

**HIGH COURT OF TRIPURA
AGARTALA
Crl.A(J)No.27 of 2024**

1. Sri Dulal Tanti,
Son of Late Shatrughan Tanti,
Village: Purba Sunatala,
P.S. Khowai, District: Khowai Tripura

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

Versus

The State of Tripura,
(Notice to be served through the Ld. Public Prosecutor),
High Court of Tripura,
Agartala, West Tripura

----**Respondent(s)**

For Appellant(s)	:	Mr. Partha Sarathi Roy, Adv.
For Respondent(s)	:	Mr. Rajib Saha, Addl. P.P.
Date of Hearing and date of delivery of Judgment and Order	:	12.03.2025
Whether fit for Reporting	:	NO

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Judgment & Order (Oral)

[Amarnath Goud, J]

This appeal is filed under Section 374(2) of Cr.P.C. challenging the judgment and order of conviction and sentence delivered by Learned Addl. Sessions Judge, Khowai Judicial District in connection with Case No. S.T.(Type-1) 08 of 2021. By the said judgment and order of conviction and sentence Learned Trial Court has found the appellant to be convicted under Section 302 of IPC and also sentenced him to suffer RI for life and also to pay a fine of Rs.5000/- in default to suffer further RI for six months. It

was also order that the sentence of imprisonment shall run concurrently.

02. Heard Learned Counsel Mr. P.S. Roy appearing on behalf of the appellant and also heard Learned Addl. P.P. Mr. R. Saha appearing on behalf of the respondent.

03. Taking part in the hearing Learned counsel appearing for the appellant first of all drawn the attention of the court that there is delay in lodging the FIR but no explanation could be given by the prosecution before the Learned Trial Court regarding delay. Learned counsel further submitted that in this case charge was framed under Section 302 of IPC and to substantiate the charge prosecution in total adduced 11 numbers of witnesses and the evidence of the witnesses of the prosecution are also suffers from infirmities and lot of contradiction. But the Learned court below failed to appreciate the evidence on record properly and found the appellant to be guilty. Learned counsel further drawn the attention of the court that the appellant is convicted under Section 302 of IPC but from the evidence on record it will transpire that there was grave and sudden provocation from the side of the deceased victim for which the offence was committed. But on the face of evidence on record there was no scope to presume the appellant to be guilty for the offence punishable under Section 302 of IPC and furthermore the evidence on record does not conclusively show the involvement of the appellant with the alleged crime. Hence Learned counsel urged for

allowing this appeal by setting aside the judgment and order of sentence delivered by the Learned Trial Court below.

04. On the other hand, Learned Addl. P.P. Mr. R. Saha appearing on behalf of the state-respondent submitted that from the evidence on record PWs 1 and 2 it is crystal clear that the appellant has committed murder of the deceased using axe on the alleged date and time. The appellant inspite of his thorough cross-examination of the witnesses of the prosecution save and except some minor discrepancies could not discredit/dismantle the evidence on record of the prosecution. Situated thus, the Learned Trial Court below after considering the evidence on record rightly and reasonably found the appellant to be guilty and there is no scope to interfere with the judgment delivered by the Learned Trial Court and urged for dismissal of this appeal.

05. In the case at hand the prosecution was set into motion on the basis of an FIR laid by one Sankari Tanti to OC, Khowai PS alleging inter alia that on 17.07.2019 at about 6.15 p.m. in the evening her younger son came back to house and informed her that Dulal Tanti had abused her younger son verbally and also had beaten him and used abusive languages towards him. Hearing that, her elder son Rahul Tanti went to the house of the accused person in order to ask him when the accused Dulal Tanti hit the throat of her son by the axe and that was kept on his room. Immediately her son Rahul came out with a loud cry by

keeping his hand on his throat. The people of the locality took him to Khowai Hospital while the attending Doctor declared him as dead. On the basis of an FIR Khowai PS Case No.70/2019 under Section 302 of IPC was registered and the case was endorsed to I.O. who on completion of investigation laid chargesheet. The case was committed to the court of Learned Sessions Judge, Khowai District and the Learned Sessions Judge on 30.09.2021 framed the charge against the appellant under Section 302 of IPC to which he pleaded not guilty of offence and claimed to be tried. To substantiate the charge prosecution has adduced in total 11 numbers of witnesses.

06. PW-1 Sankari Tanti is the informant. She deposed that she filed the case against the accused-appellant. The incident took place about three years back on a day in the evening when a quarrel took place between her younger son and Dulal Tanti. Rahul Tanti her elder son came to interfere in the matter. Dulal Tanti is the maternal uncle of Rahul Tanti. Thereafter, Sukla Tanti daughter of Dulal has pushed Rahul Tanti and Rahul Tanti fell down. Thereafter Dulal came with an axe and assaulted Rahul Tanti on his neck. After that Rahul came out from the P.O. holding his neck and thereafter he was brought to Khowai Hospital by an Auto where he succumbed to his injury. On the day of incident she laid the ejahar and identified her signature marked as Exbt.1/1. She further stated one Pranesh had written her ejahar as per her version.

During cross-examination excepting denial nothing came out relevant.

07. PW-2, Birendra Tanti deposed that he knew Dulal Tanti as a neighbour and he also knows Sankari Tanti who is his close relative and also know Rahul Tanti as his nephew. Rahul Tanti expired. The incident took place in the evening approximately three and half years back. That time he saw his elder brother Govinda Tanti was wrapping clothes around the neck of Rahul Tanti and that time he heard that Dulal Tanti struck Rahul Tanti on his neck with an axe. They immediately brought the victim to the hospital where he was declared dead. He signed on the Surathal report and identified his signature on the Surathal report marked Exbt.2/1.

During cross-examination save and except denial nothing came out relevant.

08. PW-3, Mahendra Tanti deposed that Rahul Tanti is the son of Sankari Tanti who expired. In front of this witness the I.O. has seized one blood stained axe, one blood stained blue colour plastic and one broom. The articles were seized from the house of Dulal Tanti. One Ramesh Tanti was also present when I.O. seized the same. He identified his signature on the seizure list marked Exbt.3/1 and seized articles namely blood stained axe, blood stained blue colour plastic, blood stained mud and broom which were marked as Exbt.MO-1 (series). Later on,

he heard that Dulal Tanti killed Rahul Tanti by an axe which was recovered.

During cross-examination he was confronted with the statement that he stated to I.O. later on he could know Dulal Tanti killed Rahul Tanti and the said portion of statement was not found in the statement recorded by I.O. Nothing more came out relevant.

09. PW-4, Biswajit Dey conducted videography in the P.S in the house of one Tanti at Sunatala. He stated that a person has been assaulted by an axe and was killed and the said scene was reconstructed through his videography. He prepared two numbers of C.D cassette and identified the CD cassette marked Exbt MO-2 series. Four numbers of photographs about the place of occurrence which was taken by him also produced before the court in an envelope which after identification by the witness was marked as Exbt.MO-3 (series). The seized articles were seized on 24.07.2019 and during seizure Sekhar Bhattacharjee and Ashish Chakraborty were present and the witness identified his signature on the seizure list marked Exbt.4/1.

During cross-examination he stated that he did not submit any licence before the I.O. regarding photography. Nothing more came out relevant.

10. PW-5, Sekhar Bhattacharjee on 24.07.2019 at about 15.00 hours at Khowai P.S. the I.O. of this case has seized two C.D cassettes in his presence when reported of Dainik Sambad, Ashish Chakraborty was also present and

those CD cassettes were seized in connection with murder case. One person who does videography has given the CD cassette and he identified his signature in the seizure list marked Exbt.4/2.

During cross-examination he stated that he was not examined by I.O.

11. PW-6, Ashish Chakraborty deposed that he was a press-reporter by profession. On 24.07.2019 at about 1500 hours at Khowai P.S. the I.O. of this case has seized two CD cassettes in his presence from one Biswajit Dey @ Badal. One Shekhar Bhattacharjee was also present with him at the time of seizure. The witness identified the seizure list which was marked as Exbt.4/3.

During cross he stated that he was not examined by the I.O.

12. PW-7, Pranesh Ranjan Debroy deposed that on 17.07.2019 as per instruction of one Sankari Tanti he had written one ejahar in his own hand-writing and the contents of the ejahar was read over to the informant and being satisfied the informant put her signature in the ejahar. The witness identified the ejahar marked as Exbt.1 and the signature marked Exbt.1/2.

During cross-examination he stated that he was examined by I.O. and further stated he belongs to Ward No.2 and Dulal Tanti belongs to Ward No.3 and Sankari Tanti also lives in Ward No.3.

13. PW-8, Dr. Arnab Debbarma deposed that on 17.07.2019 at around 7.00/7.15 hours in the evening he was posted as a Medical Officer in Khowai District Hospital. On that date and time some persons came with an injured patient and he inquired them and found the name of the patient as Rahul Tanti aged about 20 years. After that he could know from the relative of Rahul Tanti and his mother that around 5/6.00 p.m. due to altercation maternal uncle of Rahul Tanti namely Dulal Tanti has assaulted Rahul Tanti with an axe as a result of which Rahul Tanti expired.

During cross nothing came out relevant.

14. PW-9, Dr. John Debbarma conducted the post-mortem of the deceased Rahul Tanti. He deposed that on 18.07.2019 he was posted as a Medical Officer of Khowai District Hospital. On that day he conducted the post-mortem of the deceased Rahul Tanti and prepared the report. The patient was brought dead and he conducted the post mortem report. While conducting the post mortem report there were frothy blood in right and left ventricles of heart of the deceased. There was one lacerated wound over the neck going above downwards from left to right across mid line measuring 8 cm x 0.3 cm x Muscle depth with involvement of the neck vessels and one linear abrasion over right fore arm extensor surface size measuring 4 cm x 0.1 cm, 8.6 cm above the wrist. At the end he opined that the cause of death is due to air embolism homicidal in nature, time since death 16 to 17 hours. Air embolism

means entry of air in the large vessels of neck resulting in obstruction of vessels of the heart. Such injury can be inflicted in the neck with the help of sharp cutting weapon. The is the said post mortem report in three pages which marked as Exbt.5 (series) in three pages prepared by him and he identified his signature marked as Exbt.5/1. He also identified his signature in the seizure list marked as Exbt.6/1. He also identified his signature in the command certificate marked as Exbt.7/1.

During cross-examination nothing came out relevant.

15. PW-10, Md. Chayad Uddin is the I.O. He deposed that on 17.07.2019 he was posted at Khowai P.S as S.I. On that day this case was endorsed to him for investigation. He identified the signature of Debananda Reang being his colleague marked Exbt.1/3. Said Debananda Reang filled up the printed FIR form. The witness identified the printed FIR form marked Exbt.8 as a whole and signature of Debananda Reang marked as Exbt.8/1. He deposed that the case being endorsed to him he came out from the police station and visited Khowai Hospital and consulted with the on duty Medical Officer and made arrangement for shifting the dead body of the deceased Rahul Tanti in the morgue. He prepared the surathal report and identified the said surathal report marked Exbt.2 as a whole and his signature marked Exbt.2/2. He went to the P.O. and prepared hand sketch map with index and recovered axe from the P.O. along with

one jharu. He also seized one plastic article for putting dirty articles along with blood stained marked by preparing a seizure list. He identified the seizure list marked Exbt.3 and his signature marked Exbt.3/2. He further stated that the said articles were seized in presence of the witnesses Mahendra Tanti and Ramesh Tanti. He also examined both Mahendra Tanti and Ramesh Tanti and recorded their statement under Section 161 of Cr.P.C. He prepared the hand sketch map with index and identified the same marked Exbt.9 and signature in the hand sketch map marked Exbt.9/1. The index of the P.O. marked Exbt.10 and the signature marked Exbt. 10/1. He further stated that two CD cassettes prepared by one Biswajit Dey, professional photographer and he seized those CD identified the seizure list marked Exbt.4 as a whole and the signature on the seizure list marked Exbt.4/4. He identified the CD cassette marked as Exbt.MO-1 (series). He further stated that during the course of investigation he proceeded towards Sunatala. He caused arrest of accused. He arranged for reconstruction of the crime scene and also recorded the statement of the witnesses Sukla Tanti and Shipra Tanti. The blood of the deceased over filter paper was taken from the body of the deceased and in this respect he prepared a seizure list in presence of seizure list witness and the said seizure list marked as Exbt.6 as a whole and the signature marked as Exbt.6/2. On 19.07.2019 at about 1500 hours the then SDPO Sankar Ch. Das arrived as the PS for arranging a

committee in connection with the case and in presence of Sankar Ch. Das Swapnajit Sarkar and one Manik Sarkar went to the P.O. for reconstruction of the crime scene. In presence of Swapnajit Sarkar and Manik Sarkar one disclosure statement of the accused was prepared and the said disclosure statement after identification was marked Exbt.11 as a whole and the signature in the disclosure statement was marked Exbt.11/1. He also identified the pointing out memorandum prepared by him which was marked as Exbt.12 as a whole and the signature marked as Exbt.12/1. He also received post-mortem report from Dr. John Debbarma of Khowai Hospital. He also prepared the forwarding report of the exhibits in three pages which after identification was marked as Exbt.13(series). He further stated that in course of investigation he received Forensic report from the State Forensic Science Laboratory, Narsingarh and after receiving the forensic report he laid chargesheet.

During cross-examination he stated that he has not marked anything on the body of the axe but the witness volunteered that in the packet holding the axe he has given his signature. The CD cassette which marked as Exbt.MO1 (series) bears the signature of Biswajit Dey, the producer of the C.D cassette. He has not seized the licence of Biswajit Dey. He further stated that he had not cited Bikram Das who cordoned the place of occurrence as a witness nor cited

Swapnajit Sarkar, Sankar Ch. Das and Sabyasachi Nath and Manik Sarkar as a witness of the case.

16. PW-11 Dr. Sabyasachi Nath deposed that on 24.07.2019 he was posted as Senior Scientific Officer in S. F. S. L Tripura. On that day their office received one sealed parcel containing five exhibits marked as A to E in connection with Khowai P.S Case No.2019/KHW/070 dated 17.07.2019 under Section 302 of IPC and accordingly he conducted examination on the said exhibits in biology/serology division of their laboratory during the period from 25.07.2019 to 29.07.2019. On examination he opined that blood stains of human origin were detected in the exhibits A, B, C and D. After examination in the serology division stained portions of all the five exhibits were forwarded to DNA typing division for generation of DNA profile and he identified the report in the single page which bears his signature marked Exbt.14 as a whole and his signature marked Exbt.14/1. He further stated that he also worked with Subhankar Nath, Deputy Director in the same office and the portion of five exhibits marked Exbts. A, B, C, D and E which were forwarded from biology serology division to DNA typing division were subsequently examined in DNA typing division by Dr. Subhankar Nath and he submitted his report containing six pages. He further stated that details of the exhibits, procedure of examination, results and conclusion are there in his report. He identified the report of DNA typing division containing six pages

prepared by Dr. Subhankar Nath which was marked as Exbt.15(series) and the signature of Dr. Subhankar Nath in each page marked as Exbt.15/1. He further stated that after examination of both the report from the biological/serological division and DNA typing division were clubbed together and forwarded by Dr. H. K. Pratihari, Director-cum-Chemical examiner of TFSL, Government of Tripura. He identified the forwarding report forwarded by Dr. H. K. Pratihari marked Exbt.16 and the signature of Dr. Pratihari on the forwarding marked as Exbt.16/1.

During cross nothing came out relevant.

These are the sum and substance of the evidence on record of the prosecution in respect of determination of charge.

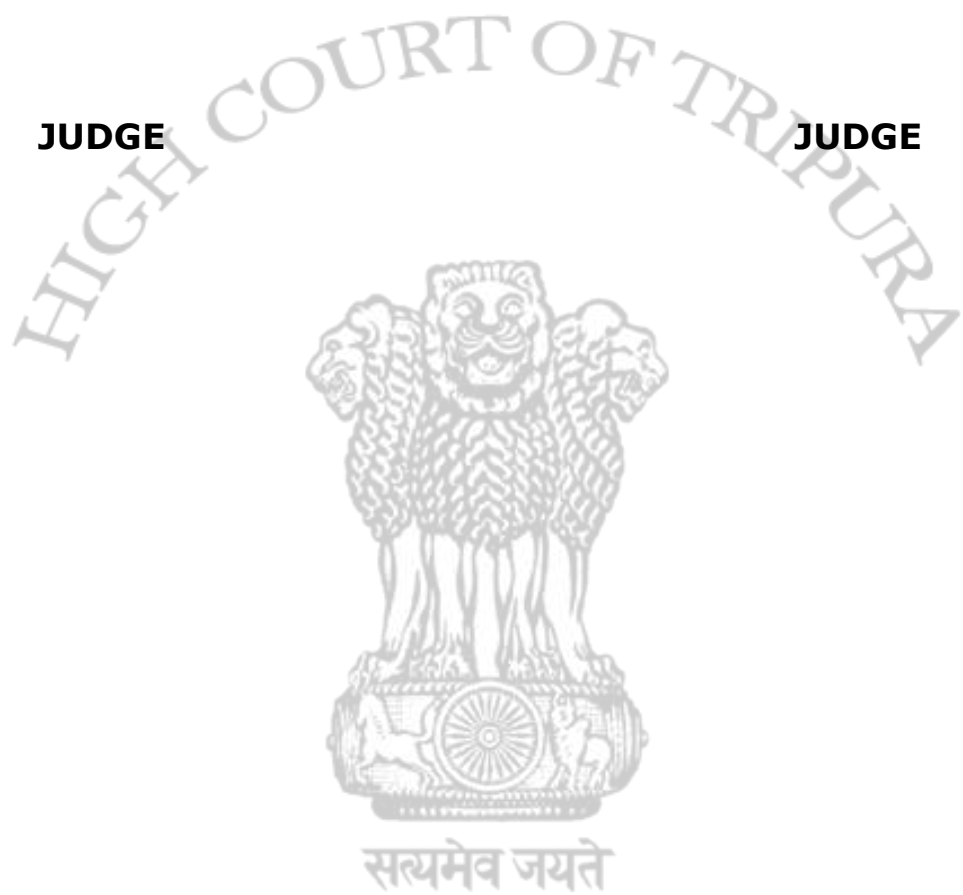
17. We have heard both the sides at length and perused the evidence on record of the prosecution very carefully. From the evidence on record adduced by the prosecution before the Learned Trial Court below it appears that the appellant in course of his examination failed to discredit the evidence on record of PWs1 and 2 in any manner and other witnesses of the prosecution regarding causing death of the deceased by an axe. Prosecution also has been able to prove the seized weapon of offence which has been marked as Exbt. And the appellant in spite of cross-examination of the other witnesses of the prosecution also could not in any manner raise any doubt to disbelieve the evidence on record of the prosecution. So after hearing

of both the sides and from the PM examination report and also the report of SFSL and the evidence on record of PW-11, Dr. Sabyasachi Nath, it is crystal clear that by the alleged weapon of offence on the alleged date and time the appellant committed murder of the deceased Rahul Tanti. Thus, it appears to us that the Learned court below rightly and reasonably found the appellant to be guilty and convicted him accordingly under Section 302 of IPC. Although in course of hearing of argument Learned counsel for the appellant took the plea that due to sudden provocation the appellant has committed the offence but in this regard from the record of the Learned court below it appears to us that during trial the appellant did not utter any raise any point during the cross-examination of prosecution of witnesses that due to sudden provocation the offence was committed. Situated thus, at this stage before the appellate court, there is no scope to accept the submission made by the Learned Counsel for the appellant. So, after hearing both the sides and also after going through the evidence on record of the prosecution it appears that the prosecution had been able to prove the charge levelled against the appellant before the Learned Trial Court below and accordingly the Learned Trial Court rightly found the appellant to be guilty and convicted him.

In the result, the appeal filed by the appellant is hereby dismissed on contest. The judgment and order of

sentence and convict delivered by the Learned Trial Court is hereby upheld and the same is accordingly affirmed.

Send down the LCRs forthwith along with a copy of this judgment. Also a copy of this judgment be communicated through the Superintendent of Jail, Kendriya Sansodhanagar, Bishalgarh to the appellant convict of this case.



**MOUMITA
DATTA**

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