

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. A(J) 16 of 2024

Bilanjoy Reang @ Bilanjoy

.....Appellant(s)

Versus

State of Tripura

.....Respondent(s)

For the Appellant(s)	: Mr. Dipak Deb, Advocate. Mr. Pranabashis Majumder, Adv. Mr. Sujoy Sarkar, Advocate. Mr. S. Choudhuri, Advocate.
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For the Respondent(s)	: Mr. Raju Datta, PP Mr. Rajib Saha, Addl. P.P.
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Date of hearing & delivery of Judgment & order	: 28.05.2025.
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Whether fit for reporting	: No
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**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]

Heard Mr. S. Choudhuri, learned counsel appearing for the appellant. Also heard Mr. R. Saha, learned Addl. P.P. appearing for the State-respondent.

[2] This present appeal is filed under Section 374 of Cr.P.C against the judgment of conviction for life imprisonment passed by the learned Additional Sessions Judge, Dhalai Judicial District,

Ambassa in Case No. S.T (Type-1) 15/2019, dated 30/6/2023 and sentence dated 04/7/2023.

[3] The prosecution story in brief is that as per the charge-sheet is that on 16.05.2018 a pet dog of the accused (Bilanjay Reang) age (30) bit two pigs of the deceased (Bhajyaram Reang) age (45) resulting in their death. The village headman tried to resolve the issue by suggesting to the accused that he pay some monetary compensation to Bhajyaram Reang but the accused did not agree and let his pet dogs roam around freely. On the morning of 16.05.2018 at around 05.30 hours Bhajyaram Reang reached the house of the accused in search of his missing pig. A hot altercation ensued between these two in the course of which the accused suddenly attacked the deceased with a wooden lathi and the deceased suffered serious bleeding injuries. Subsequently, he died.

[4] It is contended in the instant appeal that on the basis of the FIR dated 16.05.2018 of one Daharam Reang against the accused appellant Bilanjoy @ Bilanjoy Reang, Ganganagar (GNR) PS Case No.007 of 2018 was registered under Section 325/307 of IPC and the accused appellant was arrested and on 12.10.2018, the accused appellant released on bail. The I.O. of the case submitted charge sheet on 31.10.2018 under Section 302 of IPC in case no. PRC (WP) 02 of 2019 in the Court of learned Magistrate and after commencement, the case was referred to the Court of learned Addl. Sessions Judge, Dhalai District, Ambassa and the case No. ST

(Type-I) 15 of 2019 was registered. Accordingly, charges were framed against the accused and recording of evidences commenced. Learned Court below upon hearing the parties and on perusal of material evidence on record, decided the case by its judgment dated 30.06.2023 and accused was sentenced on 04.07.2023 to suffer life imprisonment (L.I.) with fine of Rs.1,00,000/- (Rupees One Lakh) only payable to the legal heirs of the deceased with default stipulations.

[5] Aggrieved by the impugned judgment dated 30.06.2023 and the impugned order of sentence dated 04.07.2023, the appellant has preferred the instant appeal seeking the following reliefs:

"Under the circumstance stated above it is most humbly prayed that Your Lordships would be graciously pleased to admit this Appeal, call for the records of the case and after hearing the parties will very kindly set aside the impugned judgment of conviction and sentence of the Accused-Appellant passed by the Ld' Addl' Sessions Judge, Ambassa, Dhalai District and to acquit the Accused-Appellant and be kind to pass such further order as your Lordships deem fit and proper....."

[6] Mr. S. Choudhuri, learned counsel appearing for the appellant submits that the PW-3 deposed before the learned trial Court that he is a day labour and in the morning on the date of occurrence after hearing the hue and cry he came out of the hut in front of his house and saw the accused appellant assaulting the victim. P.W. 5 i.e. the wife of P.W. 3 in her cross-examination

before the trial Court stated that the house of the accused is about 100 meters away from the house of the deceased and that her house is about 125 meters away from the house of the accused. She stated that there were some bushes between her house and the house of the accused. It is contended that P.W.4 is the wife of the deceased and an eye-witness who deposed before the trial Court that around one and half years ago in the early morning while she was engaged in cooking, she had to come out of her kitchen upon hearing the hue and cry of her husband and saw Bilanjoy Reang assaulting her husband with a lathi. In cross-examination the witness stated that the house of the accused is about 100 meters away from her house and there were some rubber/banana trees in front of her house near the main road. Learned counsel submits that the evidences of the aforesaid eye witnesses cannot be believed because of the fact that since there were bushes, between the place of occurrence and their respective positions of the eye witnesses at a distance about 100 meter, at early in the morning, they could not see the alleged occurrence. Learned counsel for the appellant, therefore, urges this Court to set aside the impugned judgment of conviction dated 30/6/2023 and sentence dated 04/7/2023.

[7] On the other hand, Mr. R. Saha, learned Addl. P.P. opposes the contention made on behalf of the appellant and prays for dismissal of the instant appeal.

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

[9] It is seen from record that the P.W.12 i.e. the doctor deposed before the trial Court that as per the post-mortem report, the cause of death in this case is head injury caused by the impact of a hard and blunt object and all the injuries are antemortem in nature and are of seven to ten days duration of the age at the time of death. In cross-examination, the said doctor stated that it is possible to sustain such type of head injury as found in this case by falling of a tree branch.

[10] It is also seen from record that P.W.s 3, 4, 5, 6 and 8 are all eye-witnesses to the deceased being assaulted by the accused using a lathi. P.W. Nos. 3, 5 and 6 are not related to the deceased. Their testimonies also corroborate each other's testimonies as well as those of the remaining P.W.s. The crux of the deposition of all these witnesses i.e the assault on the deceased by the accused using a lathi, is most consistent with the post-mortem report prepared by PW 12, the Medical Officer which states the cause of death as head injury caused by the impact of a blunt object.

[11] From the above discussions, this Court is of the view that the death of the deceased was caused by the accused with a blunt object i.e. lathi. But, it has not been established that the accused had any pre-meditated intention of murder of the deceased. There

is every possibility that there would have been hot altercations between the convict appellant and the deceased since the pigs of the deceased were killed by the dog of the accused, his piglet was missing and his livelihood was affected. Out of anger, the accused could have started beating the victim with *lathi*.

[12] Hence, this Court, after evaluating all the evidence on record, is of the considered view that the incident happened on the spur of the moment. It was out of anger and due to sudden provocation, the accused got furious and attacked the victim indiscriminately. Thus, a lenient view is taken and the case of the accused is considered as an act of culpable homicide not amounting to murder and ends of justice would be met, if the punishment under Section 304 of IPC be imposed upon the appellant instead of Section 302 of IPC as imposed by the learned trial Court. Accordingly, the same is ordered.

[13] In view of the above, the convict-appellant is hereby sentenced to suffer imprisonment for a term of ten years with fine of Rs.1,00,000/- (Rupees One Lakh) only payable to the legal heirs of the deceased and in default, to suffer further rigorous Imprisonment for a term of 06(six) months under Section 304 IPC. Accordingly, the impugned judgment of conviction for life imprisonment passed by the learned Additional Sessions Judge, Dhalai Judicial District, Ambassa in Case No. S.T (Type-I) 15/2019, dated 30/6/2023 and sentence dated 04/7/2023 is modified to the

extent as indicated above. Apart from the observation made above, all other aspects of the judgment of conviction and sentence passed by the learned Court below shall remain unaltered. It is needless to mention that the period of detention already undergone by the convict shall be set off.

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.

B. PALIT, J

T. AMARNATH GOUD, J

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