

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. A(J) 72 of 2025

Sri Surajit Gachi@Swarajit
son of late Birendra Gachi
of Village- Gachipara, P.S. Champahour,
District- Khowai, Tripura.

.....Appellant(s)

Versus

State of Tripura

.....Respondent(s)

For the Appellant(s)	: Mr. Kabrabam Dhirendra Singha, Legal Aid Counsel Ms. Megha Sarkar, Advocate
For the Respondent(s)	: Mr. Raju Datta, P.P. Mr. Rajib Saha, Addl. P.P.
Date of hearing & delivery of Judgment & order	: 30.10.2025.
Whether fit for reporting	: No

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

[1] Heard Ms. M. Sarkar, learned counsel appearing on behalf of Mr. K.D. Singha, learned Legal Aid Counsel for the appellant. Also heard Mr. Raju Datta, learned PP appearing for the State-respondent.

[2] This present appeal is filed under section 374 of the Code of Criminal Procedure, 1973 against the impugned judgment and order of conviction and sentence dated 07/12/2016, passed by the learned Addl. Sessions Judge, Khowai, West Tripura, in case no. ST(T-1) 07 of 2014.

[3] The prosecution story as alleged in brief is that on 19.03.2013 at about 5:30/6:00 PM the FIR named accused persons appeared in the house of the complainant and over the issue of abusing the daughter of complainant they arbitrarily assaulted the complainant and his wife, father and mother with Lathi and wooden file caused severe bleeding injuries. They attended doctor in Khowai Hospital but, due to severe injuries on the head of the father of the complainant, he was referred to GB Hospital, Agartala where he succumbed to his injuries. On receipt of the complaint, the police registered a case being Khowai PS Case no. 37/13 dated 21.03.2013 under Sections 148/149/450/325 and 302 of IPC and after completion of the investigation, the I.O. submitted charge-sheet under Sections 148/149/450/325/302 of IPC against the accused persons. Thereafter, cognizance of offence was taken and charge against the present convict appellant was also framed. After examination of P.Ws and the convict appellant U/s 313 of Cr.P.C. and upon hearing the argument of both sides, the learned Addl. Sessions Judge, Khowai, West Tripura, passed the impugned judgment and order of conviction and sentence dated 07/12/2016, in Case no. ST(T-1) 07 of 2014 in the following manner:

“.....However keeping in mind the submission of the convicted persons as well as the family conditions I hereby convict all the 5(five) accused persons namely Swapan Gachi, Laxman Gachi, Surajit @ Swarajit Gachi, Rajesh Gachi and Kajal Gachi for the offence under section 149/450 and 304 Part II of IPC and sentence them to suffer R.I of 5(Five) years and to pay a fine of Rs.1,000/- in default to suffer S.I. for 3 (three) months for the offence under section 450 of IPC also to suffer R.I for 9 (Nine) years for the offence under section 304 Part II of IPC. Both the sentences shall run concurrently. Custodian detention of the convict persons shall be set off from the period of their sentence.....”

[4] Aggrieved by the impugned order dated 07/12/2016 passed by the learned Court below in case No. ST(T-1) 07 of 2014, the appellant has preferred the instant appeal seeking the following reliefs:

“i) Admit the Appeal;

ii) Call for the lower court records of case no. ST (T-1) 07 of 2014 from the court of Ld. Addl. Sessions Judge, Khowai, Tripura;

iii) Stay and suspend the execution of sentence;

iv) Notify the Public Prosecutor,

AND

v) After hearing the both sides, Your Lordships may be pleased to set aside/quash the impugned judgment and order of conviction and sentence dated 07/12/2016, passed by ***** the Ld. Addl. Sessions Judge, Khowai, West Tripura, in Case no.ST(T-1) 07 of 2014, ...

[5] When the case is called, Ms. Megha Sarkar, learned counsel appears and represents on behalf of Mr. K.D. Singha, learned Legal Aid Counsel for the appellant. Mr. Raju Datta, learned P.P. and Mr. R. Saha, learned Addl. P.P. are also present for the respondent State.

[6] It is seen from record that the Court below by judgment dated 07.12.2016 in case no. ST (T-1) 07 of 2014, convicted the appellant for commission of offence under Section 149/450 and 304 Part II of IPC and sentence to suffer R.I of 5(Five) years and to pay a fine of Rs.1,000/- in default to suffer S.I. for 3 (three) months for the offence under section 450 of IPC also to suffer R.I for 9 (Nine) years for the offence under section 304 Part II of IPC. It was further ordered that both the sentences shall run concurrently and custodian detention of the convict shall be set off from the period of sentence. Hence, this Court observes that the sentence was passed on 07.12.2016 and apparently, from the date of sentence, apart from other custodian detention, if any, almost 9 years (i.e. approx. 8 years 10 months 23 days) of imprisonment

has already been suffered by the accused appellant. Admittedly, there were no adverse remarks with regard to the conduct of the appellant in custody. This Court considering the period of detention already undergone by the appellant and absence of any adverse conduct from him, feels that the sentence passed by the learned Court below on 07.12.2016 be modified to the extent the period he has already undergone in custody and accordingly, the same is ordered.

[7] In view of the above, the present appeal is allowed to the extent as indicated above and the same is hereby disposed of. Thus, the convict-appellant shall be released if not required in any other matters.

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

DR. T. AMARNATH GOUD, J

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