

HIGH COURT OF TRIPURA
AGARTALA

CRIMINAL REVISION PETITION 27 OF 2025

1. Farid Uddin alias Farij Uddin, aged 75 years,
S/o Lt. Kurban Ali, R/o Sabajpur, Ward No.7,
District-North Tripura.

2. Md. Jalil Uddin (38 years),
S/o Md. Farid Uddin alias Farij Uddin,
R/o Sabajpur, Ward No.7,
District-North Tripura.

---Convict-Petitioners.

Versus

The State of Tripura.

---Respondent.

BEFORE
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

For the Convict-petitioners : Ms. Saswati Nag, Advocate.

For the Respondent : Mr. Rajib Saha, Addl. P.P.

Date of Argument : 26.09.2025

Date of delivery of Judgment
and Order : **16.12.2025**

Whether fit for reporting :

YES	NO
	✓

JUDGMENT & ORDER

This revision petition has been filed challenging the judgment and order dated 10.04.2025, passed by the learned Sessions Judge, North Tripura, Dharmanagar in Criminal Appeal No.13 of 2024, whereby the learned Sessions Judge affirmed the judgment and order of conviction and sentence, passed by the learned Judicial Magistrate 1st Class, Dharmanagar, in Case No. PRC (WP) 130 of 2022, convicting both the convict-petitioners [here-in-after referred to as the 'petitioners']

for committing offence punishable under Sections 326/34 of IPC and sentencing them to suffer rigorous imprisonment for one year and to pay a fine of Rs.10,000/- each, and in default to suffer rigorous imprisonment for one month further.

2. Brief fact of the prosecution case is that the victim, Md. Gyas Uddin, is the son of the petitioner, Farid Uddin and full blood brother of another petitioner, Jalil Uddin. He lodged the FIR on 23.07.2022 alleging that on that day, at about 7:30 pm, when he was on the roadside in front of his house, his said father and brother inflicted 'dao' blows on him. He collapsed on the ground with bleeding injuries and thereafter they also assaulted him indiscriminately with sticks. The locals called the Fire Service by which he was taken to Dharmanagar District Hospital, wherein he got treatment.

3. The charges against both the petitioners were framed under Sections 326 read with Section 34 of IPC and also under Section 506 of IPC read with Section 34 of IPC. No conviction was rendered upon the petitioners under Section 506 of IPC.

4. The prosecution, during trial, examined total 13 witnesses who are the victim (PW-1), his mother (PW-2), wife of the petitioner Jalil Uddin (PW-3), uncles of the victim (PWs 4 and 5), Medical Officer (PW-6), Fireman (PW-7), co-villagers (PWs 8, 9 & 10) and the rest three witnesses i.e. PWs 11, 12, & 13 were the police officials.

5. PW-1, the victim, Md. Gyas Uddin in his evidence, categorically stated that on the said date and time, on Tongibari-Sabajpur road, he was proceeding to the market from his house and when he

reached closer to the house of his brother (petitioner No.2), both his father and the said brother had assaulted him physically by machete and lathi. He suffered grievous injuries on his head, face, cheek and right shoulder. On his outcry, the neighbouring people gathered on the spot and then he was taken to Dharmanagar District Hospital and from there he was shifted to AGMC & GBP Hospital, Agartala, where he was admitted for about one month.

In his cross-examination, PW-1 stated that the petitioner No.2 was residing in his father's house where his parents were also residing. He also stated that there was a dispute between them relating to the property but when his parents started living with his said brother, there was no dispute between them at that time.

6. PW.2, Mst. Razia Begam, the mother of the victim i.e. the wife of the present petitioner No.1 though divulged in her evidence that after she went to the place of occurrence, she found the victim in a pool of blood and was bleeding but she did not support the prosecution case. Therefore, she was declared hostile by the prosecution. She also admitted that at that time she was residing with the petitioners. She also admitted that the victim used to create disturbances for property.

7. PW-3, Mst. Anuwara Khan is the wife of the petitioner No.2 and she was also similarly declared hostile by the prosecution as she did not support the prosecution case.

8. The wives of both the petitioners, who were not likely to support the prosecution's version, were made witnesses in this case by

the investigating officer. Therefore, it creates doubt as to the impartiality of the investigating officer in conducting the investigation.

9. PW-4, Heyder Ali, and PW-5, Salman Ahamed, both stated that the present petitioners had assaulted the victim with a lathi and machete and inflicted blows by way of said machete. From the evidence of PW-5, it appears that he is a hearsay witness but it is not clear as to whether PW-4 was an eyewitness or not. Both happen to be the uncles of the victim. Nothing was revealed in their cross-examinations to discredit them.

10. PW-7, Hiran Kr. Debbarma is a Fireman, who stated that on the said date of incident, he along with his other colleagues shifted the victim in bleeding condition to the Dharmanagar District Hospital.

11. PW-8 Gouranga Das, the co-villager, stated that when he was proceeding towards his own shop near Sabajpur mosque, he found the victim lying in injured condition. He heard from the crowd that the present petitioners had caused such injuries. He admitted that he did not see the incident.

12. PW-9, another co-villager, namely, Askar Ali stated that at the relevant point of time, he was sitting in his shop and at that time two persons, namely Abdul Malik and Abdul Noor arrived there and informed him that the victim was being severely assaulted by the petitioners. Then, he went to the spot and found Gyas Uddin in injured condition lying on the road and thereafter, he was shifted to the hospital.

In his cross-examination, he stated that there were many persons present in the place of occurrence at that time.

13. PW-10, Md. Ahad Uddin, another co-villager, also stated that on the relevant date and time, when he was proceeding towards the market, he found a huge gathering near Sabajpur mosque and learnt that the victim was severely assaulted by the petitioners. He also found the victim lying with injury over his head and thereafter, the Fire Service personnel shifted him to the hospital. He stated in his cross-examination that his house is situated at a distance of 250 meters from said mosque. He also heard that there were disputes between the victim and the petitioners and many cases among themselves were filed earlier.

14. PW-6, Dr. Asis Das Kanango, the Medical Officer of Dharmanagar District Hospital, stated that on 23.07.2022, he examined the victim in the hospital, having been brought by the Fire Service authority, and found two incised wounds with active bleeding in the skull; one lacerated injury on the skull; and a fracture of the bilateral parietal bone of the head of the victim, as was detected in the CT scan. Thereafter, the victim-patient was referred to AGMC & GBP Hospital for further treatment. PW-6 opined that all the injuries, except the fracture in the skull, were simple, and the skull fracture was grievous in nature.

15. As indicated earlier, the evidences of PWs 11, 12, and 13 are of the police officials who were connected with the investigation and

therefore, further references of those evidences are not being made herein.

16. From the cross-examination of I.O., defence tried to show that three neighbouring persons, namely, Muzibur Rahaman, Farij Uddin and Sukkur Ali were not examined by the I.O. who were the residents in close proximity to the place of occurrence.

17. PW-13 who is the second I.O. admitted in his cross-examination that no weapon of offence was seized by him and he also did not record the statements of the wife of the victim, though they examined the wives of the petitioners.

18. Learned counsel, Ms. Saswati Nag for the petitioners submits that there was previous enmity between the parties and therefore, the possibility of false implication is there. Learned counsel also argues that the charges were not framed properly in this case and according to her, said charges ought to have been framed separately for each of the petitioners and one cannot be asked to answer for another and even no signature was taken on the second page of the charge. However, learned counsel admits that said issue was not raised before the appellate court during the hearing of the appeal.

19. Learned counsel, Ms. Nag also contends that the examination of the petitioners under Section 313 CrPC was not done in a proper manner. However, she did not press that plea to avoid remand of the case on that ground.

20. Learned counsel emphasized her argument that according to the Medical Officer and also as per the injury report, said fracture injury was grievous in nature and could be caused by either blunt or sharp object and therefore, the medical officer was not sure about the nature of weapon. Therefore, according to learned counsel, in absence of concrete evidence in this regard, benefit ought to have been given to the petitioners. Learned counsel also raises the issue that no weapon of offence was recovered and no eyewitness of the incident except the victim was examined, though so many persons were present in the place of occurrence at that time, as according to PW-9, he found many people gathered in the place of occurrence as 'Namaz of Magriv' had just ended at that time.

21. Learned counsel, Ms. Nag also relies on a decision of Rajasthan High Court in the case of *Gangaram Vs. State [equivalent citations 1968 CRILJ 134]*. In that case, in a trial under Section 307 of IPC, the Rajasthan High Court while appreciating the evidence of doctor observed that according to the said doctor, the injury might be considered grievous on the ground that it had endangered the human life but, how it endangered the human life was not brought out in the statements of doctor. The surgeon who conducted surgery was not examined in that case and the documents of such surgery were not placed in the record. In that contexts, the High Court observed that the opinion expressed by said medical officer that the injury might be considered as grievous one, could not carry conviction. As it appears, said decision was rendered in different contexts.

22. Learned counsel also relies on another decision of Hon'ble Supreme Court in case of *Raj Kumar Vs. State [NCT of Delhi], 2023 SCC OnLine SC 609*], wherein, the Hon'ble Supreme Court regarding examination of accused under Section 313 CrPC observed that the incriminating materials should be put to the accused so that the accused get a fair chance to defend himself. However, as the said plea of improper examination of accused under Section 313 CrPC is not pressed during hearing of the present case, further discussion on this point is delved upon.

23. Ms. Nag, learned counsel further relies on another decision of Division Bench of this Court in the case of *Naresh Jamatia alias Afulu & Ors. Vs. the State of Tripura in Criminal Appeal (J) 22 of 2015*, decided on 28.02.2019. In the said case, there were three accused persons and learned Presiding Judge framed charges under Section 6 of POCSO Act against two accused persons for committing rape on one victim and another accused was charged separately for committing rape on another victim along with earlier said two accused persons and one Ganja Kumar Jamatia. The first charge was not read over to one accused, namely, Raj Kishore Jamatia and the second charge was not read over to accused persons, namely, Naresh Jamatia and Ananda Jamatia. In that situation, the High Court observed that when the appellants were convicted for committing rape on both the victims and the appellants also claimed prejudice, there was substantial infringement of their rights for violation of provision of Sections 211, 212, and 213 of the CrPC.

24. The error which was committed in that case while framing the charges is not noticed in the present case.

25. Learned Addl. P.P., Mr. Rajib Saha submits that the victim has categorically stated the detailed narration of the incident and his evidence could not be shaken during cross-examination by the defence and therefore, according to learned Addl. P.P., the law is also well settled that on the sole testimony of the victim, the accused can be convicted. He further submits that the medical evidence also supported the victim's version. Regarding the point raised about alleged error in framing of charges, learned Addl. P.P. referring to Section 223 of the CrPC submits that even if it is presumed that some defect is found in framing the charges, no prejudice has been caused to the accused persons and therefore, the point as raised from the side of the petitioners had no bearing in the decision-making process of the learned Courts below. However, learned Addl. P.P. admits that in view of the medical opinion, the conviction under Section 326 of IPC is required to be modified to a conviction under Section 325 of IPC.

26. Learned Addl. P.P. also submits that re-appreciation of evidence is not permissible in revisional jurisdiction by the High Court when the learned Courts below have examined the evidences and concurred with each other that the guilt of the petitioners was proved beyond a reasonable shadow of doubt. Unless there is any illegality and irregularity committed by the learned Courts below, it will not be appropriate for the High Court to interfere with the findings as rendered by the learned Courts below. The High Court only exercises its

supervisory jurisdiction of a restricted nature while dealing with revision petition.

In support of his contention, learned Addl. P.P. relies on the following decisions of Hon'ble Supreme Court:-

- I. *Dhuli Vrs. Delhi Administration, 1975 Legal Eagle (SC) 257;***
- II. *Munna Devi Vs. State of Rajasthan & Anr., 2001 Legal Eagle (SC) 1428; and***
- III. *Jagannath Choudhury & Ors. Vrs. Ramayan Singh & Anr., 2002 Legal Eagle (SC) 577.***

27. The Court has given due consideration to the submissions of learned counsel for both sides and also has meticulously gone through the record. So far the argument raised by learned counsel of the petitioners that there were defects in framing of charges, this Court finds that both the petitioners were jointly charged for commission of the offence under Sections 326/343 of IPC and also under Section 506/343 of IPC and the necessary facts related to the accusation in respect of those offences with reference to date, time and place of said commission were also properly mentioned in the charges. The argument that said charges ought to have been typed separately for two accused persons in separate papers and that in the second page of the papers containing such charges, the signatures of the petitioners is not taken, are too technical to appreciate when no prejudice is found to have been caused to the petitioners by framing of said charges. Moreover, missing of signatures on the second page appears to be an accidental slip which occurred due to clerical mistake.

28. Though it was argued that despite presence of several persons, no other eyewitnesses were examined in this case, the principle of law is settled that even on the sole testimony of the victim, the conviction can be maintained if he/she is found to be a completely reliable witness.

29. Reference may be made to a decision of Hon'ble Supreme Court, rendered in ***Jarnail Singh & Ors. Vrs. State of Punjab, (2009) 9 SCC 719***, wherein the Apex Court held that deposition of injured witness should be relied upon unless there are strong grounds for rejection of his evidence on the basis of major contradictions and discrepancies. The relevant paragraphs Nos. 28 & 29 of the said decision are reproduced here-under:-

*“28. Darshan Singh (PW 4) was an injured witness. He had been examined by the doctor. His testimony could not be brushed aside lightly. He had given full details of the incident as he was present at the time when the assailants reached the tubewell. In ***Shivalingappa Kallayanappa v. State of Karnataka, 1994 Supp(3) SCC 235*** this Court has held that the deposition of the injured witness should be relied upon unless there are strong grounds for rejection of his evidence on the basis of major contradictions and discrepancies, for the reason that his presence on the scene stands established in case it is proved that he suffered the injury during the said incident.*

*29. In State of U.P. v. **Kishan Chand, (2004) 7 SCC 629**, a similar view has been reiterated observing that the testimony of a stamped witness has its own relevance and efficacy. The fact that the witness sustained injuries at the time and place of occurrence, lends support to his testimony that he was present during the occurrence. In case the injured witness is subjected to lengthy cross-examination and nothing can be elicited to discard his testimony, it should be relied upon [vide **Krishan v. State of Haryana, (2006) 12 SCC 459**]. Thus, we are of the considered opinion that evidence of Darshan Singh (PW 4) has rightly been relied upon by the courts below.”*

30. Here, in this case, the testimony of the victim is found to be trustworthy and reliable inspiring confidence as he is the injured witness.

Nothing could be elicited from his cross-examination to discredit his testimony. More so, the witnesses who came to the spot just after the incident also supported the fact that they found the victim lying on the road in bleeding condition with such injuries and they heard that the petitioners were responsible for the same. The medical evidence also has supported the prosecution story. Therefore, the conviction as rendered by the learned Courts below is found to be proper. However, it is a fact that the medical officer could not ascertain as to whether the grievous injury i.e. fracture injury in the skull was caused by a blunt weapon or sharp cutting weapon. Here, according to the prosecution story, both the blunt weapon like lathi and sharp weapon like machete were used by the petitioners. Therefore, in such a situation, benefit will certainly go in favour of the petitioners.

31. Consequently, the conviction under Section 326 of IPC is converted to under Section 325 of IPC. As it appears, the learned trial Court has imposed a very minimum sentence, may be considering the fact that the incident occurred due to family disputes in between the parties. Therefore, the sentence passed by the learned trial Court which was affirmed by the learned appellate Court, is not interfered with.

The Criminal Revision Petition is, accordingly, partly allowed.

Send down the LCRs along with a copy of this judgment.

Interim order, as passed earlier, stands vacated.

JUDGE

SANJAY GHOSH Digitally signed by SANJAY GHOSH
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