beyond reasonable doubt. Learned Addl. P.P., also submits that in the event the Court reduces the sentence of the petitioner, then a fine should be imposed upon the petitioner as per the statute and the same must be given to the victim herein as she is very poor and suffering.

9. Heard both sides and perused the evidence on record.

10. P.W.-5, Ms. Mithu Dey who is the victim lady in her deposition categorically stated that the accused came to their house with a '*dao*'. Thereafter subsequently, the petitioner gave a blow of '*dao*' to her and due to which the thumb of her left hand got amputated and she got medically treated. P.W.7, Dr. Ashis Daskanungo, the Medical Officer who treated the P.W.-5 in his deposition stated that the victim-P.W.-5 came to Kadamtala PHC with alleged assault involving '*dao*'. P.W.-7 during the examination also stated that the victim lost her left thumb from the base of the finger. Such statement of the victim herself corroborated by medical evidence clearly proves the guilt of the accused. Further this Court is not inclined to entertain the argument of the learned counsel for the petitioner on the point of mental illness of the

accused as the same has not been put forth by the petitioner during the stage of investigation or before the Court below.

11. However, considering the argument of both the parties, this Court is inclined to reduce the sentence of the petitioner to 6(six) months of rigorous imprisonment and he shall also pay a compensation of Rs.1 lac within 1(one) month from today to the victim lady- Ms.Mithu Dey under proof of acknowledgment. Petitioner is to surrender before the Court below within 4(four) weeks from today and before surrendering he shall deposit the compensation money to the victim-lady herein and proof of same be submitted to the Court below. In the event, the petitioner fails to deposit the same, he shall suffer punishment of R.I. for 1(one) year. A copy of this Judgment and Order be marked to the concerned Court below and also to the investigating officer.

12. With the above observation and direction, this present petition is disposed of. As a sequel stay if any is vacated. Pending application(s), if any also stands closed.

JUDGE

suhanjit

RAJKUMAR
SUHANJIT
SINGHA

Digitally signed by
RAJKUMAR
SUHANJIT SINGHA
Date: 2024.07.06
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