

**HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A**

Crl. A(J) No. 53 of 2025

Shri Runu Santal, 66 years, son of late Luthu Santal, resident of Dhalajoy Para (Ruth Tilla), P.S. Khowai, District: Khowai Tripura.

.....Appellant

-V E R S U S-

The State of Tripura

..... Respondent.

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

For Appellant(s)	:	Mr. Ratan Datta, Advocate. Ms. S. Nag, Advocate.
For Respondent(s)	:	Mr. Raju Datta, P.P.
Date of hearing and delivery of judgment and order	:	05.08.2025
Whether fit for reporting	:	YES/NO

JUDGMENT & ORDER [ORAL]

[Dr. T. Amarnath Goud, J]

[1] Heard Mr. R. Datta, 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 impugned judgment and order of conviction and sentence dated 02.08.2016 respectively passed by the learned Addl. Sessions Judge, Khowai Tripura, in connection with case No. ST.(T-1) 06 of 2016 whereby the convict appellant has been convicted for the offences punishable under Sections-302 of the IPC and sentenced to suffer imprisonment for life and also to pay a fine of Rs.2,000/- only and in default, to suffer RI for 3 months.

[3] The fact of the case in brief is that on 17.03.2015 at about 7 p.m., the complainant was in her eastern viti dwelling hut while accused

Runu Santal started quarreling with his son namely, Bishu Santal in their western viti dwelling hut. One Alamani Santal, elder sister of Runu Santal raised alarm and the complainant rushed to the western viti hut and found Bishu Santal with bleeding injuries lying on the floor near the oven and Runu Santal was found with a bati dao and he left the hut. Thereafter, Ganga Santal called the local inhabitants and also arranged to inform the incident to the police. It is stated by the complainant in her complaint that due to quarrel Runu Santal killed his son by chopping on his neck by a sharp cutting dao. Based on this written complaint the instant case was registered and the case was endorsed to SI of Police Mizanur Rahaman to complete the investigation. Said IO investigated the case and after due completion of his investigation laid charge sheet against Runu Santal for the offence under Section-302 of the Indian Penal Code [for short IPC] vide Khowai P.S. charge sheet No.11 of 2016 dated 19.02.2016.

[4] Based on this written complaint the instant case was registered and the case was endorsed to SI of Police Mizanur Rahaman to complete the investigation. Said IO investigated the case and after due completion of his investigation laid charge sheet against Runu Santal for the offence under Section-302 of the Indian Penal Code [for short IPC] vide Khowai PS charge sheet No.11 of 2016 dated 19.02.2016, against them to stand trial in the open Court of law.

[5] The learned Court below took cognizance of offence punishable under Section-302 of IPC against the accused persons and considering the evidence collected by the IO formal charge under Section-302 of IPC was framed against the accused person and the contents of the charge were read over and explained, to which the accused person pleaded not guilty and claimed to be tried.

[6] During the course of trial, the prosecution in order to bring home the guilt of the accused persons examined as many as 16 witnesses and exhibited some material documents before the Court below. On the closure of the prosecution evidence the accused person was examined under

Section-313 of Cr.P.C and he denied the prosecution case and also declined to adduce any defence evidence on his behalf.

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

“I heard the convict in the matter of sentence. Convict again stated to me that he is innocent, so lenient view may be taken in the matter of sentence.

Learned counsel on behalf of the prosecution also submits to the court that considering the gravity of offence convict may be convicted to suffer sentence for life with fine.

I have gone through the case record, In my considered view the case is not the rare of the rarest to impose punishment of death.

Therefore, I considered that life sentence will mitigate the ends of Justice.

Accordingly, I hereby convict Shri Runu Santal under Section 302 of IPC and sentence him to suffer imprisonment for life and to pay a fine of Rs.2,000/- (Rupees two thousand) only in default to suffer R.I for further 3(three) months.”

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

[9] Mr. Ratan Datta, learned counsel appearing for the appellant has submitted that the findings of the learned Court below is perverse, illegal, unjustified, unreasonable, unwarranted in law and facts and as such not tenable in the eye of law and liable to be quashed/set-aside. The Court below by way of non reading, misreading and improper appreciation of evidence on record and the facts and circumstances of the case arrived at absolutely illegal, wrong and unwarranted findings causing grave miscarriage of justice to the appellant.

[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.

[11] The learned Court below ought to have held that the alleged presence of the convict appellant at the alleged place of occurrence, alleged participation of the appellant in the commission of the alleged offence are absolutely doubtful and on the basis of such evidence the appellant could not be legally convicted for the 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.

[12] The learned Court below convicted the appellant without properly examining him U/S 313 of Cr.P.C. The learned Court below failed to consider the fact that the informant i.e. PW-1 is not an eye witness in the case and lodged the FIR against the accused person only based upon her speculation and suspicion as she herself claimed to see the accused person with a bati dao and the alleged victim injured. The learned Court below failed to consider the fact that the only self proclaimed eye witness PW-6 in the case is a 66 years old lady and is the sister of the accused person who has a legit interest upon the property of the brother (accused person).

[13] The learned Court below failed to appreciate the fact that from the deposition of PW-6 it is clear that even if any incident took place, it was under the heat of passion upon quarrel and was not premeditated. The entire judgment is perverse, erroneous and not legally tenable. The learned Court below failed to appreciate the evidence in its true perspective. According to earned Counsel appearing for the appellant, there are discrepancies in the evidence of above witnesses about date, time and place of occurrence. So these are fatal for prosecution case.

[14] From the above submission, this Court is of the view that the death of the deceased was caused by the boti dao but, it has not been established that the accused had any pre-meditated intention of murder of the deceased. There is every possibility that there would have been hot altercations between the convict and the deceased. Out of anger, the accused could have given blow of the boti dao for once.

[15] Hence, this Court, after evaluating all the evidence 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 above ten years. Thus, a lenient view is taken and the case of the accused is considered as an act of culpable homicide not amounting to murder and 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. 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 allowed and thereby, the same is disposed of. Further, the appellant shall be released forthwith, if not wanted in any other cases(s). 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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