

**HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A**

Crl. A(J) No. 33 of 2024

Sri Biswas Sinha, son of late Kanunchwba Sinha, resident of village Assambasti, W/No.01, Fatikroy, District: Unakoti.

.....Appellant

-V E R S U S-

The State of Tripura, represented by the Secretary, Home Department, Government of Tripura, Agartala, Tripura (West).

..... Respondent.

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

For Appellant(s)	:	Mr. J. Majumder, Advocate.
For Respondent(s)	:	Mr. Raju Datta, P.P.
Date of hearing and delivery of judgment and order	:	02.09.2025
Whether fit for reporting	:	NO

JUDGMENT & ORDER [ORAL]

[Dr. T. Amarnath Goud, J]

[1] Heard Mr. J. Majumder, learned counsel appearing for the appellant also heard Mr. R. Datta, learned P.P. appearing for the respondent-State.

[2] This is an appeal filed under Section-374(2) of Cr. P.C. against the judgment and order of sentence dated 11.10.2023 passed by the learned Sessions Judge, Unakoti District, Kailashahar in connection with Case No. S.T. 19 (U/K) 2022 (Type-1), whereby and whereunder, the appellant has been sentenced to suffer rigorous imprisonment for life for the offence punishable under Section-302 of IPC and also a liability to pay a fine of Rs.10,000/- for the said offence and in default, to suffer further rigorous imprisonment for a period of 3 months.

[3] The fact of the case in brief is that on 10.03.2022 at around 0930/1000 hours near a ring well nearby the house of the accused situated at Assambasti, Ward No 01 under Fatikroy PS, the accused Biswas Sinha did commit murder by intentionally causing the death of the mother of the complainant namely Sunita Sinha. Ultimately, on 11.10.2023 under Section-302 of IPC was sentenced to undergo rigorous imprisonment for life for the offence under this section along with liability as stated supra with default stipulations.

[4] On the basis of the written FIR FTK PS Case No. 2022 FTK 009 under Section-302 of the IPC was registered on 10.03.2022 against the accused person namely, Sri Biswas Sinha and the case was endorsed to Inspector Harendra Debbarma for investigation. On completion of investigation investigating officer submitted charge sheet vide No 15/2022 dated 10.05.2022 under Section-302 of IPC against the accused person to face trial in the open court of law.

[5] On commitment of the case, on 04.08.2022 cognizance of offence was taken under Section-302 of the IPC against the accused person and on 08.08.2022 the accused was produced before the Court from JC and on 13.09.2022 Charge under Section-302 of the IPC was framed against the accused person and trial began accordingly. To prove the case, prosecution has examined as many as 17 (seventeen) witnesses. Defence did not adduce any evidence. Defence case, however, as revealed from the trend of the cross-examination of the prosecution witnesses and examination of the accused person under Section-313(1) (b) of Cr.P.C is of total denial.

[6] Having heard both the parties and on perusal of the material evidence on record, the learned Court below has observed as under:

“14. Hence, in the result, I do hereby sentence the convict Shri Biswas Sinha for commission of offence punishable U/S 302 of the IPC to suffer rigorous imprisonment for life and also to pay a fine of Rs. 10,000/- (rupees ten thousand) only, i.d., to undergo further rigorous imprisonment for three(3) months for commission of offence U/S 302 of IPC.

The fine money, if realized, shall be paid to the family of the deceased Sunita Sinha.

The period of detention undergone by the convict during the period of investigation and trial will be set off from the period of imprisonment.

The case stands disposed of accordingly on contest.

The seized material, if any, of this case, be disposed of after expiry of appeal period as per law. Inform Court Inspector, Police Court, Unakoti, Kailashahar and the IO through the concerned PS accordingly.

Supply a copy of this judgment free of cost to the convict Biswas Sinha.

Also communicate a copy of this judgment to the District Magistrate, Unakoti District, Kailashahar and also to the District Secretary, District Legal Services Authority, Unakoti District.”

[7] The appellant herein, being aggrieved by and dissatisfied with the same, has preferred this present appeal before this Court for ends of justice.

[8] Mr. J. Majumder, learned counsel appearing for the appellant has submitted that the finding of the learned Court below is based on surmise and conjecture, hence, the findings are liable to be quashed and consequently the sentence passed by the learned Court below is liable to be set aside and quashed. The finding of the learned Court below regarding the trustworthiness of uncorroborated statements of PWs-7, 8 & 16 is bad in law.

[9] Learned counsel has further contended regarding the recovery of weapon of offence from the appellant is completely untenable under the law. The observation made by the learned Court below regarding the matching of blood on the wearing apparels of the appellant and weapons of offence with that of the victim is false and hence, the findings are liable to be quashed and consequently the sentence passed by the Learned Court below is liable to be set aside and quashed.

[10] The learned Court below held the convict appellant to be guilty of alleged offences on the basis of no evidence in as much as, the evidence on record does not constitute the alleged offence and in no case implicated the convict appellant in the commission of alleged offence. The learned

Court below relied on the improved versions of all the PWs illegally and on the basis of such improved versions, convicted and sentenced the appellant herein.

[11] In view of above, let us relook into the depositions of the witnesses once again though; the learned Court below has discussed the same in length. PW 9 is the seizure witness relating to seizure of one gamcha, some blood stained soil and some hair in connection with this case and his signature on the seizure list on his identification is marked as Exbt P 9. He also identified the said gamcha which on his identification is marked as Exbt MO 2. In cross-examination PW 09 stated that he did not read the contents of the paper on which he put his signature. He also stated that he did not put any special mark on the said gamcha himself. Rest part of his cross-examination is only denial. Thus, analyzing the evidence of PW 9 it comes out that though he put his signature in the seizure list but he did not go through the contents of the same before putting his signature.

[12] In cross-examination PW 10 denied the fact that on 10.03.2022 at about 10:30 am while he was in his house at that time his niece Dipika Sinha did not inform him over telephone that Biswas Sinha is killing her mother and hearing the same himself along with his brother Sukradip Sinha did not proceed towards the house of his niece by one motorcycle and reaching there he did not find the mother of Dipika Sinha namely Sunita Sinha was lying dead near the ring well nearby the house of Biswas Sinha and that he was not informed by his niece that Biswas Sinha killed Sunita Sinha by a dao. analyzing the evidence of PW 10 & PW 11 it reveals that their evidence is hearsay evidence relating to information given by their niece Dipika Sinha that Biswas Sinha has killed her mother by a dao. This part of their evidence being hearsay has no evidentiary value.

[13] PW-14 stated that he did not witness any incident of this case. He stated that he has seen from where said gauche was brought by the Police. He also stated that he does not know about the mental health of Biswas Sinha. He was examined by Police in connection with this case. He

stated before the Police that accused Biswas Sinha was in his house and the locality people were giving guard for him. SPO also came to the place of occurrence from SPO camp. Analyzing the evidence of PW-14 it comes out from his evidence that he is a witness relating to inquest made over the dead body of deceased Sunita Sinha.

[14] PWs.7, 8 and 16 are the eye witness to the incident. They have categorically stated that they saw the appellant herein, blowing dao blow and thereafter with a gada upon the deceased herein and due to this, death caused, which also cannot be overlooked. The learned Court below has discussed their deposition properly but it is pertinent to mention herein that some of the witnesses also discussed about the mental condition of the appellant, to which, there is no discussion made by the learned Court below.

[15] Hence, this Court, after evaluating all the evidences on record, is of the considered view that the incident happened on the spur of the moment. It was out of anger and due to sudden provocation; the accused got furious and attacked the victim. In the present case, the convict-appellant has already been undergone imprisonment for couple of years and considering the mental condition of the accused-appellant, a lenient view is taken and the case of the accused is considered as an act of culpable homicide not amounting to murder. Thus, the ends of justice would be met, if the punishment under Section-304 of IPC be imposed upon the appellant instead of Section-302 of IPC as imposed by the learned Court below i.e. converting the life imprisonment into ten years of punishment. Accordingly, the same is ordered.

[16] Consequently, the sentence as imposed by the learned Court below under Section-302 of IPC is converted into Section-304 of IPC. The period of detention undergone by the convict during investigation, trial and sentence be set off. In that view of the matter, the judgment and order of conviction passed by the learned Court below stands modified. Accordingly, the present appeal stands partly allowed and thereby, the same is disposed of.

[17] As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

B. PALIT, J

DR. T. AMARNATH GOUD, J

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