

GAHC040008282024



THE GAUHATI HIGH COURT

**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND
ARUNACHAL PRADESH)**

(ITANAGAR BENCH)

Case No. : IA(Crl)/61/2024

Smti Mimi Paffa

Wife of Shri Tachang Weshy, resident of Weshi Village,
PO and PS Seppa, East Kameng District, Arunachal Pradesh

VERSUS

The State of AP and Anr

represented by the PP of AP

2:Gama Paffa

Son of Joting Paffa resident of Paffa
PO and PS Khenewa East Kameng District
Arunachal Pradesh

**BEFORE
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE KARDAK ETE**

For the petitioner/appellant(s) : Mr. Honi Tana Tara,
Advocate
For the respondent(s) : Ms. T. Jini, Addl. P.P.

10.09.2024
(Vijay Bishnoi, CJ)

Though Mrs. Jaya Doji, learned counsel was appointed as *Amicus Curiae* in this Crl. Jail Appeal, but since a regular appeal is filed on behalf of the appellant, the name of the *Amicus Curiae* be deleted from the Cause-list.

The matter has come up for consideration of the Interlocutory Application (Crl.) preferred on behalf of the applicant under Section 389 Cr.P.C. with the prayer for suspending the sentence awarded by the trial Court vide judgment and order dated 03.05.2023, passed by the learned Sessions Judge, Bomdila Sessions Division, East Kameng District, Arunachal Pradesh, in Sessions Case No. 14/2022 (corresponding to Khenewa P.S. Case No. 01/2022 under Section 302 of the IPC.

2. The Trial Court has convicted the applicant/appellant for the offence punishable under Section 302 IPC and sentenced him in the following manner:

Section	Punishment	Remarks (if any)
302 IPC	Life imprisonment and fine of Rs. 10,000/-	In default in payment of fine, to suffer further period of 3 months.

3. Mr. H.T. Tara, learned counsel for the applicant/appellant has submitted that the trial Court has grossly erred in convicting and sentencing the applicant/appellant vide the impugned judgment. It is submitted that, as a matter of fact, there is no eye-witness to the alleged incident, wherein the deceased was killed, and merely on the basis of suspicion, the applicant/appellant was apprehended and put to trial. Learned counsel has invited our attention to the deposition of the eye-witness and has submitted that all the eye-witnesses in their cross-examination have clearly admitted that they had not seen the applicant/appellant assaulting the deceased. It is submitted that the prosecution has failed to prove any motive of the accused to commit the murder. It is further submitted that, as a matter of fact, the appellant has been framed in the incident though there was no cogent evidence against him. It is also submitted that the complainant is the son of the applicant/appellant, who appeared as prosecution witness No. 1, has specifically stated in his evidence that there was no quarrel between the deceased and the applicant/appellant. Therefore, there was no reason for the applicant/appellant to commit the murder of her husband.

4. Learned counsel has further submitted that the applicant/appellant is having a minor daughter of 4 years and 7 months of age and is being deprived of the care and attention of her mother. Learned counsel for the

applicant/appellant has therefore prayed that the sentence awarded by the learned trial Court may kindly be suspended.

4. Per contra, Ms. T. Jini, learned Additional Public Prosecutor, Arunachal Pradesh, has vehemently opposed the application for suspension of sentence and has argued that the learned Sessions Judge has not committed any illegality in convicting and sentencing the applicant/appellant and, therefore, this Interlocutory Application may be dismissed.

6. Having heard the learned counsel appearing for the parties and after carefully scrutinizing the Lower Court Record, we are of the view that the whole case of the prosecution rests on circumstantial evidence, because none of the prosecution witnesses has deposed before the trial Court that he/she had seen the applicant/appellant committing the crime.

7. In view of the above, the Interlocutory Application for suspending the sentence is allowed. The applicant/appellant is allowed to go on bail on furnishing personal bond of Rs. 50,000/- (Rupees fifty thousand), with two sureties of Rs. 20,000/- (Rupees twenty thousand) each, to the satisfaction of the learned Sessions Judge, Bomdila.

The Interlocutory Application (Crl.) stands disposed of accordingly.

JUDGE

CHIEF JUSTICE

Comparing Assistant

