

**HIGH COURT OF TRIPURA  
AGARTALA  
CRL.A(J) NO.28 OF 2024**

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

**Sri Surjya Manik Tripura,**  
S/o Late Mangal Chan Tripura,  
Of South Taibandal,  
P.S. Melaghar, (Now undergoing imprisonment of Sonamura Sub Jail  
Sepahijala, Tripura)

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

**Versus**

**The State of Tripura.**

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

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For the Appellant(s) : Mr. Sankar Bhattacharjee, Advocate.

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

Date of hearing and delivery of  
Judgment & Order : 02.09.2025.

Whether fit for reporting : YES/NO.

**J U D G M E N T & O R D E R ( O R A L )**

T. Amarnath Goud, J

1. This present appeal has been filed under Section 374 of the Code of Criminal Procedure, 1973, against the Judgment of Conviction and order of sentence dated 27-09-2023 passed in ST (Type-1) 33 of 2022 by the learned Sessions Judge, Sonamura, Sepahijala, Tripura, convicting and sentencing the appellant to suffer Rigorous Imprisonment (RI) for life and to pay a fine of Rs. 20,000/- (Rupees twenty thousand) only, in default (i.d.) to

suffer further Simple Imprisonment (SI) for six months, for commission of the offence punishable under Section 302 of IPC. The appellant is further sentenced to suffer Rigorous Imprisonment (RI) for three years and also to pay a fine of Rs. 5,000/- (Rupees five thousand) only, i.d. to suffer further Simple Imprisonment (SI) for one month, for commission of an offence punishable under Section 201 of IPC. Both the sentences shall run concurrently.

2. The brief facts of the case are that one Sri Nabadwip Murasing lodged a complaint alleging *inter alia* that on 18.02.2022, in the evening, while his father Sri Madan Kumar Murasing, aged about 35 years, went to the village shop, on 19.02.2022 at about 03.00 A.M., while his father was returning home on the motorbike of one Krishna Mohan Tripura, the appellant stopped the bike in front of the house of one Aichuk Rai Murasing, and all of a sudden inflicted a '*dao*' blow on the head of the complainant's father. On receiving the information, the complainant with others rushed to the place of incident and brought his father to Taibandal PHC, where his father was declared dead by the attending doctor.

3. On the basis of the said complaint, Melaghar P.S. Case No. 29/22 dated 31-05-2022 under Sections 302/201 of IPC was registered against the appellant. The police started investigation and arrested the appellant. During investigation, the Investigating Officer (IO) recorded the statements of witnesses under Section 161 of Cr.P.C., collected material evidence, and filed charge-sheet against the appellant under Sections 302/201 of IPC before the learned CJM, Sonamura, Sepahijala District. The case was committed to the Court of Sessions Judge, Sonamura, Sepahijala District. Thereafter, the learned Trial Court, after hearing submissions from both sides, framed charge against the appellant under Sections 302/201 IPC. The appellant pleaded not guilty and claimed to be tried. During trial, the prosecution examined 20 witnesses and exhibited documents and material

objects. The appellant was examined under Section 313 of Cr.P.C. on 20-06-2023, wherein he denied the allegations, pleaded innocence, and declined to adduce any evidence. On 13.09.2023 and 14.09.2023, the Trial Court heard final arguments from both sides, and on 27.09.2023 delivered judgment convicting and sentencing the appellant as stated here-in-above.

4. Being aggrieved and dissatisfied by the impugned judgment and order, this present appeal has been filed seeking to quash/set aside the judgment of conviction and order of sentence dated 27.09.2023.

5. Heard Mr. Sankar Bhattacharjee, learned counsel appearing for the appellant, as well as Mr. Raju Datta, learned P.P., appearing for the State-respondent.

6. Mr. S. Bhattacharjee, learned counsel for the appellant, submits that the learned Trial Court did not properly analyze the evidence on record and wrongly convicted the appellant. He contends that PW-1, the complainant, in his examination-in-chief, stated that when he chased the appellant, the appellant threatened to kill him and also asked him to shift his father to the hospital. While appreciating PW-1's evidence, the Trial Court ought to have considered the reason for such utterances.

6.1. Learned counsel further submits that PW-2 stated in his examination-in-chief that at about 11.30 P.M., the appellant went to the place where PW-2 along with Chandra Manik Tripura, Madan Kumar Murasing, and Akash Debbarma were playing cards in the tea stall of Sanjoy Murasingh at Twibandal/Gamaicherra. At that time, the deceased Madan Kumar Murasing demanded money from the appellant, and a quarrel ensued. They were separated, and thereafter the deceased, Akash Debbarma, and the appellant left the place. Later, PW-2 found the appellant armed with a lathi. The Trial Court ought to have inferred that there was a quarrel and sudden provocation, and further ought to have disbelieved PW-1's version that the appellant was armed with a 'dao'.

6.2. Learned counsel submits that PW-3 also stated in his examination-in-chief that he found the appellant armed with a lathi, but the Trial Court ignored this material part of the evidence.

6.3. Learned counsel further submits that the Trial Court wrongly relied upon PW-6 for the alleged recovery of the '*dao*'. PW-7, however, stated that the '*dao*' was seized from his courtyard, which is accessible to many persons. Thus, such recovery has no evidentiary value. To attract Section 201 of IPC, there must be concealment or disappearance of evidence, which is absent here.

6.4. Learned counsel submits that PW-1, in cross-examination, admitted that he only learnt from others that PW-2, PW-3, and PW-9 were playing cards with the deceased and that the appellant was present. None of these witnesses stated that the appellant was carrying a '*dao*'. Hence, the finding of the Trial Court is liable to be set aside.

6.5. Learned counsel also relies on the evidence of PW-20, the Senior Scientific Officer-cum-Assistant Chemical Examiner, who deposed that although he received a metallic '*dao*' with a bamboo handle for examination, no blood stains could be detected on it. This creates doubt about the recovery of the weapon and weakens the prosecution case. Hence, the judgment and order of sentence deserve to be set aside.

7. On the other hand, learned P.P. submits that the prosecution has proved all the circumstances and connected them in such a manner that they lead to only one conclusion, namely, the guilt of the accused. Thus, the judgment of conviction and sentence is just and proper and needs no interference.

8. Heard and perused the evidence on record.

9. On careful consideration of the rival submissions and evaluation of the evidence, this Court is of the view that the conviction of the appellant under Section 302 IPC requires modification. The testimony of

PW-2 and PW-3 shows that a quarrel took place between the deceased and the appellant immediately prior to the incident. The deceased demanded money from the appellant, leading to heated exchanges, and both had to be separated. Thereafter, they left the tea stall together. This establishes the existence of a quarrel and sudden provocation before the assault.

10. While ocular testimony indicates that the deceased suffered a fatal blow, the prosecution evidence is inconsistent regarding the weapon carried by the appellant. PW-1 claimed that the appellant was armed with a 'dao', but PW-2 and PW-3 stated they saw him with a lathi. Moreover, the 'dao' recovered at the instance of the appellant did not contain any blood stains on forensic examination. These infirmities create doubt about the actual weapon used and weaken the inference of a premeditated, intentional killing.

11. The totality of the circumstances does not bring the case within the definition of "*murder*" under Section 300 IPC. There is no material to prove that the appellant acted with the intention of causing death, or such bodily injury that was sufficient in the ordinary course of nature to cause death. At best, the appellant can be attributed with knowledge that his act was likely to cause death, but without intention to cause death. Accordingly, the act falls under Section 299 of IPC (culpable homicide) and specifically attracts Section 304 Part II IPC, which applies where the act is done with knowledge that it is likely to cause death but without intention to cause death.

12. Consequently, the conviction of the appellant under Section 302 of IPC is altered to Section 304 Part II of IPC. The appellant is sentenced to suffer Rigorous Imprisonment for 10(ten) years. The conviction under Section 201 IPC is sustained, with the sentence of Rigorous Imprisonment for 3(three) years and a fine of Rs. 5,000/-, i.d. to suffer

Simple Imprisonment for 1(one) month. Both sentences shall run concurrently.

13. Accordingly, the appeal is disposed of in the above terms. As a sequel, stay, if any, stands vacated. Pending applications, if any, also stand closed.

**B. PALIT, J**

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

HIGH COURT OF TRIPURA



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Suhanjit

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