

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. A(J) 17 of 2025

Sri Bhupendra Debbarma

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

Versus

State of Tripura

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

For the Appellant(s) : Mr. Partha Sarathi Roy, Adv.

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

Date of hearing and delivery
of Judgment & order : 03.04.2025.

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 (O R A L)**

Heard Mr. P.S. Roy, learned counsel appearing for the appellant. Also heard Mr. Raju Datta, learned PP appearing for the State-respondent.

[2] This present appeal is filed under Section 374 (2) of the Code of Criminal Procedure against the Conviction on trial held by the learned Sessions Judge, Khowai Judicial District, Khowai in case

No. S.T (Type 2) 09 of 2023 convicting the appellant under Section 323/326 of I.P.C. By judgment and order dated 20.11.2024, the appellant was sentenced on 22.11.2024 in the following manner:

(i) Under Section 326 of the Indian penal code to suffer Rigorous imprisonment for 5(five) years with fine of Rs.20,000 only and in default of payment of such fine, convict is liable to undergo imprisonment for 2(two) more months.

(ii) Under Section 323 of the Indian Penal Code to suffer imprisonment for a term of 01(one) year.

It has been ordered by the learned trial Court that both the sentences would run concurrently.

[3] The prosecution story in brief is that on the basis of a written ejahar, lodged by the informant Sri. Parendra Debbarma, son of late Rabi Kumar Debbarma of Porshurambari, Champahour PS, District Khowai, FIR was registered by the police and subsequently, after filing of the charge-sheet, the accused Bhupendra Debbarma, son of Sri. Naresh Debbarma, faced trial for allegedly having committed the offences punishable under Sections 323/326/307 of the Indian Penal Code (in short, the IPC).

[4] The informant, initially, lodged his written complaint before Champahour PS, alleging that on 03.12.2022, at about 06:00 PM, the informant along with other villagers were gossiping at Thaichuk Tala Market (Amtalli) and at that time, one of his local villagers namely, Bhupendra Debbarma (accused appellant herein) came to the spot with an iron hammer in his hand and started hitting people indiscriminately. As a result of such hitting, it is alleged that 05 people in the market sustained severe head injuries, where-after, the informant managed to snatch the hammer away from the accused, but as he tried to detain him, the accused pushed him and fled towards the nearby jungle. It was further stated that subsequently, other people present at the spot, shifted the victims to Khowai District Hospital, wherefrom, one of the injured persons Rathindra Debbarma received medical aid and 04 others were referred to GBP Hospital, Agartala, for better treatment. The informant further revealed the names of the victims to be (i) Mangal Debbarma, (ii) Pankaj Debbarma, (iii) Jalim Debbarma, (iv) Rathindra Debbarma & (v) Pandit Debbarma.

[5] On receipt of the charge-sheet, a case was then registered by the Chief Judicial Magistrate, Khowai, vide No.PRC(WP)12 of 2023 and after taking cognizance, made over the

same to the Court of learned J.M. 1st Class, Khowai, for disposal according to the law. Later, on 10.05.2023, learned J.M. 1st Class, Khowai, committed the case for trial in the Sessions Court and it was made over to the then Court of Asst. Sessions Judge, Khowai, Tripura. Learned Court of the Sessions Judge, Khowai, Tripura received the Case record on 15.07.2024 from the then Court of learned Asstt. Sessions Judge, Khowai and proceeded accordingly.

[6] Upon hearing both the sides and considering the prima-facie case, charge against the accused under Sections- 323/326/307 of the IPC was framed against the accused. At the time of hearing about the matter and the contents of the same, the accused pleaded not guilty and claimed to be tried. And the prosecution, to prove its Case, examined as many as 16 P.W.s.

[7] On perusal of material evidence on record, learned Court below by its judgment and order dated 20.11.2024 held that the accused be acquitted and set at liberty on benefit of doubts from the charge levelled against him under Section 307 of the IPC. However, the prosecution proved the accusation against the present convict appellant Sri Bhupendra Debbarma under Section 323/326 of Indian Penal Code and the learned Court below found the accused guilty for the offence punishable under Section 323/326

IPC. The next date was fixed for hearing of sentence on 22.11.2024. On the next date, the convict appellant was sentenced to suffer rigorous imprisonment for 05(five) years and to pay a fine of Rs. 20,000/- (twenty thousands) only and in default of payment, the convict appellant to suffer imprisonment for 02(two) months for commission of offence under Section 326 of the Indian Penal Code.

Learned Court below also sentenced the convict appellant to suffer simple imprisonment for 01(one) year for commission of offence punishable under Section 323 of the Indian Penal Code by the sentence dated 22.11.2024 and further ordered that both the sentences stated above shall run concurrently.

[8] Being aggrieved by the impugned judgment & order dated 20.11.2024 and sentence of conviction dated 22.11.2024 in connection with case No. S.T. (Type-2) 09 of 2023, the appellant has preferred this present appeal seeking the following reliefs:

- "i) Admit this appeal
- ii) Call for the records
- iii) Issue notice upon the Respondent,

AND

- iv) After hearing the parties be pleased enough to set aside the impugned Judgment of conviction and sentence dated 22/11/2024 passed by the Session Judge, Khowai Judicial District. Khowai in case No:- Sessions Trial (Type-2) 09 of 2023 and the convict Appellant may be set at liberty.

AND

In the mean time, the conviction and sentence as aforesaid may be stayed till disposal of this appeal.....”

[9] Mr. P.S. Roy, learned counsel for the appellant submits that P.W. 7, namely Sri Ranjit Debbarma deposed before the learned trial Court that on 03.12.2022 at about 6.00 P.M, he was inside his shop situated at Parsurambari market and he saw some people were gossiping in front of him. At that time, the accused Bhupendra Debbarma came to the market with an iron hammer in his hand and started assaulting all of them with the same randomly as a result of which, they sustained injuries. But in cross examination, P.W. 7 admitted that at the alleged time of incident, he closed his shop out of fear and he could not see the manner in which the incident took place. He submits that learned trial Court failed to appreciate the same.

[10] It is further contended by the learned counsel for the appellant that the P.W 10 and P.W 11 who are the seizure witnesses deposed that on that day they went to Parshurambari along with the I.O. of this Case, who seized one iron hammer in their presence. They stated that the I.O. prepared one seizure list in this regard where they put their signature. But, during cross examination they said that the articles were not sealed at the spot

and that they also did not signed the article as such. The PWs further admitted in their cross examination that such type of hammer and wooden stick are available in the market and in any village. The witnesses also confirmed that at the time of seizure, many local people were present at the place of occurrence and that one of them handed over the articles to the I.O. but, the trial Court below did not consider the said fact. Learned counsel, therefore, urges this Court to set aside the impugned judgment & order and sentence passed by the learned Court below and the appellant be set at liberty.

[11] On the contrary, Mr. Raju Datta, learned P.P. representing the State opposes the submission made on behalf of the appellant. He, submits that learned Trial court on examination of all the evidences has sentenced the convict-appellant and thus, the sentence passed by the learned Court below should not be interfered with and the present appeal filed by the appellant is liable to be dismissed.

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

[13] For the purpose of taking decision with regard to the case in hand, this Court feels it necessary to examine the deposition of some witnesses who deposed their respective statements before the learned trial Court.

[14] P.W.s 1, 3, 4, 6 & 9 are the victims who deposed before the trial Court below almost in a similar manner. They stated that on 03.12.2022, at about 5:30/6:00 P.M. while they were gossiping in the market of Porshuram Bari (Amtali) at that time, the accused Bhupendra Debbarma appeared there with an iron hammer in his hand and the accused then started assaulting them with that hammer randomly, as a result of which, they sustained injuries. P.W. 7, an eye-witness, also corroborated the statements made by the victims that the accused appeared with an iron hammer in his hand and then started assaulting them.

[15] P.W. 5, the Medical Officer of Khowai District Hospital deposed that on 03.12.2022, one patient namely Rathindra Debbarma was brought to Khowai District Hospital by his relative and accordingly, he examined him. P.W. 5 deposed that on examination, he found the patient with one lacerated wound on the right frontal region, measuring 2 cm x 0.3 cm into muscle depth and probably caused by a blunt object. It is further deposed by P.W.

5 that in his opinion, the alleged injury of Rathindra Debbarma was simple in nature, where-after he was discharged from the hospital on that day. He (P.W. 5) stated to have prepared one injury report in this regard and identified the same as Exbt-1 along with his signatures over the same as Exbt-1/1 and Exbt-1/2. On the same day, P.W. 5 deposed that he examined another patient namely Pandit Debbarma, who was brought to the Hospital by his relative. He stated to have examined the patient and found one lacerated wound, measuring 5 cm x 0.3 cm into tissue depth over left cheek. The witness further deposed that the patient was admitted at Khowai hospital, thereafter, he was referred to AGMC and GBP hospital, Agartala. In his opinion, the injury was caused by a probable blunt object, which was simple in nature. P.W.5 also identified the report prepared by him in this regard and identified the same as Exbt-2 along with his signatures thereon as Exbt-2/1 and Exbt-2/2.

During cross-examination, P.W.5 denied the fact that he has prepared the injury reports of aforesaid victims without proper examination.

[16] P.W. 15, the Medical Officer of Trauma Care Center, AGMC & GBP Hospital, Agartala in his deposition stated that on

04.12.2022, he examined and treated two patients namely, Pankaj Debbarma and Pandit Debbarma, who were referred from Khowai District Hospital to GBP hospital, Agartala, with alleged history of physical assault, in connection with Champahour PS Case No.2020/CPH/024, dated 04.12.2022. The witness further deposed that on examination, he found Pankaj Debbarma conscious and well oriented and also prescribed NCCT of his brain and after receiving the report, he found that the patient suffered acute extradural hemorrhage on the right frontal region; acute focal contusion injury in the right frontal lobe; multi focal fracture over the right frontal parieto occipital bone and fracture of right nasal bone. According to P.W. 15, X-ray report of the chest further revealed right scapula fracture (un-displayed) over the right scapular spine and in his opinion, all the injuries were grievous in nature caused by probable blunt and heavy object. The witness also identified his report prepared and submitted in regard to the victim Pankaj Debbarma as Exbt-10 and his signatures thereon as Exbt-10/1 (series). P.W. 15 also stated that on examination of the other patient Pandit Debbarma, he found him conscious and well-oriented and NCCT of his face with 3D construction was advised. P.W.15 identified his report prepared in regard to the victim.

During cross-examination, the P.W. 15 denied that he had submitted his report without proper examination.

[17] On perusal of record and upon hearing the submissions made by both the parties, this Court is of the view that the impugned order dated 20.11.2024 passed by the Court below convicting the accused under Section 323/326 of the IPC needs no interference. However, in so far as the sentence of the Court below dated 22.11.2024 in case No. S.T. (Type-2) 09 of 2023 awarded to the accused appellant herein to suffer rigorous imprisonment for 05(five) years for the offence punishable under Section 326 is concerned, the same is on the higher side. This Court is of the considered opinion that the same should be reduced to one year's rigorous imprisonment under Section 326 of the IPC instead of rigorous imprisonment for five years. Thus, the appellant is hereby sentenced to suffer rigorous imprisonment for a term of one year and also to pay a fine of Rs.20,000/- (Rupees Twenty Thousand Only) in default, to suffer simple imprisonment for 02(two) more months for commission of the offences punishable under Section 326 IPC. Accordingly, the impugned sentence dated 22.11.2024 awarded by the Court below is modified to the extent as indicated above. It is needless to mention that the period of detention already

undergone by the convict shall be set off and apart from the above observation made by this Court, all other aspects of the impugned judgment & order and the sentence passed by the learned Court below shall remain unaltered.

In view of the above, the instant appeal is partly allowed and thereby, the same is disposed of. As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

Send down the LCR.

T. AMARNATH GOUD, J



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