

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. A(J) 9 of 2024

Sanjoy Munda

.....Appellant(s)

Versus

State of Tripura

.....Respondent(s)

For the Appellant(s)	: Mr. Sankar Bhattacharjee, Legal Aid Counsel.
For the Respondent(s)	: Mr. Raju Datta, PP Mr. Rajib Saha, Addl. P.P.
Date of hearing & delivery of judgment & order	: 25.06.2025.
<u>Whether fit for reporting</u>	: Yes.

**HON'BLE JUSTICE DR. T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT
J U D G M E N T & O R D E R (O R A L)**

[Dr. T. Amarnath Goud, J]

Heard Mr. Sankar Bhattacharjee, learned Legal Aid Counsel for the appellant. Also heard Mr. Rajib Saha, learned Addl. P.P. appearing for the State-respondent.

[2] This present appeal is filed under Section 374 of Code of Criminal Procedure 1973 against the judgment of conviction and order of sentence dated 11-08-2023 passed in S.T (T-1) 32 of 2019 by the learned Sessions Judge, North Tripura, Dharmanagar,

convicting and sentencing the appellant to suffer imprisonment for life under Section 302 of IPC. The convict has also been sentenced to pay fine of Rs.5000/-(Rupees five thousand) under Section 302 of IPC and in default of payment of fine, to suffer imprisonment for a further period of five months.

[3] The brief facts of this case are that on 12-03-2019 at about 1600 hours, accused Sanjoy Munda, appellant herein and the victim Laxmi Munda visited Mundatilla under Dharmanagar PS for Ayurvedic treatment and they met one Budram Lohar and requested him to show a place where liquor would be available. Budram Lohar showed both of them the house where liquor was available. Thereafter, in the evening both of them came to the house of Budram Lohar and asked him to give them shelter for the night but Budram Lohar refused as there was no sufficient space in his house. Budram Lohar during that time was working as tractor driver at Jubarajnagar OM Brick Field and the accused and the victim were also working there as labourer. It was alleged that, on the intervening night of 12-03-2019 and 13-03-2019, the accused and the victim indulged in a quarrel under the influence of liquor and accused committed the murder of the victim by strangulating her and also by causing injuries with a sharp weapon and fled away from the spot. On 13-03-2019 in the morning time, the body of the

victim was found in front of the shop of one Sailen Lohar with visible injuries on her neck and other parts of the body and one Pramila Lohar lodged an ejahar with Dharmanagar PS regarding the incident.

[4] The O/C Dharmanagar PS on receipt of the ejahar registered Dharmanagar PS case No.23 of 2019 under Section 302 of IPC and endorsed the case to an SI for investigation. The I.O. on completion of the investigation, submitted charge-sheet under Section 302 of the IPC against the accused Sanjoy Munda. The charge-sheet was filed before the Court of learned Judicial Magistrate, North Tripura and prosecution papers were supplied to the accused and thereafter the record was committed to the Court of the Sessions Judge, North Tripura, Dharmanagar for trial.

[5] Thereafter, charge was framed against the accused under Section 302 of IPC and the same was read over and explained to him to which he pleaded not guilty and claimed to be tried.

[6] The prosecution to establish the charge of murder against the accused adduced as many as 27 witnesses. After closure of the prosecution evidence the accused was examined under Section 313 of Cr.P.C wherein he stated that the prosecution

case is false and declined to adduce any witness from his side. Thereafter, the prosecution side submitted a prayer under Section 311 of Cr.P.C to examine Dr Dipak Ch. Halder and the I.O. Ratan Deb as witnesses in the case and the prayer was allowed and both the witnesses were adduced by the prosecution.

[7] Thereafter, upon hearing the arguments of both sides and on perusal of the material evidence on record, learned trial Court on 11.08.2023 in case No. ST (T-1) 32 of 2019, sentenced the accused person, appellant herein in the following manner:

".....55.

O R D E R

In the result, the prosecution has proved this case beyond all reasonable doubt against the accused Sanjoy Munda.

The accused is accordingly convicted under Section 302 of the IPC.

I have heard the convict on the question of sentence and he claimed himself as innocent and prayed for mercy.

I have also considered on the quantum of sentence.

The convict is found guilty for commission of offence of murder and the punishment prescribed for the offence is either death or imprisonment for life. The convict is found to have committed the murder of the victim. However, the act of the convict in commission of the offence does not come within the category of the rarest of the rare case. Therefore, this Court is of the view that sentence for imprisonment of life along with fine will suffice to render justice in this case.

The convict Sanjoy Munda is accordingly sentenced to suffer imprisonment for life under Section 302 of IPC. The convict is also sentenced to pay fine of Rs.5000/- (Rupees five thousand) under Section 302 of IPC and in default of payment of fine to suffer imprisonment for a further period of five months."

[8] Aggrieved by the above-quoted sentence passed by the learned Court below, the appellant side has preferred this present appeal seeking the following reliefs:

"I. Admit this appeal.

II. Call for the record of case no. S.T (T-1) 32 of 2019 by the Ld. Sessions Judge, North Tripura, Dharmanagar.

III. After hearing the parties may be pleased allow this appeal by quashing/setting aside the impugned judgment of conviction and order of sentence dated 11/08/2023 passed in S.T (T-1) 32 of 2019 by the Ld. Sessions Judge, North Tripura, Dharmanagar and may please set the appellant at liberty....."

[9] Mr. Sankar Bhattacharjee, learned Legal Aid Counsel submits that learned trial Court has erred in law and came to a wrong conclusion. He submits that learned Court below has failed to appreciate that the case is based on circumstantial evidence and there was no eye witness to the occurrence. He further submits that the material witness was not examined nor cited by the prosecution. P.W.3 stated that he came to know that the appellant was detained by Sanju Bhowmik but he said Sanju Bhowmik was not examined.

[10] Mr. Bhattacharjee contends that from the evidence of PW- 1 it is clear that in front of their house the appellant and the deceased were engaged in quarrel. Now, PW 11 has stated in his examination in chief that in the night of incident he was sleeping with his family member in his dwelling hut, at about 11.00 PM he

heard cry of a women from a nearby place of his house and he called Manglu Karmakar (PW-15) who is his relative to see the matter and allegedly found the women lying in the Varanda of shop of Sailen Lohar and allegedly found the appellant cleaning blood from a knife with a cloth. PW-15 also in similar tune stated the said fact but, he deposed before the trial Court that the male person i.e. the accused was found to have been cleaning blood from a dao with a cloth. He submits that 'knife' and 'dao' are two different things having different shape and size and thus, there was a clear contradiction between the said two depositions. It is also contended that PW-1 or PW-4 never stated that they ever heard crying of a woman in front of her house. According to Mr. Bhattacharjee, learned Legal Aid Counsel for the appellant, the learned Trial Court has failed to appreciate the evidence on record in its proper perspective and also has failed to appreciate that the prosecution could not prove the chain of circumstances in the present case. He further submits that the learned trial Court has failed to appreciate that while the appellant was examined under section 313 of Cr.P.C. to the question no. 92, he has specifically denied that deceased was his wife, but, the learned Trial Court did not discuss the said fact. Learned Legal Aid Counsel for the appellant, therefore, urges this Court to set aside the impugned order dated 11.08.2023

passed by the learned Court below and to support his contention, he has placed reliance on the judgment of the Hon'ble Apex Court passed in ***Karakkattu Muhammed Basheer Vs. State of Kerala*** reported in ***2024 STPL 11721 SC***.

[11] On the contrary, Mr. Rajib Saha, learned Addl. P.P. appearing on behalf of the respondent-State submits that though the P.W. 11 and P.W. 15 deposed that the accused was cleaning blood from 'knife' and 'dao' respectively, but the same was seized and as per the seizure list the weapon which was recovered was mentioned as 'dao' without handle measuring 10" (inch) in length. Now, a 10" sized weapon may have appeared to someone as knife as the size of the weapon was very similar to a knife and locally, the weapon recovered may be known as something else. He further contends that the present case is based on circumstantial evidence and the circumstances in this case are vivid to state that the murder of the victim was caused by no other person but, only the accused person. To support his contention learned Addl. P.P. placed reliance on the following judgments of the Hon'ble Apex Court:

1. *State of Rajasthan v. Teja Ram and others* reported in ***(1999) 3 SCC 507***.

2. *Barku Bhavrao Bhaskar v. State of Maharashtra* reported in **(2013) 14 SCC 745.**

[12] Mr. Saha, learned Addl. P.P. further submits that the concept of '*last seen together*' is also applicable in this case as the witnesses deposed categorically that before the death of the victim, the accused and the victim were seen together. He, therefore, urges this Court that the present appeal filed by the appellant be dismissed and the impugned order dated 11.08.2023 passed by the learned trial Court should not be interfered with. To support his contention, learned Addl. P.P. further placed reliance on the following judgments of the Hon'ble Apex Court:

1. *Trimukh Maroti Kirkan v. State of Maharashtra* reported in **(2006) 10 SCC 681.**

2. *Ashok v. State of Maharashtra* reported in **(2015) 4 SCC 393.**

[13] Heard the submissions made at the Bar. Perused the material evidence on record.

[14] It is seen from record that P.W. 10, Pramila Gour, the informant deposed that on 13-03-2019 in the early morning, she received an information that last night at about 8 p.m two unknown

male and female were found quarrelling in the veranda of the shop of Salien Lohar and Swapan Tanti of the locality intervened and separated them and Sailen Lohar asked them to leave the place by Samika Lohar and thereafter, he closed the shop. She deposed that she also came to know in the early morning that the woman who was quarrelling on the previous night is found dead with some bleeding injuries on the veranda of the shop of Sailen Lohar. She also deposed that she is the sardar of cha bagan panchayet and she informed the matter to the police. She identified her signature on the ejahar as Exhibit.5/2.

[15] From the deposition of the informant P.W.10 as evident from her testimony, she did not witness the incident of quarrel between the unknown male and female on the previous night. She merely heard about the quarrel on the next day when the dead body of a female was found lying in the veranda of the shop of Sailen Lohar.

[16] P.W. 1, Samika Lohar deposed that one night about one year back at about 10 p.m she heard about a quarrel in front of her house and she came out and found accused Sanjoy Munda and his wife Laxmi Munda engaged in a quarrel. She further deposed that she warned both of them and asked them to leave the place. She also deposed that she had seen both of them leaving that place with

a bag and then she returned back home. She stated that on the next morning she saw a gathering of people in front of the shop of Sailen Lohar and she also saw the body of Laxmi Munda lying there with some cut injury on her neck and other parts of her body.

[17] P.W. 7 Swapna Tanti deposed similarly as P.W.1 that one night about one year back at about 8 p.m she heard some hue and cry outside the house and she came out and found an unknown person and a lady engaged in quarrel in front of a shop near to her house. She deposed that she returned back home thereafter and on the next morning she found that the lady who was engaged in a quarrel on the previous night was found lying dead in front of the shop.

[18] From the deposition of P.W.1 & P.W. 7, it is assumed that they identified the accused Sanjoy Munda as the person who was engaged in a quarrel on that night with a lady who was found dead on the next morning. So far identity of that deceased lady is concerned, P.W.1 in her testimony stated that the lady was Laxmi Munda whom she found quarrelling with the accused on the previous night. Before the learned trial Court, the accused side while examining both the witnesses failed to draw any contradiction so far identity of the accused and the victim is concerned.

[19] It is also seen from record that P.W.11, Rabi Tanti deposed before the learned trial Court that on 12-03-2019 at about 10 p.m he was returning from the work site and saw hue and cry in front of the shop of Sailen Lohar and he noticed that a quarrel was going on between a male and a female who were unknown to him. He further deposed that the local people warned both of them not to cause any nuisance in the locality and asked them to leave that place. He further stated that on that night he was sleeping with his family members in his house and it was around 11 p.m and he heard cry of a woman from a place nearby to his house. He deposed that he woke up and went out of his dwelling hut and called Manglu Karmakar who is his relative to see the matter and he also went in front of the shop of Sailen Lohar and found a person engaged in cleaning blood from a knife with a cloth and the body of the woman who was found engaged in quarrel with that person earlier on that night in front of the shop of Sailen Lohar was lying in the veranda of the shop with a neck cut injury and the lady was alive and groaning. He also deposed that the person who was cleaning blood from a knife with a cloth threatened him and others to leave the place immediately. It was also deposed by the said P.W.11 that he suspected that the person has killed that woman with a knife from which he was cleaning blood with a cloth. He also deposed that the

police subsequently arrested that person and he came to know that the name of said person is Sanjoy Munda and he was drunk on the night of incident.

[20] P.W.15, Mangra Karmakar while corroborating the statement made by P.W.11 Rabi Tanti stated that on 12-03-2019 at about 9 p.m in the night there was a quarrel in between a male and a female in front of the shop of Sailen Lohar and both were intoxicated. He also deposed that he and other people asked both of them to stop quarrel and to leave that place. It was further deposed by him that he returned back home and after sometime heard cry from outside and he went out of his dwelling hut. He also deposed that he was called by P.W. 11 Rabi Tanti and both went in front of the shop of Sailen Lohar and found that the woman who was engaged in a quarrel with a male person earlier in the night was lying in the veranda of the shop of Sailen Lohar with neck cut injury and she was in a pool of blood and was groaning. He also stated that he found that male person cleaning blood from a dao with a cloth and he started shouting towards them and also threatened them to leave the place otherwise they have to face the same consequences like the lady. P.W.15 also identified that person as accused Sanjoy Munda.

[21] In the deposition of P.W.11 and P.W.15, in their testimony, it is clearly stated that they found the accused Sanjoy Munda quarreling with a woman on that night and after sometime they heard the hue and cry of a woman and they went out and found that the woman was lying in the veranda of the shop of Sailen Lohar with injuries. The P.W. 11 deposed that he found that the accused Sanjoy Munda was cleaning blood from a knife with a cloth. The accused side while cross-examining PW11 had drawn attention to his earlier statement recorded by I.O. and it was found that the witness did not state specifically that he found the accused cleaning blood from a knife. However P.W.11 in his statement to I.O. stated that he found that the person was cleaning blood with a cloth. The accused side at that juncture contended that PW11 in his testimony before the court stated that he saw the accused cleaning blood from a knife but in his statement to I.O. the witness did not say anything regarding the knife. The accused side on this issue raised question that PW11 was not a reliable witness since contradiction was found in the testimony of PW11 regarding the use of the knife.

[22] During the course of argument before this Court, Mr. S. Bhattacharjee, learned Legal Aid Counsel, submits that there is contradictions between the deposition of statements between

P.W.11 & P.W.15. P.W.11 deposed that he saw the appellant cleaning blood from a knife with a cloth whereas, P.W.15 deposed that he saw the appellant cleaning blood from a dao with a cloth. However, there has been clear evidence that the accused was found cleaning blood with a cloth near to the body of that woman. On perusal of record, it is seen that the weapon found was seized and as per the seizure list the weapon which was recovered was mentioned as 'dao' without handle measuring 10" (inch) in length. Learned Addl. P.P. during the course of argument, rightly pointed out that a 10" sized weapon may have appeared to someone as knife as the size of the weapon was very similar to a knife and locally, the weapon recovered may be known as something else. In view of the same, it is opined that the aforesaid contradiction is minor in nature and it is not a material contradiction to discard the entire testimony of P.W.11 & 15.

[23] P.W. 22, Tulsi Prasad Munda deposed that the deceased Laxmi Munda was his wife and about 13 years back he had got himself married with Lami Munda. After three years of their marriage, his wife left his residence for ever. He also deposed that subsequently, he came to learn that his wife deceased Laxmi Munda married to another person but he did not know that person.

[24] P.W.20, Budhram Lohar deposed before the trial court that one day about 3 years back at about 3 p.m, he was going home to take lunch and he met Laxmi Munda and her husband on the road where both of them requested him to accompany them to the house of one Bhuvan Tanti. He deposed that he accompanied both of them to the house of Bhuvan Tanti where both of them consumed country made liquor and thereafter, P.W. 20 went to his place of work after taking lunch. He deposed that after returning home he came to know from his wife and other family members that Laxmi Munda and her husband visited his residence in the afternoon with intent to stay in his house but his family members did not give them shelter in the house. It was also deposed by the P.W. 20 that on the following morning he came to know that the dead body of Laxmi Munda was found lying in front of the shop of Sailen Lohar. And in his cross-examination, P.W. 20 stated that he knew the victim and the accused while working at OM Brick Field. He also stated in his cross-examination that the accused was the husband of the deceased and he could not say whether one Tulsi Munda was the husband of the deceased or not. It was also stated that he was arrested by police in connection with the murder of Laxmi Munda and was in the custody for three days.

[25] The deposition of P.W. 20 also indicates the presence of the accused and the victim together on the date of incident. It also indicates that he knew the accused and the deceased as husband-wife since earlier they were co-workers in the OM Brick Field.

[26] Dr. Dipak Ch. Halder, P.W.23 deposed that he was posted in the Dharmanagar hospital as medical officer since 2015 and he had worked with Dr. Abhishek Paul Majumder and knew his signature and handwriting. He also stated that on 13-03-2019, Dr. Majumder conducted post mortem examination over the body of an unknown female in connection with Dharmanagar P.S Case No.23 of 2019 and opined that it is a case of asphyxia due to strangulation. P.W.23 identified the P.M. Report as Exhibit.8 and also stated that during the examination laceration were found on the body of the victim. P.W.23 although failed to state the name of the unknown woman but he stated that the post mortem examination was done in connection with Dharmanagar PS Case No.23 of 2019. In view of the same, it is clear that the unknown woman was none but Laxmi Munda. It is also clear from the P.M. Report that although there were laceration on the body of the victim but, she died due to asphyxia as a result of strangulation.

[27] P.W.24, Sri Ratan Debnath i.e. the Investigating Officer deposed in course of investigation that he seized the wearing

apparels of the victim and arranged for sending them to SFSL, Narsingarh for examination and later he collected the report. He also deposed that he arranged for collection of samples from the body of the deceased and also forwarded them to SFSL for examination and report.

[28] From the testimony of P.W.8 i.e. Dr. Subhankar Nath, Deputy Director, SFSL Tripura, it is found that on 13.05.2019 he was endorsed to examine certain exhibits received in connection with Dharmanagar PS Case No.23 of 2019 and those exhibits were one yellow-white coloured printed saree marked as Exhibit.A, black/white/red coloured printed saree marked as Exhibit.B, one yellow coloured full sleeve sweater marked as Exhibit.C and sky coloured half jeans pant marked as Exhibit.D and he examined all those exhibits and he found blood stained in all the four exhibits and he subjected them for DNA isolation by organic extracting method and after examination found that the blood stain detected in all the four exhibits was female blood and it originated from the single/same source.

[29] It is seen from record that so far the aforesaid exhibits A & B are concerned these are the wearing apparels of the victim and Exhibits. C and D are the wearing apparels of the accused. During the examination blood stains were found in all the four exhibits and

those were female blood and originated from a single source. Then the question arises, how the blood stain of the victim was found on the wearing apparels of the accused marked as Exhibit.C & D. At this juncture, as discussed earlier on the testimony of P.W.23, the victim had laceration on some parts of her body and it indicates that blood came out from such laceration and that blood left some stain on the wearing apparels of the accused. The accused has miserably failed to explain in his defence, the presence of those blood stains of the deceased on his wearing apparels.

[30] In view of the failure of the accused in explaining his case in his defence and on perusal of the material evidences as dealt by the learned trial Court, this Court is of the view that all the evidences clearly indicate that the lacerated injuries to the victim could have been caused by the accused since he was present at the time of the death of the victim and there was every possibility that he strangled the victim to death and while doing so blood stain originated from the lacerated wounds of the victim and these were found on the wearing apparels of the accused. The testimony of PW11 and 15, also categorically indicates that they found the accused cleaning blood just near to the body of the victim.

[31] In view of the above discussion, this Court has no hesitation to say that the present case is based on circumstantial

evidence. In this regard, the relevant contents of the judgment of Hon'ble Apex Court as referred earlier by the learned Addl. P.P. on behalf of the State, are quoted as under:

**Barku Bhavrao Bhaskar v. State of Maharashtra reported in
(2013) 14 SCC 745:**

".....14. As far as the other circumstance, namely, about the bloodstains found on the clothes of the appellant was concerned, it was contended that though the blood group found on the clothes of the appellant was "A" and that the blood group of the deceased was also "A", it was submitted on behalf of the appellant that the blood group of the appellant was not tested. While examining the said contention, the High Court has taken pains to note that when at the instance of the appellant, his shirt was recovered under Exts. 16 and 17 and when the appellant was physically examined, it was found that there were absolutely no injuries on the body of the appellant and, therefore, the question of the bloodstains from the body of the appellant to get transmitted to his shirt was ruled out. It was, therefore, held that the bloodstains found on the appellant's shirt, considered along with the factum of the appellant having led the prosecution to discover his bloodstained clothes and the body of the deceased put together, the bloodstains found on the shirt of the appellant could have been only that of the deceased and none else. The said conclusion arrived at by the High Court was fully justified and no fault can be found with the said conclusion. As regards the bloodstains found on the shirt of the appellant, except the ipse dixit submission made on this aspect, no other submission was made and there was no valid explanation offered on behalf of the appellant as to how the bloodstains came to be found on his shirt, which was recovered at his instance, in the presence of the panch witnesses....."

[32] This Court is further of the opinion that the concept of '*last seen together*' is also applicable in the present case as the witnesses as discussed above, deposed categorically that before the death of the victim, the accused and the victim were seen together. In this regard, the relevant contents of the judgment of Hon'ble Apex Court as referred earlier by the learned Addl. P.P. on behalf of the State, are quoted as under:

Ashok v. State of Maharashtra reported in (2015) 4 SCC 393:

"8. The "last seen together" theory has been elucidated by this Court in Trimukh Maroti Kirkan v. State of Maharashtra [(2006) 10 SCC 681], in the following words: (SCC p. 694, para 22)

"22. Where an accused is alleged to have committed the murder of his wife and the prosecution succeeds in leading evidence to show that shortly before the commission of crime they were seen together or the offence takes place in the dwelling home where the husband also normally resided, it has been consistently held that if the accused does not offer any explanation how the wife received injuries or offers an explanation which is found to be false, it is a strong circumstance which indicates that he is responsible for commission of the crime. Thus, the doctrine of last seen together shifts the burden of proof onto the accused, requiring him to explain how the incident had occurred. Failure on the part of the accused to furnish any explanation in this regard, would give rise to a very strong presumption against him.*"

9. In Ram Gulam Chaudhary v. State of Bihar[(2001) 8 SCC 311], the accused after brutally assaulting a boy carried him away and thereafter the boy was not seen alive nor was his body found. The accused, however,

offered no explanation as to what they did after they took away the boy. It was held that for absence of any explanation from the side of the accused about the boy, there was every justification for drawing an inference that they had murdered the boy.*****

12. From the study of abovestated judgments and many others delivered by this Court over a period of years, the rule can be summarised as that the initial burden of proof is on the prosecution to bring sufficient evidence pointing towards guilt of the accused. However, in case of last seen together, the prosecution is exempted to prove exact happening of the incident as the accused himself would have special knowledge of the incident and thus, would have burden of proof as per Section 106 of the Evidence Act. Therefore, last seen together itself is not a conclusive proof but along with other circumstances surrounding the incident, like relations between the accused and the deceased, enmity between them, previous history of hostility, recovery of weapon from the accused, etc. non-explanation of death of the deceased, may lead to a presumption of guilt.....”

[33] In view of the above discussions, following the judgments of Hon’ble Apex Court cited *supra*, we are of the opinion that there is no scope for taking any lenient view or extending benefit of doubts in favour of the accused-appellant. We find no infirmity in the impugned order dated 11.08.2023 passed in S.T (T-1) 32 of 2019 by the learned Sessions Judge, North Tripura, Dharmanagar, convicting and sentencing the appellant to suffer imprisonment for life under Section 302 of IPC with default stipulations. Accordingly, the said impugned order dated 11.08.2023 passed by the learned Court below is hereby affirmed.

We are also of the opinion that the judgment referred by the learned Legal Aid Counsel on behalf of the appellant, is not applicable to the facts and circumstances of the present case.

With the above observations, the instant appeal is hereby dismissed. As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

Send down the LCRs.

B. PALIT, J

DR. T. AMARNATH GOUD, J



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