

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. A(J) 32 of 2024

Manik Roy

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

Versus

State of Tripura

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

For the Appellant(s) : Mr. Arnab Roy, Legal Aid Counsel.

For the Respondent(s) : Mr. Raju Datta, P.P.

Date of hearing & delivery
of Judgment & order : 19.05.2025.

Whether fit for reporting : Yes/No

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
J U D G M E N T & O R D E R (O R A L)**

Heard Mr. Arnab Roy, learned Legal Aid Counsel appearing for the appellant. Also heard Mr. Raju Datta, learned Public Prosecutor representing the State.

[2] This present appeal is filed under Section 374(2) of the Cr.P.C. against the judgment dated, 20.05.2023 passed by the Court of Additional Sessions Judge, Dhalai Judicial District, Ambassa in connection with case No ST (Type -I) 30 of 2021.

[3] The charges were framed against the accused on 29.01.2022 by the learned Court of the Addl. Sessions Judge, Dhalai Judicial District, Ambasssa, the same is quoted hereunder:

"....."Firstly, that on 17/08/2021 at around 08.00 p.m at Ambassa TRTC Para, when the complainant-cum-victim namely Sri. Parimal Debnath, came out from his dwelling hut on to the public road on your call, you wrongfully detained/ obstructed him and prevented him from proceeding in any direction in which he had a right to proceed and that you thereby committed an offence punishable under Section 341 of the Indian Penal Code and within the cognizance of this Court.

Secondly, that you on the same (as abovesaid) date, time and place voluntarily caused grievous hurt by means of a spade upon the head, chest and left shoulder collar bone of the complainant-cum-victim and that you thereby committed an offence punishable under Section 326 of the Indian Penal Code and within the cognizance of this Court.

Thirdly, that on the same (as abovesaid) date, time and place you attacked the complainant-cum-victim with a spade with such intention or knowledge and under such circumstances that if by that act you had caused the death of said Parimal Debnath you would have been guilty of murder and that you thereby committed an offence punishable under Section 307 of the Indian Penal Code and within the cognizance of this Court.

AND I hereby direct that you be tried on the said charges by this court..."

[4] The impugned order dated 20.05.2023 has been passed by the learned Court of Additional Sessions Judge, Dhalai Judicial

District, Ambassa in connection with case No ST (Type -I)30 of 2021 in the following manner:

".....ORDER ON SENTENCE

19. Ld. Legal Aid Counsel, Shri Paritosh Debbarma prays for leniency Percontra, Ld. PP, Shri Indranil Chakraborty submits that strict punishment/ jail term should be awarded to the convict in order to send a strong message to society.

20. After carefully listening to and pondering over the opposing arguments advanced by both the Counsels, this Court is of the considered view that the ends of justice would be served appropriately if the accused is sentenced to suffer simple imprisonment (S.I) for a term of 01 (one month) for conviction under Section 341 IPC and suffer Rigorous imprisonment (R.I) for a term of 02 (two) years for conviction under Section 326 IPC. Both the sentences are to run consecutively i.e. one after the other. However, benefit of set off for time spent in Judicial/ police custody has to be provided to the convict. As per the calculation made by this Court, the convict has already spent a total of 162 days in Judicial custody Net remaining sentence of imprisonment to be served by the accused thus comes to $760-162 = 598$ days or 01 year 07 months 23 days (One year seven months twenty three days) $[(365 \times 2 + 30) = 760 \text{ days}]$.

21. Bail bonds filed by the accused u/s 439 Cr.P.C stand discharged along with the sureties.

22. Bail bonds filed by the accused u/s 437A Cr.P.C to be kept on file till the expiry of the statutory appeal period.

23. The seized articles, if any be disposed off as per law after expiry of the statutory appeal period.

24. Copy of this judgment to be supplied free of cost to the convict Sri Manik Roy as per the mandate of Section 363(1) Cr.P.C.

25. The case is thus disposed of on contest....."

[5] Aggrieved by the above-quoted impugned order dated 20.05.2023 passed by the learned Court below, the appellant has preferred the instant appeal seeking the following reliefs:

"I. Admit this appeal

II. Call for the record of case No: from the court of Ld the court of additional sessions judge dhalai judicial District Ambassa.

III. After hearing the parties may be pleased allow this appeal by quashing/setting aside the impugned judgment of conviction and order of sentence dated 20/05/2023 passed in ST(Type 1)30 of 2021 by additional sessions judge dhalai judicial District Ambassa and may please set the appellant at liberty.....”

[6] Mr. Arnab Roy, learned Legal Aid Counsel appearing for the appellant submits that learned trial Court has misread the evidence on record and failed to properly analyze the evidence on record. It is further contended that the learned trial Court while passing the impugned order, came to a wrong conclusion by convicting and sentencing the appellant. He, therefore, urges this Court to set aside the impugned order dated 20.05.2023 passed by the learned trial Court.

[7] On the contrary, Mr. Raju Datta, learned P.P. opposes the submissions made on behalf of the appellant. He, contends that learned trial Court on perusal of all the material evidence on record, has convicted the accused-appellant by its order dated 20.05.2023 in Case No. ST (Type -I)30 of 2021, the same should not be interfered with.

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

[9] On perusal of record it is seen that the P.W. 2, the Medical Officer deposed before the trial Court that on 17.08.2021 when he was posted at Dhalai District Hospital, Kulai, on that date, at around 08:30 p.m, one patient namely, Parimal Debnath was brought to the hospital by his wife for treatment. It was stated that he had examined the said patient and found several injuries on his head, left forearm and left shoulder and accordingly, he had prepared the medical examination report of the victim on 31.08.2021. It was deposed by the said Medical Officer that the nature of injuries found on the scalp and left forearm are slight but caused by a sharp object, however, the nature of injury found on the left shoulder was grievous and caused by a blunt weapon.

[10] P.W. 3, the victim deposed before the learned trial Court in the following manner:

".....On 17.08.2021 my neighbour namely Manik Lal Roy called me out addressing me as "Kakku kakku" and when I went near him and asked why he called me, all of a sudden he assaulted me with an spade on my head and left shoulder. After sustaining a serious injury I fell down on the ground and became unconscious. Thereafter, my neighbours called the Fire service and they took me to the Kulai District Hospital, Ambassa where I was admitted for 4/5 days.

I do not know why he attacked me. So far as I know him he is mentally and physically fit....."

[11] From the deposition of the Medical Officer and the victim in the learned trial Court, this Court observed that though the Medical Officer i.e P.W.2 opined that the nature of injuries found on

the scalp and left forearm are slight and caused by a sharp object but, the victim i.e. P.W. 3 did not mention about the injury in the forearm. The victim deposed that the accused assaulted him with a spade on his head and left shoulder. However, according to the doctor, the nature of injury found on the left shoulder of the victim was grievous and caused by a blunt weapon. The Medical Officer nowhere mentioned that, the accused had hit repeatedly on the victim. Hence, from the deposition of the said two witnesses, doubts have crept in since the intention of the accused whether he wanted to kill the victim or not is not clear.

[12] It is reflected in the impugned order and sentence dated 20.05.2023 that during trial, the accused was in jail custody for 162 days. Thereafter, on 20.06.2024, considering the quantum of sentence and since for a considerable period the appellant was in jail, this Court in IA No. 02 of 2024 in CrI. A(J) 32 of 2024 granted bail to the appellant on furnishing a bond of Rs.25,000/- with one surety of like amount. No adverse activity from the end of accused was ever brought to the notice of this Court by the learned P.P. since the accused has been granted bail by this Court.

Considering all the facts and circumstances of the case as discussed above, this Court opines that a lenient view be taken and ends of justice would be met, if the benefit of doubt is also

extended to the appellant herein. Accordingly, the appellant is acquitted and the impugned judgment of conviction and sentence dated 20.05.2023 passed by the learned Court of Additional Sessions Judge, Dhalai Judicial District, Ambassa in connection with case No ST (Type -I) 30 of 2021 is hereby set aside. The appellant shall be released if not required in any other offence. The accused appellant is on bail, thus, the bail bond is discharged.

With the above observations and directions, the instant appeal is allowed and thereby, the same is disposed of. As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

Send down the LCR.

T. AMARNATH GOUD, J

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