

**HIGH COURT OF TRIPURA
AGARTALA
CRL.A(J) NO.13 OF 2024**

Sri Maran Debnath.

..... **Appellant(s)**

Versus

The State of Tripura.

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

For the Appellant(s) : Mr. R. Datta, Advocate.
Mr. S. Nag, Advocate.
Mr. H. Das, Advocate.
Mr. S. Debnath, Advocate.

For the Respondent(s) : Mr. Raju Datta, P.P.
Mr. R. Saha, Addl. P.P.

Date of hearing and delivery of
Judgment & Order : 20.05.2025.

Whether fit for reporting : NO.

**HON'BLE MR. JUSTICE 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)**

(T. Amarnath Goud, J)

This is an appeal filed under Section 374(2) of the Cr.PC against the impugned Judgment and Order of conviction and sentence dated 01.12.2022 passed by the learned Sessions Judge, Khowai, Tripura, in Case No. ST (T-1) 08 of 2022, whereby and whereunder the appellant has been convicted under Sections 302 and 323 of the Indian Penal Code (*in short IPC*) and sentenced to suffer life imprisonment for the offence punishable

under Section 302, with a fine of Rs. 5,000/- with default stipulation. He has been also sentenced to pay a fine of Rs. 1,000/- for the offence punishable under Section 323 of IPC, and in default of payment, he shall suffer SI for a period of one month.

2. The facts of the case in brief are that on 16.02.2021, on the day of "Saraswati Puja" at about 09:30 a.m., the informant Rajkumar Debnath was at his home. At that time, the convict appellant was about to go out on a bike with his daughter Sikha Debnath. The mother of the appellant i.e. the wife of the informant forbade the appellant from going out with the bike. When she forbade Maran i.e the appellant herein, he attacked his mother with a piece of wood on her head and leg in the presence of the informant. She sustained serious bleeding injuries. After that, appellant himself took the informant and his wife to Khowai Hospital for treatment. They were then referred to GB Hospital at Agartala for better treatment. Appellant accompanied them. By this time, Ajit Debnath and the brothers-in-law rushed to GB Hospital and the appellant fled away. Though the informant was discharged from the hospital, his wife was admitted. On 19.02.2021, the wife of the informant, namely Suniti Debnath, succumbed to her injuries. It is alleged that due

to the attack by the appellant, his mother died. As the informant was busy with treatment, the lodging of the FIR was delayed. On 20.02.2021 at about 23:10 hours, on receipt of the ejahar, a case was registered being Khowai PS Case No. 2021/KHW/020 dated 20.02.2021 under Sections 326/302 of IPC.

3. The case was entrusted to SI Subendu Das for investigation. During the investigation, he visited the place of occurrence and prepared a hand-sketch map with a separate index, seized the concerned articles by preparing seizure lists, collected the SFSL report, obtained the post-mortem examination report, recorded statements of witnesses under Section 161 of CrPC, arrested the accused person, namely, Maran Debnath, and arranged for recording the statements under Section 164(5) of CrPC of the witnesses. Thereafter, on completion of investigation, a *prima facie* case having appeared, he submitted a charge-sheet bearing No. 01/2022 under Sections 323/302 of IPC dated 16.01.2022 against Maran Debnath to stand trial.

4. During the trial, upon consideration of the record and the documents submitted therewith and after hearing submissions from both sides, charge was framed against the accused under Sections 302 and 323 of IPC. Upon hearing the

matter and contents of the charge, he pleaded not guilty and claimed to be tried.

5. To prove the case, the prosecution examined as many as 14 witnesses.

6. At the time of examination under Section 313(1)(b) of CrPC, the accused denied all the incriminating materials which appeared in the prosecution evidence.

7. After hearing both parties, the learned Court below convicted the appellant under Sections 302 and 323 of IPC and sentenced him as stated above.

8. Being highly aggrieved and dissatisfied with the impugned judgment of conviction and sentence dated 01.12.2022 passed by the learned Sessions Judge Khowai Tripura, in Case No. ST (T-1) 08 of 2022, the appellant preferred this appeal.

9. Heard Mr. Ratan Datta, learned counsel appearing for the appellant, as well as Mr. R. Saha, learned Addl. P.P., appearing for the respondent.

10. Mr. Datta, learned counsel appearing for the appellant submitted that the findings of the learned Trial Court are unjustified, perverse, and not supported by the evidence on record. It is contended by the learned counsel that the incident in

question occurred suddenly and without any premeditation. There existed no prior history of animosity or dispute between the appellant and the deceased, which would suggest any motive or intention to cause death. The entire episode was a result of a sudden loss of control in the heat of the moment. It is further submitted that immediately after the occurrence, the appellant himself took the injured to Khowai Hospital for initial medical treatment and thereafter accompanied her to GB Hospital for better medical care. This conduct of the appellant is indicative of his shock and remorse, and negates any theory of deliberate intent or malice aforethought. Learned counsel further submitted that the evidence of PW-6 (*daughter of the deceased*) is inconsistent and unreliable. While PW-6 claimed that the appellant assaulted the deceased all over her body with a piece of firewood. But, both PW-1 and PW-2 deposed that PW-6 had informed them that the deceased had sustained a single blow on her head. Furthermore, PW-6, in her cross-examination, admitted that she could not recall whether she had informed the police that the deceased was beaten all over the body. These material contradictions in the prosecution witnesses cast serious doubt on the reliability of the prosecution's version. Lastly, it is submitted that the conviction under Section 302 IPC is wholly unsustainable.

At best, the facts of the present case may attract the provisions of Section 304 Part II IPC, as the act was done without any intention to cause death. Accordingly, the appellant is entitled to the benefit of a modified conviction under Section 304 Part II IPC.

To support his case, learned counsel relied upon **para-20** of the Hon'ble Supreme Court Judgment reported in **AIR 2017 SC 1150** titled as **Arjun and anr.etc.etc. Vs. State of Chhattisgarh**. The same is reproduced herein:-

"20. To invoke this exception (4), the requirements that are to be fulfilled have been laid down by this Court in Surinder Kumar vs. Union Territory of Chandigarh (1989) 2 SCC 217; (AIR 1989 SC 1094, Para 6), it has been explained as under:-

**"7. To invoke this exception four requirements must be satisfied, namely,
(i) it was a sudden fight; (ii) there was no premeditation; (iii) the act was done in a heat of passion; and (iv) the assailant had not taken any undue advantage or acted in a cruel manner. The cause of the quarrel is not relevant nor is it relevant who offered the provocation or started the assault. The number of wounds caused during the occurrence is not a decisive factor but what is important is that the occurrence must have been sudden and unpremeditated and the offender must have acted in a fit of anger. Of course, the offender must not have taken any undue advantage or acted in a cruel manner. Where, on a sudden quarrel, a person in the heat of the moment picks up a weapon which is handy and causes injuries, one of which proves fatal, he would be entitled to the benefit of this exception provided he has not acted cruelly....."**

11. Learned counsel appearing for the appellant to support his argument further relied upon the Judgment of this

Court bearing No.**CRL.A(J) No.02 of 2022** titled as **Sri Kanulal Debnath and The State of Tripura** dated **17.05.2023**.

12. On the other hand, learned Mr. R. Saha, learned Addl. P.P., appearing for the respondent submits that the convict appellant caused multiple hit due to which the victim succumbed to his injuries and the Judgment and Order of Sentence as passed by the Court is just and proper and needs no further interference.

13. Heard and perused the evidence on record.

14. P.W.-6, Miss Sikha Debnath (*the sister*), and P.W.-7, Shri Rajkumar Debnath (*the father*), stated that the accused took the deceased victim to the hospital after the incident. They are the eye-witnesses. P.W.-7 is an eye-witness-cum-victim. He also stated that he was taken to the hospital but was released early. Both P.W.-1 and P.W.-2, in their depositions, stated that P.W.-6, i.e., an eye witness of this incident informed them that the appellant took a piece of firewood and struck the victim-deceased on the head. So, there is no mention of multiple blows by the convict-appellant, as allegedly stated by P.W.-6 immediately after the incident, according to the accounts of P.W.-1 and P.W.-2. Even during cross-examination, P.W.-6 stated that

she could not remember whether she had told the police that her brother had delivered blows on the whole body of her mother.

15. This Court, after evaluating all the evidence on record, is of the view that the incident happened on the spur of the moment. The testimonies of P.W.-6 and P.W.-7, who stated that the convict took the victims to the hospital after the incident, also point to his remorse and shock, which indicates that the convict did not intend to cause the incident, but it occurred spontaneously. It was out of fit of anger and due to sudden provocation he got furious and attacked his parents indiscriminately. Later, he took them to hospital for treatment. There is no antecedent of wrongful behavior. Thus it can be considered as an act of culpable homicide not amounting to murder under Section 299 of IPC and punishment under Section 304(2) of IPC would be up to 10 Years of imprisonment or fine or both under the said offence.

17. Furthermore, just after the incident, P.W.-6, the sister, who reported the incident to P.W.-1 and P.W.-2, did not mention multiple blows by the convict-appellant to the deceased victim. This omission further creates doubt in the mind of the Court. As such, taking into consideration the observations laid down in **Arjun and Anr. etc. etc. vs. State of**

Chhattisgarh (*supra*) by the Hon'ble Supreme Court, this Court is of the opinion that the offence committed by the convict-appellant warrants a sentence of 7 (seven) years under Section 304 of the IPC, and the period already undergone by the convict-appellant shall be set off. Accordingly, the same is ordered in favour of the appellant and he shall be released after completion of his sentence, if not required in any other case.

16. As such, the impugned Judgment and Order of conviction dated 01.12.2022, as given by the Court below, is modified to the extent indicated above.

17. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

B. PALIT, J

T. AMARNATH GOUD, J

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