

**HIGH COURT OF TRIPURA
AGARTALA
CRL.A(J)NO.64 OF 2023**

1. Sri Salem Debbarma @ Salen,

Aged about 48 years, son of Somprai Debbarma,
Resident of East Takchaia, Ramharipara,
P.O.+ P.S.- Champahaur, District-Khowai, Tripura.

2. Sri Alakesh Debbarma,

Aged about 24 years, son of Salim Debbarma,
Resident of East Takchaia, Ramharipara,
P.O. + P.S.-Champahaur, District-Khowai, Tripura.

3. Sri Bidhu Kumar Debbarma@Bidyut Debbarma,

Aged about 41 years, son of late Suresh Debbarma,
Resident of East Takchaia, Ramharipara,
P.O. + P.S.- Champahaur, District Khowai, Tripura.

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

Versus

1. State of Tripura,

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

For the Appellant(s) : Mr. Sankar Lodh, Advocate.
Mr. Kishaloy Roy, Advocate.
Mr. Subham Majumder, Advocate.

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

Date of hearing : 05.03.2025.

Date of delivery of
Judgment & Order : 18/03/2025.

Whether fit for reporting : NO.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT
J U D G M E N T & O R D E R**

(T. AMARNATH GOUD,J)

This present criminal appeal has been filed under
Section 374(2) of the Code of Criminal Procedure, 1973, against the

impugned Judgment of Conviction and Sentence dated 11.09.2023, passed by the learned Sessions Judge, Khowai Judicial District, Khowai, Tripura, in Case No. S.T. (TYPE-1) 05 of 2018. By the said judgment, the learned Sessions Judge, Khowai, Tripura, convicted the appellants for committing an offence punishable under Sections 302 read with Section 34 of the Indian Penal Code and sentenced them to suffer life imprisonment. Additionally, the appellants were fined Rs. 5,000/- (Rupees Five thousand) each, with a default sentence of one month of simple imprisonment.

2. The prosecution case, in brief, is that one Madhabi Debbarma lodged a written ejahar with the Officer-in-Charge, Champahaur Police Station, alleging that on 14.02.2017, at about 10:00/10:30 hours, her husband, Samir Debbarma, was attacked indiscriminately with a 'dao' by the appellants while he was returning from a marriage ceremony. Upon hearing his cries, the informant and others rushed to the spot and found him with bleeding injuries. When the informant questioned the appellants regarding the attack, they also assaulted her. Immediately after the incident, the injured husband of the informant was shifted to Khowai Hospital, where he succumbed to his injuries on 15.02.2017.

3. Upon receipt of the written complaint, the police registered a case vide Champahaur P.S. Case No. 2017 CPH

PS/004, dated 15.02.2017, under Sections 341, 302, 325, and 34 of the Indian Penal Code. After registering the case, the police initiated an investigation and arrested the appellants. Upon completion of the investigation, the police filed a charge sheet against the appellants for offences punishable under Sections 341, 302, 325, and 34 of the IPC.

4. After receiving the charge sheet, the learned trial Court took cognizance of the offences and proceeded with the case. Copies of incriminating documents were supplied to the appellants in compliance with Section 200 of the CrPC. Subsequently, the learned Court below framed charges against the appellants for offences punishable under Sections 341, 302, 325, and 34 of the IPC.

5. To prove its case, the prosecution examined as many as 27 (twenty-seven) witnesses, whereas the appellants did not adduce any witnesses in their defense. After hearing both sides, the learned Sessions Judge, Khowai, Tripura, vide the impugned Judgment of Conviction and Sentence dated 11.09.2023, in S.T. (T-1) 05 of 2018, convicted the appellants as stated above.

6. Being aggrieved and dissatisfied with the impugned Judgment of Conviction and Sentence dated 11.09.2023, passed by the learned Sessions Judge, Khowai, Tripura, in S.T.(T-1) 05 of

2018, the appellants have preferred this instant criminal appeal, seeking to set aside the said judgment.

7. Heard Mr. Sankar Lodh, learned counsel appearing for the appellants, as well as Mr. Raju Datta, learned Public Prosecutor appearing for the State-respondent.

8. Mr. Lodh, learned counsel for the appellants, submits that according to the prosecution, P.W.-1 and P.W.-2 are the eye witnesses. However, there are contradictions regarding the place of occurrence and inconsistencies regarding the weapon used to inflict injuries upon the victim. In the depositions of P.W.-1 and P.W.-2, there is a discrepancy concerning the weapon allegedly used by the accused to attack the victim. Furthermore, the supposed eyewitnesses i.e., P.W.-1 and P.W.-2, do not mention each other's presence or having seen each other at the scene of the incident. According to P.W.-2, after the hue and cry, several individuals i.e., P.W.-14, P.W.-15, P.W.-16, and P.W.-17, arrived at the spot. In fact, P.W.-15 stated that when she asked P.W.-1 about the incident, P.W.-1 replied that she was asleep at that time. These four witnesses arrived immediately after the commission but did not confirm the presence of P.W.-1 and P.W.-2. The learned counsel for the appellants contends that the depositions of P.W.-1 and P.W.-2 were not corroborated by P.W.-15, P.W.-16, and P.W.-17. However, the prosecution did not declare these witnesses hostile. There is

also a contradiction regarding the place from where the blood-stained mud was collected. Different witnesses have provided varying accounts of the place of occurrence, some stating it was at the accused house, others mentioning the road, and some claiming it was at the deceased's house. Additionally, there is inconsistency in the number of weapons used and recovered by the prosecution, which casts doubt on the case. The prosecution asserts that the victim was killed on the spot, but the existence of multiple places of occurrence creates doubt regarding the reliability of the eyewitness depositions of P.W.-1 and P.W.-2. Furthermore, to prove their case, the prosecution relied on P.W.-5, the videographer who prepared the C.D. However, no certificate under Section 65B of the Indian Evidence Act was produced. There is also an anomaly in the deposition of P.W.-25, the Executive Magistrate, regarding the seizure of the weapon and the location where it was seized. The learned counsel also submits that the Investigating Officer committed several lapses during the investigation process.

8.1 On the point of witness, learned counsel appearing for the appellant referred to **Para-9** of the Judgment of the Hon'ble Supreme Court reported in **(2005) 5 SCC 272** titled as **Raja Ram Vs. State of Rajasthan**. The same is produced here-in-under:-

"9. But the testimony of PW 8 Dr. Sukhdev Singh, who is another neighbour, cannot easily be surmounted by the prosecution. He has testified in very clear terms that he saw PW 5 making the deceased believe that unless she puts the blame on the appellant and his parents she would have to face the consequences like prosecution proceedings. It did not occur to the Public Prosecutor in the trial court to seek

permission of the court to heard (sic declare) PW 8 as a hostile witness for reasons only known to him. Now, as it \ is, the evidence of PW 8 is binding on the prosecution. Absolutely no reason, much less any good reason, has been stated by the Division Bench of the High Court as to how PW 8's testimony can be sidelined."

Stating the citation, learned counsel submits that as P.Ws.-13, 14 and 15 demolishes the witness of P.Ws.1 and 2 as eye witnesses, the prosecution ought to have declared them as hostile.

8.2. On the point of different place of occurrences, learned counsel relied upon the following Judgments of the Hon'ble Supreme Court.

Para-13 of the Judgment of the Hon'ble Supreme Court reported in **(2005) 11 SCC 245**, titled as **Balwan Singh Vs. State of Haryana**. The same is produced here-in-under:-

"13. Having regard to the facts of the case and the findings of the High Court, we are satisfied that the case of the prosecution is not proved beyond reasonable doubt. The prosecution has not disclosed the true genesis of the occurrence. On the other hand, the evidence discloses that the occurrence took place in a different manner and at a different place in which three members of the defence party also suffered serious injuries. In these circumstances, the appellant and the other co-accused were at least entitled to the benefit of doubt. We, therefore, allow the appeal, set aside the judgment and order of the High Court impugned and acquit the appellant of all the charges levelled against him. The special leave petition preferred by the State is dismissed."

Relevant part of **Para-11** of the Hon'ble Supreme Court Judgment reported in reported in **(2006) 10 SCC 601** titled as **Syed Ibrahim Vs. State of A.P.** The same is produced here-in-under:-

".....when the place of occurrence itself has not been established it would not be proper to accept the prosecution version."

8.3. On the point of applicability of Section 27 of the Evidence Act, learned counsel referred to **Para-27** of the Hon'ble Supreme Court Judgment reported in **2024 SCC Online SC 3589** titled as **Wadla Bheemraidu Vs. State of Telangana**. The same is produced here-in-under:-

"27. This Court in the recent judgment of Babu Sahebgouda Rudragoudar v. State of Karnataka²⁸, while referring to the earlier judgments on this point, examined the aspect regarding the standard of proof of information provided by the accused to the Investigating Officer under Section 27 IEA in the following terms:-

"60. We would now discuss about the requirement under law so as to prove a disclosure statement recorded under Section 27 of the Evidence Act, 1872 (hereinafter being referred to as "the Evidence Act") and the discoveries made in furtherance thereof.

61. The statement of an accused recorded by a police officer under Section 27 of the Evidence Act is basically a memorandum of confession of the accused recorded by the investigating officer during interrogation which has been taken down in writing. The confessional part of such statement is inadmissible and only the part which distinctly leads to discovery of fact is admissible in evidence as laid down by this Court in State of U.P. v. Deoman Upadhyaya [State of U.P. v. Deoman Upadhyaya, 1960 SCC OnLine SC 8 : AIR 1960 SC 1125].

62. Thus, when the investigating officer steps into the witness box for proving such disclosure statement, he would be required to narrate what the accused stated to him. The investigating officer essentially testifies about the conversation held between himself and the accused which has been taken down into writing leading to the discovery of incriminating fact(s).

63. As per Section 60 of the Evidence Act, oral evidence in all cases must be direct. The section leaves no ambiguity and mandates that no secondary/hearsay evidence can be given in case of oral evidence, except for the circumstances enumerated in the section. In the case of a person who asserts to have heard a fact, only his evidence must be given in respect of the same.

64. The manner of proving the disclosure statement under Section 27 of the Evidence Act has been the subject matter of consideration by this Court in various judgments, some of which are being referred to below.

65. In Mohd. Abdul Hafeez v. State of A.P. [Mohd. Abdul Hafeez v. State of A.P., (1983) 1 SCC 143 : 1983 SCC (Cri) 139] , it was held by this Court as follows : (SCC p. 146, para 5)

"5. If evidence otherwise confessional in character is admissible under Section 27 of the Evidence Act, it is obligatory upon the investigating officer to state and record who gave the information; when he is dealing with more than one accused, what words were used by him so that a

recovery pursuant to the information received may be connected to the person giving the information so as to provide incriminating evidence against that person."

66. Further, in Subramanya v. State of Karnataka [Subramanya v. State of Karnataka, (2023) 11 SCC 255] , it was held as under : (SCC pp. 299-300, paras 76 to 78)

"76. Keeping in mind the aforesaid evidence, we proceed to consider whether the prosecution has been able to prove and establish the discoveries in accordance with law. Section 27 of the Evidence Act reads thus:

'27. How much of information received from accused may be proved.- Provided that, when any fact is proved to be discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.'

77. The first and the basic infirmity in the evidence of all the aforesaid prosecution witnesses is that none of them have deposed the exact statement said to have been made by the appellant herein which ultimately led to the discovery of a fact relevant under Section 27 of the Evidence Act.

78. If, it is said by the investigating officer that the appellant-accused while in custody on his own free will and volition made a statement that he would lead to the place where he had hidden the weapon of offence, the site of burial of the dead body, clothes, etc. then the first thing that the investigating officer should have done was to call for two independent witnesses at the police station itself. Once the two independent witnesses would arrive at the police station thereafter in their presence the accused should be asked to make an appropriate statement as he may desire in regard to pointing out the place where he is said to have hidden the weapon of offence, etc.

When the accused while in custody makes such statement before the two independent witnesses (panch witnesses) the exact statement or rather the exact words uttered by the accused should be incorporated in the first part of the panchnama that the investigating officer may draw in accordance with law. This first part of the panchnama for the purpose of Section 27 of the Evidence Act is always drawn at the police station in the presence of the independent witnesses so as to lend credence that a particular statement was made by the accused expressing his willingness on his own free will and volition to point out the place where the weapon of offence or any other article used in the commission of the offence had been hidden.

Once the first part of the panchnama is completed thereafter the police party along with the accused and the two independent witnesses (panch witnesses) would proceed to the particular place as may be led by the accused. If from that particular place anything like the weapon of offence or bloodstained clothes or any other article is discovered then that part of the entire process would form the second part of the panchnama. This is how the law expects the investigating officer to draw the discovery panchnama as contemplated under Section 27 of the Evidence Act. If we read the entire oral evidence of the investigating officer then it is clear that the same is deficient in all the aforesaid relevant aspects of the matter."

67. Similar view was taken by this Court in *Ramanand v. State of U.P.* [*Ramanand v. State of U.P.*, (2023) 16 SCC 510 : 2022 SCC OnLine SC 1396] , wherein this Court held that mere exhibiting of memorandum prepared by the investigating officer during investigation cannot tantamount to proof of its contents. While testifying on oath, the investigating officer would be required to narrate the sequence of events which transpired leading to the recording of the disclosure statement."

(emphasis supplied)

8.4. On the point of requirement of certification of electronic evidence, the learned counsel relied upon **paras-21** and **22** of the Hon'ble Supreme Court Judgment reported in **(2022) 7 SCC 581** titled as **Ravinder Singh alias Kaku Vs. State of Punjab**. The same is produced here-in-under:-

"20. Lastly, this appeal also raised an important substantive question of law that whether the call records produced by the prosecution would be admissible under [section 65A](#) and [65B](#) of the Indian Evidence Act, given the fact that the requirement of certification of electronic evidence has not been complied with as contemplated under the Act. The uncertainty of whether [Anvar P.V. vs P.K. Basheer & Ors](#) [(2014) 10 SCC 473] occupies the filed in this area of law or whether [Shafhi Mohammad v. State of Himachal Pradesh](#) (2018) 2 SCC 801 lays down the correct law in this regard has now been conclusively settled by this court by a judgement dated 14/07/2020 in [Arjun Panditrao Khotkar vs Kailash Kushanrao Gorantyal](#) [(2020) 7 SCC 1] wherein the court has held that:

"We may reiterate, therefore, that the certificate required under Section 65B(4) is a condition precedent to the admissibility of evidence by way of electronic record, as correctly held in [Anvar P.V.](#) (supra), and incorrectly "clarified" in [Shafhi Mohammed](#) (supra). Oral evidence in the place of such certificate cannot possibly suffice as Section 65B(4) is a mandatory requirement of the law. Indeed, the hallowed principle in *Taylor v. Taylor* (1876) 1 Ch.D 426, which has been followed in a number of the judgments of this Court, can also be applied. [Section 65B\(4\)](#) of the Evidence Act clearly states that secondary evidence is admissible only if lead in the manner stated and not otherwise. To hold otherwise would render Section 65B(4) otiose.

[Anvar P.V.](#) (supra), as clarified by us hereinabove, is the law declared by this Court on [Section 65B](#) of the Evidence Act. The judgment in *Tomaso Bruno* (supra), being per incuriam, does not lay down the law correctly. Also, the judgment in SLP (Crl.) No. 9431 of 2011 reported as [Shafhi Mohammad](#) (supra) and the judgment dated 03.04.2018 reported as (2018) 5 SCC 311, do not lay down the law correctly and are therefore overruled. .

The clarification [referred to above](#) is that the required certificate under Section 65B(4) is unnecessary if the original document itself is produced. This can be done by the owner of a laptop computer, computer tablet or even a mobile phone, by stepping into the witness box and proving that

the concerned device, on which the original information is first stored, is owned and/or operated by him. In cases where the "computer" happens to be a part of a "computer system" or "computer network" and it becomes impossible to physically bring such system or network to the Court, then the only means of providing information contained in such electronic record can be in accordance with Section 65B(1), together with the requisite certificate under Section 65B(4)."

21. In light of the above, the electronic evidence produced before the High Court should have been in accordance with the statute and should have complied with the certification requirement, for it to be admissible in the court of law. As rightly stated above, Oral evidence in the place of such certificate, as is the case in the present matter, cannot possibly suffice as Section 65B(4) is a mandatory requirement of the law. "

Submitting thus, learned counsel stated that the Court below did not properly appreciate the case of the accused as such the impugned Judgment is liable to be quashed and set aside.

9. On the other hand, the learned P.P. submits that the testimony of the two eyewitnesses, i.e., P.W.1 and P.W.2, is sufficient to establish the case against the appellants. Their statements remained unshaken and were further supported by medical evidence. Additionally, a hand-drawn sketch map of the place of occurrence (P.O.) clearly specifies the location of the incident, which the convict-accused did not dispute during the trial. Furthermore, P.W.-25, an independent witness (DCM), testified that one of the accused, Selim Debbarma, pointed out the weapon of offense, a 'dao' and an iron hammer near his house, following which the police recovered them. The submission made by the appellant's counsel does not form part of the cross-examination. Hon'ble Supreme Court in its judgment reported in **2022 SCC OnLine SC 1424** titled as **State through the Inspector of Police Vs. Laly alias Manikandan and another** specifically observed that even

when the weapon are not recovered but when eye witness is there, on that basis, the acquittal cannot be made. The relevant para of the said Judgment is given as under:-

20..... Merely because the original complainant is not examined cannot be a ground to discard the deposition of PW1. As observed hereinabove, PW1 is the eye witness to the occurrence at both the places. Similarly, assuming that the recovery of the weapon used is not established or proved also cannot be a ground to acquit the accused when there is a direct evidence of the eye witness. Recovery of the weapon used in the commission of the offence is not a sine qua non to convict the accused. If there is a direct evidence in the form of eye witness, even in the absence of recovery of weapon, the accused can be convicted. Similarly, even in the case of some contradictions with respect to timing of lodging the FIR/complaint cannot be a ground to acquit the accused when the prosecution case is based upon the deposition of eye witness."

On the point that motive is not required, learned P.P., relied upon para-38 of the Judgment of the Hon'ble Supreme Court reported in **(2019) 12 SCC 560** titled as **Jafel Biswas and ors Vs. State of West Bengal**. The same is produced here-in-under:-

"38. The learned counsel for the appellant has also contended that prosecution failed to prove any motive of committing the murder. The trial court has elaborately dealt with this submission. Relying on the judgment of this Court reported in [State of Haryana vs. Sher Singh and Others](#), 1981 (2) SCC 300, it was held that absence of motive does not disperse a prosecution case if the prosecution succeed in proving the same. The motive is always in the mind of person authoring the incident. Motive not being apparent or not being proved only requires deeper scrutiny of the evidence by the courts while coming to a conclusion. When there are definite evidence proving an incident and eye-witness account prove the role of accused, absence in proving of the motive by prosecution does not affect the prosecution case. In paragraph 10 of [State of Haryana](#) case (supra) following was laid down:

"10. The prosecution is not bound to prove motive of any offence in a criminal case, inasmuch as motive is known only to the perpetrator of the crime and may not be known to others. If the motive is proved by prosecution, the court has to consider it and see whether it is adequate. In the instant case the motive proved was apparently inadequate, although it might be possible."

9.1. Learned P.P., further submits that post mortem report suggest that *'injury 1 was sufficient enough to cause death in ordinary course of nature'*. Therefore for mere contradiction, the same cannot be the ground for acquittal. On the side point learned P.P., referred to **para-20** and **21** of the Hon'ble Supreme Court Judgment reported in **2023 SCC OnLine SC 1396** titled as **Birbal Nath Vs. State of Rajasthan and ors.** The same is produced here-in-under:-

*"20. No doubt statement given before police during investigation under **Section 161** are "previous statements" under **Section 145** of the Evidence Act and therefore can be used to cross examine a witness. But this is only for a limited purpose, to "contradict" such a witness. Even if the defence is successful in contradicting a witness, it would not always mean that the contradiction in her two statements would result in totally discrediting this witness. It is here that we feel that the learned judges of the High Court have gone wrong.*

*21. The contractions in the two statements may or may not be sufficient to discredit a witness. **Section 145** read with **Section 155** of the Evidence Act, have to be carefully applied in a given case. One cannot lose sight of the fact that PW-2 Rami is an injured eye witness, and being the wife of the deceased her presence in their agricultural field on the fateful day is natural. Her statement in her examination in chief gives detail of the incident and the precise role assigned to each of the assailants. This witness was put to a lengthy cross examination by the defence. Some discrepancies invariably occur in such cases when we take into account the fact that this witness is a woman who resides in a village and is the wife of a farmer who tills his land and raises crops by his own hands. In other words, they are not big farmers. The rural setting, the degree of articulation of such a witness in a Court of Law are relevant considerations while evaluating the credibility of such a witness. Moreover, the lengthy cross examination of a witness may invariably result in contradictions. But these contradictions are not always sufficient to discredit a witness. In Rammi v. State of M.P. (1999) 8 SCC 649, this Court had held as under:*

"24. When an eyewitness is examined at length it is quite possible for him to make some discrepancies. No true witness can possibly escape from making some discrepant details. Perhaps an untrue witness who is well tutored can successfully make his testimony totally non- discrepant. But courts should bear in mind that it is only when discrepancies in the evidence of a witness are so incompatible with the credibility of his version that the court is justified in jettisoning his evidence.

But too serious a view to be adopted on mere variations falling in the narration of an incident (either as between the evidence of two witnesses or as between two statements of the same witness) is an unrealistic approach for judicial scrutiny.

To strengthen his point, learned P.P., also referred to **Paras-42** and **59** the Hon'ble Supreme Court Judgment titled as **(2019) 4 SCC 771** titled as **Pattu Rajan Vs. State of Tamil Nadu**. The same is referred here-in-under:-

"42. It was argued by Shri Sushil Kumar that the confession made by Accused No.2 before PW7 was not admissible in evidence. There cannot be any dispute that a confession made by the accused in police custody is an inadmissible confession. The confession herein cannot even be called an extrajudicial confession because of the presence of the police. Be that as it may, if a confession is made by the accused before the police and a portion of the confession leads to the recovery of any incriminating material, such portion alone is admissible under Section 27 of the Indian Evidence Act. Since only such portion of the confession relating to the recovery of certain material objects was admitted in evidence and relied upon, such reliance was in accordance with law.

59.. From the evidence of the witnesses discussed supra, it is amply clear that the dead body recovered from TigerChola was identified by PW1 and her family members as Santhakumar's, and the same body was exhumed from the burial grounds. It is evident from the depositions that the recovery of the dead body was made from the TigerChola forest area, which is the same place to which Accused No. 2 led the investigation team based on his confession about disposal of the dead body. It is relevant to note at this juncture that merely because the actual recovery of the body happened before the accused lead the police to the scene, it does not, in the facts and circumstances of this case, negate the validity of the recovery based on a confession, in terms of Section 27 of the Evidence Act.

10. Heard and perused the evidence on record.
11. The charges framed against the accused-persons herein are produced here-in-under:-

"Firstly :- That all of you, on 14.02.2017 in the night at about 10-30 p.m. at Ramhari Para under Champahour Police Station, District- Khowai Tripura, in furtherance of your common intention, wrongfully restrained Sri Samir Debbarma, the husband of the complainant Smt. Madhabi Debbarma, wñ en he was returning home after taking dinner from a marriage ceremony and reached near the house of you namely- Salem Debbarma and that all of you thereby committed an offence

punishable under Section 341 read with Section 34 of the Indian Penal Code and within the cognizance of this Court.

Secondly- That all of you, on the afore mentioned date, time and place, in furtherance of your common intention, voluntarily caused grievous hurt to the said Samir Debbarma by means of hammer and dao, used as the weapon of offence and which are the instruments of causing serious injury and cutting etc. which is likely to cause death of the said Samir Debbarma thereby all of you committed an offence punishable under Section 326 read with Section the Indian Penal Code and within the cognizance of this Court.

Lastly- That all of you, on the afore mentioned date, time and place, in Furtherance of your common intention, caused grievous hurt to Samir Debbarma with the knowledge that it may likely to cause death of said Samir Debbarma for which he was admitted in the hospital and on 15.02.2017 in the morning he succumbed to his injuries at GBP Hospital, Agartala and thus all of you did commit murder by intentionally causing the death of Samir Debbarma and thereby all of you committed an offence punishable under Section 302 read with Section 34 of the Indian Penal Code and within the cognizance of this Court."

12. Let us examine some important witnesses.

13. P.W.-1, Smti. Madhabi Debbarma deposed before the Court that on 14.02.2017, at about 10:30 p.m., while her husband Samir Debbarma was returning home after attending a marriage ceremony at the house of Surendra Debbarma, he was attacked near their house by Alakesh Debbarma, Salem Debbarma, and Bidyut Debbarma. The attackers were armed with a "dao" (billhook), hammer, and lathi. P.W.-1 further deposed that upon hearing her husband's cries, she and others rushed outside and saw Alakesh Debbarma assaulting her husband with a hammer and Salem Debbarma striking him repeatedly with a 'dao' over his head and other parts of his body. She also witnessed Bidyut Debbarma delivering multiple blows with a lathi on her husband's head and body. As a result, Samir Debbarma sustained severe bleeding injuries and collapsed on the ground. When P.W.-1 and others attempted to intervene,

Salem Debbarma attacked her. P.W.-1 further stated that her husband was taken to Khowai Hospital in a critical condition, and later transferred to GBP Hospital, Agartala for treatment. However her husband succumbed to his injuries the next morning at about 7:30 a.m. Following the incident, P.W.-1 lodged a written Ejahar with the O/C, Champahawar P.S. She stated that the Ejahar was prepared by Malin Debbarma based on her narration, which she originally gave in Kokborok. Malin Debbarma translated it into Bengali and later read it back to her in Kokborok before she signed it in English. She was later brought before a Magistrate, where she voluntarily narrated the incident, and her statement was recorded by Malin Debbarma, on which her signatures were obtained.

During cross-examination, P.W.-1 reaffirmed that upon hearing her husband's cries, she and others came out and witnessed Alakesh Debbarma attacking her husband with a hammer and Salem Debbarma striking him repeatedly with a 'dao'. She also confirmed that Bidyut Debbarma was delivering blows with a lathi. The rest of her cross-examination consisted of denials of any contradictions.

14. P.W.-2, Shri Samiran Debbarma stated that on 14.02.2017, at about 10:30 p.m., he was returning home along with Samir Debbarma after attending a marriage ceremony at Surendra Debbarma's house. As they neared Samir

Debbarma's house, they were attacked by Alakesh Debbarma with a 'dao' and Salem Debbarma with a hammer. P.W.-2 further stated that while the accused were assaulting Samir Debbarma, the victim's wife, along with Birendra Debbarma, Pranjit Debbarma, Amrit Debbarma, and Pabendra Debbarma, rushed to the scene upon hearing the commotion. When they tried to rescue Samir Debbarma, the accused attacked them as well, including his wife, Madhabi Debbarma. He confirmed that Salem Debbarma struck Madhabi Debbarma with a hammer. Subsequently, Samir Debbarma was shifted to Khowai Hospital, and later transferred to GBP Hospital, where he succumbed to his injuries the following morning. The inquest over the deceased's body was conducted at GBP Hospital in the presence of P.W.-2. He also stated that he was taken before a Magistrate, where he voluntarily narrated the entire incident, and his statement was recorded along with his signatures.

During cross-examination, P.W.-2 admitted that he never made any statement to the police. Apart from this, the rest of his cross-examination consisted of denials.

15. P.W.-21, Dr. Juthika Debbarma deposed that on 15.02.2017, while posted at AGMC and GBP Hospital as an Assistant Professor, she conducted a post-mortem examination on the body of Samir Debbarma between 11:50 a.m. and 1:00 p.m. The post-mortem revealed multiple antemortem injuries,

including: A U-shaped incised wound (27 cm x 2 cm x cranial cavity deep) on the frontal region of the head, with an underlying clean-cut frontal bone fracture (25 cm). Subdural hemorrhage over the left cerebral hemisphere and subarachnoid hemorrhage over both hemispheres. Additional abrasions, contusions, and incised wounds on various parts of the body. P.W.-21 deposed that according to their opinion, *injury No. 1 was sufficient enough to cause death in ordinary course of nature.*

During cross-examination, the witness's statements remained unchallenged.

16. P.W.-22 Dr. Prasenjit Das reiterated the version of PW 22 in his examination-in-chief.

During cross-examination he deposed that he had not mentioned in the report that he had prepared the report on the computer. Apart from this rest part of his cross-examination is that of denial.

17. P.W.-27, Dr. Nirja Debbarma, a Medical Officer at Tulasikhar PHC, testified that on 15.02.2017, Madhabi Debbarma came for treatment with complaints of physical assault. Examination revealed a small lacerated injury below the right lower eyelid. Swelling over the left wrist. P.W.-27 classified her injuries as simple in nature.

During cross-examination, he conceded that such injuries could result from falling or slipping, but his report did not reflect this possibility. The rest of his cross-examination consisted of denials.

18. The testimony of P.W.-1 and P.W.-2 i.e., both eyewitnesses is consistent, credible, and supported by their statements under Section 161 Cr.P.C. Their accounts have not been contradicted. Their evidence is further corroborated by medical reports and the testimony of the Doctors (P.W.-21, P.W.-22, and P.W.-27). The post-mortem report confirms that Samir Debbarma i.e., the deceased victim suffered multiple incised wounds, with a fatal head injury caused by a sharp weapon, which is consistent with the assault described by P.W.-1 and P.W.-2. The medical evidence establishes a direct link between the action of the accused and the victim's death. Although there are minor omissions, discrepancies and contradictions, they do not discredit the core prosecution case.

19. The appellants counsel arguments regarding contradictions in the prosecution's case are unconvincing, as the fundamental facts remain unchanged. As such, given the overwhelming eyewitness and medical evidence, this Court finds no merit in the arguments presented by the appellants' counsel, Mr. Sankar Lodh.

20. Therefore, the Judgment of the Trial Court is to be upheld as it requires no interference and appeal is liable to be dismissed.

21. Accordingly, the appeal stands dismissed and order passed by the Trial Court is confirmed.

22. As a result, any stay order is vacated. Pending application(s), if any, are also disposed of.

B. PALIT, J

T. AMARNATH GOUD, J

suhanjit

RAJKUMAR
SUHANJIT
SINGHA

Digitally signed by RAJKUMAR
SUHANJIT SINGHA
Date: 2025.03.20 15:44:41
+05'30'



सत्यमेव जयते