

**HIGH COURT OF TRIPURA  
AGARTALA**

**Crl.A.No.13 of 2023**

**Sri Uttam Kumar Tripura**

S/O- Sri Chaitra Mohan Tripura

R/O- Shibpur (Harisadhan Para)

P.S- Belonia, Dist- South Tripura

**.....Convict Appellant.**

**Versus**

**The State of Tripura**

**.....Respondent.**

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|                                           |   |                                              |
|-------------------------------------------|---|----------------------------------------------|
| For Appellant(s)                          | : | Mr. A. Acharjee, Adv,<br>Ms. S. Sarkar, Adv. |
| For Respondent(s)                         | : | Mr. S. Ghosh, Addl. P.P.                     |
| Date of Hearing                           | : | 21.05.2024                                   |
| Date of delivery of<br>Judgment and Order | : | 30.05.2024                                   |
| Whether fit for<br>Reporting              | : | YES                                          |

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**HON'BLE MR. JUSTICE BISWAJIT PALIT**

**Judgment & Order**

This appeal is preferred challenging the judgment and order of sentence dated 22.06.2023 delivered by Learned Sessions Judge, South Tripura, Belonia in connection with case No.S.T 14 (Type-1) of 2021. By the judgment, the Learned Trial Court has found the appellant to be guilty under Section 325 of IPC and also sentenced him to suffer R.I. for 03 (Three) years and to pay a fine of Rs.8,000/- (eight thousand) I.D. to suffer R.I. for 2(two) months.

**02.** Heard Learned Counsel, Mr. A. Acharjee, assisted by Ms. S. Sarkar and also heard Learned Additional P.P., S. Ghosh representing the State-respondent.

**03.** Before entering into the merit of the appeal, let us discuss about the subject matter of the prosecution before the Learned Trial Court. In this case, the prosecution was set into motion on the basis of an FIR laid by one Dhanuram Tripura, being the husband of the victim alleging inter alia that on 14.05.2020, Thursday, at about 7 O' clock in the morning, the wife of his younger brother i.e. the victim had gone to rubber garden to collect rubber latex. At that time, the accused, Uttam Kumar Tripura, son of Chaitramohan Tripura seeing the victim, entered into the rubber plantation and tried to commit rape upon her. As he failed to commit rape, then the accused in order to kill her, hit her head strongly, twisted her throat and also had broken her right hand. The accused thought that the victim might have died and left her there and returned back to home. That time the victim slowly raised her alarm, when her younger daughter, who had gone to the nearby forest of the rubber garden, ran to her mother and thereafter, at about 10 O' clock in the morning, her husband and mother-in-law went to the place of occurrence and brought the victim to Shibpur bazaar from there and there she was enquired the matter when on enquiry, she replied that the accused-appellant Sri. Uttam Kumar Tripura tried to commit rape upon her, hit her on her neck and also twisted her neck. It was further submitted that the victim was admitted to G.B.P hospital. Hence, he laid the FIR. On receipt of FIR, OC, Belonia Women P.S. registered Belonia Women P.S. case No.21/20 under Section

376/511/307 of IPC and the OC of the said P.S. herself took up investigation of the case and after completion of investigation, being prima facie satisfied, she laid charge-sheet to the jurisdictional Court. On commitment, the case came to the Court of Learned Sessions Judge, South Tripura, Belonia, who after hearing both the sides on 07.07.2021 framed charge against the accused-appellant under Section 371 read with Section 511/325/307 of IPC and the same was explained to the accused-appellant to which he pleaded not to be guilty and claimed to be tried.

**04.** To substantiate the charge, prosecution has adduced in total 12 numbers of witnesses and the prosecution also relied upon some documents which were marked as Exhibits:

#### **APPENDIX**

#### **PROSECUTION WITNESSES:-**

| <b>RANK</b> | <b>NAME</b>                               | <b>NATURE OF EVIDENCE</b> |
|-------------|-------------------------------------------|---------------------------|
| PW1         | The victim (name is withheld)             | Material Witness          |
| PW2         | Sri Dhanuram Tripura                      | Informant                 |
| PW3         | Daughter of the victim (name is withheld) | Material witness          |
| PW4         | Miss Rubina Tripura                       | Other witness             |
| PW5         | Sri Dhan Manik Tripura                    | Material witness          |
| PW6         | Sri Gobinda Tripura                       | Scribe of the ejahar      |
| PW7         | Husband of the victim (name is withheld)  | Material witness          |
| PW8         | Sri Shyamal Debnath                       | Other witness             |
| PW9         | Sri Sadhumohan Tripura                    | Hearsay witness           |

|      |                                         |                       |
|------|-----------------------------------------|-----------------------|
| PW10 | Sri Mohan Manik Tripura                 | Material witness      |
| PW11 | Dr.Anupam Debnath                       | Medical Officer       |
| PW12 | Smt. Mafru Mog Choudhury, WSI of police | Investigating Officer |

**DEFENCE WITNESS:-**

| RANK | NAME | NATURE OF EVIDENCE |
|------|------|--------------------|
| NIL  | NIL  | NIL                |

**COURT WITNESS:-**

| RANK | NAME | NATURE OF EVIDENCE |
|------|------|--------------------|
| NIL  | NIL  | NIL                |

**PROSECUTION EXHIBITS:-**

| Sr.No | Exhibit Number | Description                                     |
|-------|----------------|-------------------------------------------------|
| 1.    | P-1/PW-1       | Signature of PW-1 on the 164, Cr.P.C. statement |
| 2.    | P-2/PW-2       | Sign of PW-2 on the bottom of ejahar            |
| 3.    | P-2/1/PW-6     | Written ejahar                                  |
| 4.    | P-2/2/PW-12    | Receiving note on ejahar                        |
| 5.    | P-3/PW-11      | Medical report of the victim                    |
| 6.    | P-4/PW-12      | FIR form                                        |
| 7.    | P-5/PW-12      | Hand sketch map and index                       |
| 8.    | P-6/PW-12      | Charge sheet                                    |

**DEFENCE EXHIBITS:-**

| Sr. No. | Exhibit Number | Description |
|---------|----------------|-------------|
| NIL     | NIL            | NIL         |

**COURT EXHIBITS:-**

| Sr. No. | Exhibit Number | Description |
|---------|----------------|-------------|
| NIL     | NIL            | NIL         |

**MATERIAL OBJECTS:-**

| Sr. No. | Material Object Number | Description |
|---------|------------------------|-------------|
| NIL     | NIL                    | NIL         |

Finally, on conclusion of Trial, Learned Court below after hearing arguments of both the sides, convicted the appellant under Section 325 of IPC and sentenced him accordingly.

**05.** In course of hearing of argument, Learned Counsel for the appellant submitted that in this case, the prosecution could not adduce any independent witness save and except the victim to substantiate the charge levelled against the appellant and the medical evidence on record also was not conclusive to sustain charge against the appellant of this case. So, according to Learned Counsel, Learned Trial Court below in absence of cogent materials on record without any basis found the appellant to be guilty and convicted him accordingly. So, Learned Counsel prayed for interference of this Court by setting aside the judgment of the Learned Trial Court below or alternatively he urged for conversion of sentence from 325 to 323 of IPC since the ingredients of grievous hurt could not be proved by the prosecution in this case.

**06.** On the other hand, Learned Additional P.P., representing the State-respondent submitted that in this case, the prosecution has been able to prove the charge beyond reasonable doubt against the appellant. So, the

Learned Trial Court below rightly convicted the appellant and there is/was no room to disbelieve the evidence of the prosecution. So, Learned Counsel prayed for dismissal of this appeal upholding the judgment of the Learned Trial Court.

**07.** I have heard arguments of both the sides and gone through the record of the Learned Trial Court including the evidence on record. Now, considering the materials on record, I think it would be proper if the evidence of the prosecution is revisited before the conclusion of the appeal. As already stated, to substantiate the charge prosecution in this case has adduced 12 Nos. witnesses.

**08.** PW1 is the victim of this case. She deposed that the incident occurred on 14.05.2020. On that day, she went to rubber garden at about 7.30 am for collecting latex. She was alone. The incident took place at about 8 am. There were very less number of trees for collecting latex. Suddenly Uttam Kumar Tripura, the appellant came from the forest and asked her whether she had seen forest cock. She replied that she did not see and asked him to search and when she was collecting latex, suddenly the accused caught hold her neck, she tried to pull herself from his hand, but could not. He also assaulted her by fist on her face, the blood oozed out from her nose and mouth. Blood also oozed out from her eye side. Her teeth were broken. He also broke her hand. He twisted her neck. He pulled her scarf and bounded it in her neck and tried to pull her from rubber tree. He pulled her in

the forest and left her. Thereafter, she became senseless. Her daughter came to the spot after hearing her hue and cry when she found her in unconscious condition. Her daughter informed her father at Shivpur market and thereafter, she came and took her to Shivpur market. He poured water on her head and thereafter, enquired as to what happened. She narrated the incident to her father, then her brother arranged one auto rickshaw and brought her to Belonia hospital for treatment and from Belonia she was referred to Udaipur and from Udaipur, she was further referred to GBP hospital. She could not say, what was the reason for assaulting her because there was no enmity between the victim and the accused earlier also. She was produced to the Court when her statement was recorded and she identified the signature on the 164 statement marked Exhibit P-1.

During cross-examination, she stated that the rubber garden was on a tilla land and the distance from her house to the rubber garden was about 2 km. She was examined by police. She could not say as to whether she stated to the I.O. that the accused pulled her scarf and tried to hang her from the rubber tree. At the time of offence, she was collecting latex. She went to the rubber garden without her breakfast. Nothing more came out relevant.

**09.** PW2, Dhanuram Tripura is the informer. He deposed that the incident took place on 14.05.2020. On that day, he was in his shop at Shivpur market at about 7 am.

The victim went to rubber garden for collecting latex. At about 9 am, he was in his shop. That time the daughter of the victim, Anjali Tripura came along with the daughter of Purnasadhan Tripura, who went to collect sweet potato in the forest. That time Anjali heard the cry of her mother in the forest. She came to the spot where her mother was. She found her mother in unconscious condition like a dead body. Immediately, she came to Shivpur market and informed the matter. Then the victim, Rajib and Dhan Manik went to the P.O. and brought the victim to Shivpur bazar. Water was poured on her face and head. She became conscious and she narrated the entire episode. He also stated that the accused tried to commit rape upon her, but failed. Then he assaulted her and left her unconscious. He went to the P.O. and saw the injured. She was shifted to Belonia hospital. From Belonia she was referred to Udaipur and from Udaipur she was referred to GBP hospital for which some delay was caused in lodging the FIR. On the day ejahar was written by one Gobinda Tripura as per his dictation and he put his signature on the bottom of the ejahar. He identified the same and marked Exhibit P-2.

During cross, he deposed that he did not see the occurrence of offence but he heard the incident from her daughter and in the ejahar he did not mention from whom he came to know about the incident. He also deposed that

Uttam Tripura was from his village. Nothing more came out relevant.

**10.** PW3, Anjali Tripura is the daughter of the victim. She deposed that on the alleged day, she along with one Rubina Tripura went to the forest for searching of potato. She heard cry of her mother at about 8 am. Accordingly, she went to the place of occurrence and saw her mother there in the pool of blood. She went to the Shivpur bazaar and informed her father and her father along with 2/3 others brought her mother from the forest to Shivpur bazaar. She was with them. Water was given on the head of her mother. When her mother was asked about the reason of injuries, that time her mother told that she was injured by Uttam Kumar Tripura. Her mother was brought to Belonia hospital. From Belonia she was shifted to Udaipur and again from Udaipur she was referred to GBP hospital.

During cross, she deposed that her father had a rubber garden and around their rubber garden, there were other rubber gardens also. Nothing more came out relevant.

**11.** PW4, Rubina Tripura deposed that on the alleged day, she went to forest with Anjali for collection of forest potato. That time the mother of Anjali cried. Thereafter, Anjali went there. But she did not go to the place of occurrence and after that Anjali went to the market for calling her father.

During cross nothing came out relevant.

**12.** PW5, Dhan Manik Tripura deposed that on 14.05.2020 he was in Shivpur market and was talking with other people. At about 10 am, husband of the victim, Bhanuram Tripura brought his wife from the rubber garden. There were other persons with him. Bhanuram Tripura asked for bringing water. Water was poured on her head and chest. The victim got her sense and that time her husband asked who assaulted her. That time she informed that Uttam Kumar Tripura assaulted her by pressing her neck. One vehicle was arranged for shifting the victim to hospital. He lifted the victim in the vehicle.

During cross, nothing came out relevant.

**13.** PW6, Gobinda Tripura deposed that the incident took place on 14.05.2020 when the wife of Bhanuram went to rubber garden for collection of latex. That time, Uttam Tripura went there and asked about forest cock. He tried to commit rape on wife of Bhanuram Tripura and when he did not succeed, he assaulted her by twisting her neck and by fist. He was informed by Dhanuram Tripura. He helped them in drafting the ejahar as per dictation of Dhanuram Tripura and he identified the ejahar marked as Exhibit P-2/1.

During cross, he deposed that no certificate was given when he scribed the ejahar. He was not the eye witness of the incident. During cross, nothing more came out relevant.

**14.** PW7, Bhanuram Tripura deposed that the incident took place about 2 years back. He went to MNREGA work in the morning. He heard about the incident at about 10 am after returning from REGA work. He asked his mother about his wife that whether she returned or not. His mother informed that his wife did not return. He heard the cry of his daughter Anjali Tripura. He went to rubber garden and found his wife in unconscious condition. Dhan Manik Tripura brought his wife to Shivapur bazar. Water was given on her head. One auto rickshaw was arranged for shifting his wife to Belonia hospital. His wife informed him that Uttam Kumar Tripura assaulted her and left her in unconscious condition and his wife was referred from Belonia hospital to Udaipur hospital and from Udaipur, she was referred to GBP hospital. She was in hospital for 24 days.

During cross examination, he deposed that the distance of rubber garden is about 20 meters from Shivpur bazar. The rubber garden is on a tilla land. His house is 40 meters away from Shivpur bazar. Around his garden, there were other rubber gardens, segun bagan and bamboo garden etc. Nothing more came out relevant.

**15.** PW8, Shyamal Debnath deposed that that the incident took place on 14.05.2020. On that day, he received one call from Shivpur bazaar of anyone who informed him to come with his auto for shifting one patient to Belonia hospital. Accordingly, he went to Shivpur market and took

one lady patient and brought her to Belonia hospital by his auto.

**16.** PW9, Sadhu Mohan Tripura deposed that the incident took place about two years back. He was supervising the work of REGA. He came to shop for purchasing of meat and the time was 6/7 am. He saw Uttam Kumar Tripura as he was going by the way and he asked him that whether the person has come who took the online payment. After purchasing of meat, he went to his house and from there he went to his work place. In the evening, he could know that the wife of Bhanuram was assaulted by Uttam Kumar Tripura and she got injuries. Later on, she was shifted to GBP hospital.

During cross nothing came out relevant.

**17.** PW10, Mohan Manik Tripura deposed that on 14.05.2020 he went for his work and when he returned from work at about 10 am, he heard that some has assaulted his sister. He noticed that her condition was very serious. There were blood marks on her face. Water was given on her face when she got sense and that time, she informed that she was assaulted by Uttam Kumar Tripura. One auto was arranged and she was brought to Belonia hospital. His brother-in-law Bhanu Ram Tripura came to the hospital by taking his sister. First treatment was given to his sister at Belonia hospital and thereafter, she was referred to Tepania hospital from where she was referred to GBP hospital. She

was treated in the hospital for 15/20 days and thereafter, she was brought to house. She was also given treatment by local baidya (quack doctor).

During cross nothing came out relevant.

**18.** PW11 Dr.Anupam Debnath deposed that on 14.05.2020, he was posted as a Medical Officer in the AGMC & GBP Hospital, Agartala. On that day the victim aged about 34 years came to the hospital being referred from District hospital. She was examined on the same day at about 2.09 pm. On examination fractures on neck was found caused by blunt object and the nature of injury was dangerous. Abrasion of 5 cm X 1 cm on the neck was found which was caused by blunt and sharp weapon and injury was slight. The patient was discharged on 01.06.2020 and opinion of general surgery and ENT surgeon was needed. He identified the report marked as Exhibit P-3.

During cross-examination, he deposed that he attended the patient on 23.05.2020. He could not say about the earlier treatment of the victim. He did not mention the age of the injury in his report. He also deposed that such type of injury is possible if a bucket with latex is fallen from the tree on body of anyone.

**19.** PW12 Mafru Mog Choudhury deposed that on 15.05.2020 she was posted at Belonia Women PS as WSI of Police. On that day, she registered the FIR laid by Dhanuram Tripura. She identified the endorsement on the margin

ejahar marked as Exhibit P-2/2. She identified the printed FIR form with her seal and signature and identified the same marked as Exhibit P-4. She visited place of occurrence, prepared hand sketch map of the PO with index and identified the same marked Exhibit P-5. She examined the witnesses Anjali Tripura, Rubina Tripura, Rajib Tripura, Dhan Manik Tripura, Gobinda Tripura and Shyamal Debnath. She arrested the accused on the same day and forwarded to the Court on 16.05.2020. She examined the victim and her husband after retuning of the victim from the hospital after her treatment. She examined the witnesses namely, Sadhu Mohan Tripura, Mohan Manik Tripura and Joysen Tripura. She also arranged for recording of 164 statement of the victim and collected the same. She also procured the injury report of the victim and after completion of the investigation, she laid charge-sheet vide No.60 of 2020 dated 28.12.2020 against the accused. She identified the final report marked Exhibit P-6.

During cross-examination she stated that from Shivpur bazaar, the PO will be probably half km.

These are the sum and substance of the evidence on record of the prosecution.

**20.** From the evidence on record, it appears that at the time of alleged occurrence of offence excepting the victim, none were present to the PO. The accused-appellant inspite of cross-examination of the victim could not raise any

doubt to disbelieve her evidence. The other witnesses of the prosecution also supported the story of the victim although they were not present to the PO at the time of occurrence of offence. But they found the victim in injured condition at Shivpur market when she narrated the entire episode to them. Those witnesses were also cross-examined by the accused-appellant but save and except mere denial the accused-appellant could not derive any benefit in support of the defence theory. Even during examination of the appellant under Section 313 of Cr.P.C., he only denied the prosecution story. Nothing was explained by him as to how the victim sustained injury. Now, if we go through the evidence of PW11, the Medical Officer, who examined the victim at GBP hospital, it is very clear that according to him, in course of examination, he found fracture injury on the neck of the victim which according to him was caused by blunt object and injury was dangerous and he also noticed another abrasion of 5 cm X 1 cm on the neck which was caused by blunt and sharp weapon and the injury was light. During cross-examination, the accused-appellant could not raise any doubt to disbelieve his evidence. There is no other contrary evidence on record that bucket with latex fallen from the tree on the body of the victim to sustain such type of injury as alleged by the prosecution. From the act and conduct of the appellant and also from the trend of cross-examination of the witnesses of the prosecution by the appellant-accused, I do not find any scope to disbelieve the evidence on record of

the prosecution. So, in my considered view, Learned Trial Court below rightly convicted the appellant in this case. Learned Trial Court although framed charge against the appellant under Section 376 read with Section 511/325/307 of IPC but to substantiate the charge from the evidence on record, no evidence was revealed regarding involvement of the present appellant with the alleged charges punishable under Section 376(1) read with Section 511 of IPC and also Section 307 of IPC.

**21.** In course of hearing of argument, Learned Counsel referred the definition of Section 320 in respect of grievous hurt. For the sake of convenience, I would like to refer herein below the definition of grievous hurt as mentioned in Section 320 of IPC:

**"320. Grievous hurt.—The following kinds of hurt only are designated as "grievous":—**

***First.*—Emasculation.**

***Secondly.*—Permanent privation of the sight of either eye.**

***Thirdly.*—Permanent privation of the hearing of either ear.**

***Fourthly.*—Privation of any member or joint.**

***Fifthly.*—Destruction or permanent impairing of the powers of any member or joint.**

***Sixthly.*—Permanent disfiguration of the head or face.**

***Seventhly.*—Fracture or dislocation of a bone or tooth.**

***Eighthly.*—Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits."**

**22.** Referring the same, Learned Counsel for the appellant submitted that from the aforesaid ingredients, it is apparent that to substantiate the charge under Section 325

of IPC, prosecution in this case could not satisfy any of the conditions as mentioned in the aforesaid provision and urged for interference of this Court. On the other hand, Learned Additional P.P. representing the prosecution, at the time of hearing of argument submitted that from the evidence of Medical Officer and also from the evidence of the victim, it is clear that the victim sustained fracture injury. So, according to Learned Additional P.P., since the victim has sustained fracture injury which has been confirmed by the Medical Officer i.e. PW11 of this case and the accused-appellant by the trend examination could not in any manner raise any doubt to disbelieve the evidence of the victim and the Medical Officer nor could shatter their evidence. Even the accused appellant, in course of cross-examination of the other witnesses of the prosecution could not raise any doubt to disbelieve their evidence and thus, in my considered view, the Learned Trial Court below has rightly convicted the appellant under Section 325 of IPC and acquitted the appellant from the charge leveled against him under Section 376(1) read with Section 511 of IPC and also under Section 307 of IPC.

**23.** So, considering the facts and circumstances of the case and after going through the evidence on record and also after hearing arguments of both the contesting parties, I do not find any scope to interfere with the judgment and order of sentence delivered by Learned Trial Court.

**24.** In the result, the appeal filed by the appellant is hereby dismissed on contest. The judgment and order of sentence dated 22.06.2023 delivered by Learned Sessions Judge, South Tripura, Belonia in connection with case No.S.T 14 (Type-1) of 2021 is hereby affirmed and accordingly, it is upheld. The appellant is to surrender before the Learned Trial Court to serve out the sentence, if he is on bail, immediately.

Send down the LCRs along with a copy of the judgment.

Pending application(s), if any, also stands disposed of.

**JUDGE**



**SABYASACHI  
BHATTACHARJEE**

Digitally signed by  
SABYASACHI BHATTACHARJEE  
Date: 2024.05.31 16:23:18  
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*Purnita*