

**HIGH COURT OF TRIPURA  
AGARTALA  
CRL.A(J) NO.23 OF 2024**

**Shri Jyotish Debnath,**  
S/o, Late Sahadeb Debnath,  
Of Village-Prafulla Deb Para, West Karamcherra,  
P.S.-Manu, District-Dhalai, Tripura.

**.....Convict-Appellant(s)**

**Versus**

***The State of Tripura.***

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

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For the Appellant(s) : Mr. Subrata Sarkar, Sr. Advocate.  
Ms. Ayesha Saha Hirawat, Advocate.  
Ms. V. Poddar, Advocate.

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

Date of hearing and delivery of  
Judgment & Order : 09/07/2025

Whether fit for reporting : 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(ORAL)**

T. AMARNATH GOUD(J)

1. This is an appeal filed under Section 375 of the Code of Criminal Procedure, 1973, against the Judgment and Order of conviction and sentence dated 15.02.2022, passed by the learned Additional Sessions Judge, Dhalai Judicial District, Ambassa, in connection with Case No. ST (Type-1) 35 of 2021, whereby the appellant was convicted and sentenced to undergo rigorous

imprisonment for life for the commission of an offence punishable under Section 302 of the Indian Penal Code.

2. The brief facts of the case are that the accused, Jyotish Debnath, had a long-standing land dispute with his brother (*the complainant*) and his brother's wife, Shueli Debnath (*the deceased/victim*). As neighbours, the accused would often threaten them (the complainant and his wife) against trespassing on his land or courtyard. On 09.05.2021, when the deceased went to a nearby field to tend to her cattle, the accused lost his patience and attacked her multiple times with a '*dao*', causing grievous injuries which resulted in her death on the spot.

3. Upon receiving the complaint, police registered Manu Police Station Case No. 2021 MNU 018, dated 09.05.2021, for the offence punishable under Section 302 of the Indian Penal Code (*hereinafter referred to as 'IPC'*) against the accused, Jyotish Debnath, and endorsed the case for investigation.

4. During the investigation, the Investigating Officer visited the place of occurrence and prepared a hand sketch map with an index. The Investigating Officer also examined available witnesses and recorded their statements under Section 161 Cr.P.C., arranged for statements under Section 164(5) Cr.P.C., and

conducted raids to arrest Jyotish Debnath, and eventually apprehended him.

5. The Court below took up the matter on 17.12.2021 and on 10.02.2022, charge was framed against the accused under Section 302 IPC, to which he pleaded guilty. The same is produced hereunder:-

***"That, you on the alleged morning of 09<sup>th</sup> May, 2021 at about 033 hours at Machilicherrra committed murder of the victim/deceased Shiuli Debnath by attacking her on her neck and shoulder with a sharp dao and that you thereby committed an offence punishable under Section 302 (punishment of murder) of the India Penal Code and without the cognizance of this Court.***

***And I hereby direct that you be tried on the said charge by this Court.***

***"The contents of the charges are read over and explained in Bengali language to the accused person to which he pleaded GUITY"***

***sd/-***

***Addl. Sessions Judge  
Dhalai Judicial District: Ambasa.***

6. Thereafter, the Trial Court followed Section 229 of Cr.P.C., and by dispensing with the Trial under Section 230 of Cr.P.C., passed the Judgment dated 15.02.2022, convicting the accused and sentencing him to undergo rigorous imprisonment for

life for the commission of an offence punishable under Section 302 of the Indian Penal Code.

7. The Court below while passing the order invoking Section 229 of Cr.P.C., has indicated that *"In order to ensure that the "discretion" mentioned in section 229 is exercised judicially and not arbitrarily or mechinally, this Court has minutely explained to the accused that he can be convicted for the offence of murder under Section 302 of IPC on his plea of guilty and sentenced to life imprisonment or the death penalty."*

8. Not being satisfied with the said Judgment and Order of conviction and sentence dated 15.02.2022, the convict-appellant has preferred this appeal to set aside and quash the impugned Judgment and Order of conviction.

9. Heard Mr. S. Sarkar, learned Sr. counsel, assisted by Ms. A.S. Hirawat, learned counsel appearing for the convict-appellant, and Mr. R. Saha, learned Addl. P.P., appearing for the State-respondent.

10. Mr. Sarkar, learned Senior Counsel appearing for the appellant, submits that the present appeal challenges the legality of the sentence. He contends that if Sections 229, 230 and 375 of Cr.P.C., are read together, it is clear that when an accused pleads guilty, the judge shall record the plea and may, in his

discretion, convict him thereon. Therefore, the discretion lies with the Judge to convict based on the plea or to proceed with trial. Recording the plea is mandatory, but conviction is not mandatory. The learned Senior Counsel further argues that the accused stated in his plea that he “murdered” the victim. However, “murder” is a legal term, and in law, it comprises Sections 299 and 300 of the IPC and the same creates ambiguity. The Court simply asked whether he committed murder, and he responded affirmatively. The legal aspect of the matter has not been made clear to the accused including the fact that he has an option not to plead guilty or the fact that after a trial he might be even acquitted. Moreover, no inquiry was conducted into the mental health of the accused. The record shows that the accused-appellant had been suffering from a mental disorder, but this was not considered at all. As per the order dated 29.06.2021, the accused was directed to be shifted from Longtrai Valley Sub-Jail to KST Bisalghar for better treatment as advised by the M.O. of Longtrai Valley Hospital. On 08.07.2021, a medical report from KST Bisalghar stated that the accused was suffering from psychosis, a mental depressive disorder and referred to the definition of ‘*Psychosis*’ under Medical Jurisprudence and relied on the Judgment of the Hon’ble Kerala High Court passed in ***Raseen Babu K.M. Vs. The state of Kerala*** bearing No. ***Crl. Rev.***

**Pet No.227 of 2021** and also relied on Judgment of Hon'ble High Court of Gauhati reported in **2005 0 Supreme(Gau) 793** titled as **State of Mizoram Vs. Ramengmawia.**

11. On the other hand, Mr. R. Saha, learned Addl. P.P., submits that since the accused pleaded guilty, a trial was not necessary. At the time of the trial, the accused-appellant was assisted by a legal aid counsel. Therefore, in the presence of his Advocate, he pleaded guilty. The Trial Court also repeatedly enquired whether he maintained his plea of guilt, to which he confirmed affirmatively. These were also explicitly explained to him in the Bengali language. When an impugned Judgment of conviction is passed under Section 229 of the Cr.P.C., the Court must record the plea and may, at its discretion, convict the accused. Learned Addl. P.P. points out that in the order dated 10.02.2022, when the charge was framed, it is stated that *"the contents of the charges were read over and explained to the accused in Bengali language, to which he pleaded guilty."* Thereafter, in the order dated 14.02.2022, he was again asked about the sentence and the consequences of pleading guilty. He reiterated that he was guilty and had committed the offence. Based on that, the impugned Judgment of conviction was passed under Section 229 Cr.P.C. Learned Addl. P.P., also referred to Section 375 of Cr.P.C., wherein

he argued that if an accused person has pleaded guilty and has been convicted, on such plea, there shall be no appeal.

11.1. Further learned Addl. P.P. stated that the accused was duly assisted by a legal professional but he never took any plea before the trial Court claiming mental illness such as 'psychosis'. There is no record that this concern was ever brought to the notice of the trial judge. He further refers to Para-7 of the impugned judgment, wherein it is stated that the Court had minutely explained to the accused that he could be convicted for the offence of murder under Section 302 of IPC based on his plea of guilt.

11.2 Accordingly, the learned Addl. P.P. urges this Hon'ble Court to consider the above submission and dismiss the appeal as not maintainable.

12. Heard the parties and perused the materials on record.

13. Before we delve into the reasoning of the case, let us re-produce Sections 229, 230 and 375 of Cr.P.C., and Sections 299 and 300 of IPC:-

" **229. Conviction on plea of guilty.- If the accused pleads guilty, the Judge shall record the plea and may, in his discretion, convict him thereon.**

**230. Date for prosecution evidence.-** if the accused refuses to plead, or does not plead, or claims to be tried or is not convicted under section 229, the Judge shall fix a date for the examination of witnesses, and may, on the application of the prosecution, issue any process for compelling the attendance of any witness or the production of any document or other thing.

**375. No appeal in certain cases when accused pleads guilty.-** Notwithstanding anything contained in section 374, where an accused person has pleaded guilty and has been convicted on such plea, there shall be no appeal.

1. if the conviction is by a High Court; or
2. if the conviction is by a Court of Session, Metropolitan Magistrate or Magistrate of the first or second class, except as to the extent or legality of the sentence.

**"299. Culpable homicide.—**

**Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide."**

**300. Murder.—**

**Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or**  
**(Secondly)—** If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or  
**(Thirdly)—** If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or  
**(Fourthly)—** If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid."

14. The process adopted by the learned Trial Court suffers from grave procedural lapses, particularly concerning the mental fitness of the accused at the time of recording his plea. The medical records in the lower Court file, the Doctor reports dated 08.07.2021, 03.08.2021, 21.07.2021, 30.08.2021, 12.09.2021, 06.10.2021 and ors., clearly indicate that even prior to the framing of charge on 10.02.2022, the accused-appellant had been diagnosed with '*psychosis*', a serious mental condition which impairs judgment, comprehension, and decision-making ability. The medical report say that he is not fit for trial, yet, there is no evidence that the Trial Court ever recorded any finding of satisfaction as to whether the accused was mentally fit to enter a plea of guilty, nor was there any judicial discussion of the medical opinion available on record. This omission vitiates the voluntariness and reliability of the plea.

15. Furthermore, Section 229 of Cr.P.C states that, while the recording of a plea is mandatory, conviction is not automatic. It is at the discretion of the Judge, who must exercise such discretion judiciously, especially in offences carrying the maximum punishment of life imprisonment or death under Section 302 IPC. In such serious charges, the judicial duty is heightened. The accused mere admission of guilt, especially by stating "*I have*

*murdered,*" cannot be construed as a legal acknowledgment of all ingredients constituting murder under Sections 299 or 300 IPC, unless it is clear that the accused fully understood the legal implications of the term. In common language, "*murder*" simply means "*killing someone.*" But legally, the Court must ascertain whether the killing amounts to murder under Sections 299 or 300 of IPC. That legal distinction was not explained to the accused. It was the duty of the Court to examine the legal nature of the act, not merely rely on the accused's understanding of the word "*murder*", because the punishment differs and needs to examine as to which provision needs to be applied for punishment.

16. The language used, the lack of clarity on the gradation between culpable homicide and murder, and the absence of explanation of possible acquittal or lesser conviction if trial proceeds, further highlight that the accused was not made aware of the complete legal landscape. The legal aid counsel's mere presence does not fulfill the constitutional guarantee of effective assistance of counsel, especially when the accused is mentally vulnerable and the stakes involve capital punishment.

17. The absence of any satisfaction recorded regarding the mental health of the accused prior to framing the charge, and

the failure to explain the gravity of punishment under Section 302 IPC, render the prior proceedings defective.

18. According to *Dr. K.S. Narayan Reddy's Medical Jurisprudence and Toxicology*, 'psychosis' is characterized by a withdrawal from reality and living in a world of fantasy, with progressive loss of contact with reality. Similarly, as per *Dr. Gupta & Agarwal's Medical Jurisprudence and Toxicology*, 'psychosis' is "an extreme mental disturbance involving distorted perceptions and irrational behavior." Therefore, when it is already on record that the accused is suffering from severe mental illness, the Court ought to have conducted a proper inquiry as to whether the accused is fit to give his plea. This essential procedural safeguard was overlooked. The mental health condition was known to the Court prior to the framing of charge, yet it was not considered while accepting the plea of guilt. Thus, the procedure outlined in Sections 229 and 230 Cr.P.C. was not followed, rendering the entire process vitiated.

19. The Hon'ble High Court of Kerala in ***Raseen Babu K.M. Vs. The state of Kerala***(supra), states thus:-

***Para-11. The relevant provisions and the precedents discussed above mandate compliance of the following requirements before acting upon the pleading of guilt by an accused;***

**(i) The Magistrate should frame the charge, specifying the offences alleged against the accused;**

**(ii) The charge should be read over and explained to the accused;**

**(iii) The accused should be asked whether he pleads guilty of the offence/s with which he is charged;**

**(iv) The accused should plead guilty after understanding the seriousness of the CrI.R.P.Nos.227 and 228 of 2021 allegations and the implications of pleading guilty. The plea should be voluntary and expressed in clear and unambiguous terms.**

**(v) The Magistrate should record the accused's plea of guilty in the words of the accused, to the extent possible.**

**(vi) The Magistrate, after considering all relevant factors should exercise his discretion and decide whether to accept the plea of guilty or not**

**(vii) If the plea is accepted, the accused can be convicted and suitable punishment imposed. "**

20. The Hon'ble High Court of Gauhati in **State of Mizoram Vs. Ramengmawia** states thus:-

**"Para-8. What also needs to be borne in mind is that ordinarily, for a common man, killing of a person is murder; whereas in law, murder is an offence strenuously defined under [Section 300](#) read with [Section 299](#) IPC. A killing, in only specified circumstances, can amount to murder. For a layman, therefore, to plead guilty to the charge of murder does not necessarily mean that his plea of guilt is to the charge of murder, for, his plea of guilt may, unknowingly and in reality, be to his act of killing, which, in law, may or may not amount to murder. To put it differently, the plea of guilt of an accused may, thus, be a plea to the accusation of killing, which may or may not, eventually, amount to murder, for, to a common man, there is no difference between the act of killing and murder. Therefore, to decide the nature of the offence, the Court should have before it the details of the occurrence, the motive and the circumstances under which the act was done and for this purpose, it is not only desirable, but essential that the entire**

***evidence be placed before the Court unless the circumstances of the case and the plea of guilt of the accused indicate otherwise enabling the Court to dispense with the requirement of obtaining evidence before it and to act entirely on the plea of guilt of the accused."***

21. Article 21 of the Constitution of India states that:-

**"21. Protection of life and personal liberty**

***No person shall be deprived of his life or personal liberty except according to procedure established by law."***

22. It is needless to observe that the Constitution has protected by way of its fundamental right, the life and liberty of a citizen. Moreover, in the discussion, the Court below has not given any reasoning dealing with mental ability and health. Condition of the accused-convict and also no reasoning is given how the Court has clarified and explained about the consequences of pleading guilty or not guilty and his right to be tried and chances of acquittal or lesser punishment before taking a decision under Section 229 of Cr.P.C.

23. Though the Section 229 of Cr.P.C., do not explain in detail, but the duty is cast upon the Court in all fairness to follow certain hidden procedure by way of its discretion. The word discretion is not an empty formality to be exhausted but in its wisdom is a complete hidden and underlying procedure to be adopted to unearth the truth to meets the ends of justice.

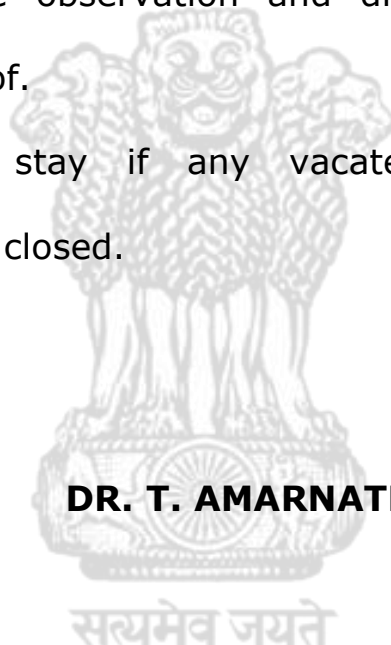
24. In light of the above discussion this Court feels that an opportunity of trial could have been given to the accused. The impugned Judgment is liable to be set aside and accordingly, the same is set aside and the matter is remanded back to the Trial Court to adjudicate the same as per procedure by conducting Trial. The Court shall, before proceeding further, ensure that the accused is mentally fit to stand trial.

25. With the above observation and direction, this present appeal stands disposed of.

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

**B. PALIT, J**

**DR. T. AMARNATH GOUD, J**



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