

**HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A**

Crl. A(J) No. 11 of 2025

Sri Doangya Mog, son of Sri Chalafru Mog, resident of Khilu Mog Para,
Ailmara, P.S. Silachari, District: Gomati, 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 S. DATTA PURKAYASTHA**

For Appellant(s)	:	Mr. S. Bhattacharjee, Legal aid counsel
For Respondent(s)	:	Mr. R. Datta, P.P.
Date of hearing and		
Delivery of judgment and order	:	11.03.2026
Whether fit for reporting	:	NO

JUDGMENT & ORDER [ORAL]

[Dr. T. Amarnath Goud, JJ]

[1] Heard Mr. S. Bhattacharjee, learned legal aid 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 of conviction dated 26.07.2023 passed by the learned Sessions Judge, Gomati District, Udaipur, in connection with case No. ST 11 of 2022, whereby and whereunder, the learned Addl. Sessions Judge, convicted the appellant for commission of an offence punishable under Sections-376(1)/457/325/506 of IPC and sentenced him to suffer RI for 10 years and also to pay fine of Rs.2,000/- for his conviction under Section-376(1) of IPC and in default to pay fine he shall further suffer RI for 3 months. Further, he was sentenced to suffer RI for a period of 3 years and to pay a fine of Rs.1,000/- for commission of offence under Section-457 of IPC and in

default to suffer further RI for a 2 months. He is also sentenced to suffer RI for a period of three years and to pay a fine of Rs.1,000/- for commission offence punishable under Section-325 of IPC and also RI for three months with fine of Rs.500/- for commission of offence punishable under Section-506 of IPC with default stipulations. All the sentences shall run concurrently.

[3] The genesis of the case is that an FIR has been lodged alleging, inter alia that on 24.09.2021, the victim along with her seven months minor daughter were sleeping in the house of her mother. There were none in the house as they went for jhum cultivation. At around 11 p.m. at night accused Doangya Mog, the appellant herein, of their village entered into her room and called her and told that he will rape her. To which the victim disagreed and started to make hue and cry when the accused pressed her mouth by his hand inserting his finger into her mouth. When the victim gave a bite on his finger, he forcefully pulled out his finger breaking her three teeth on the lower jaw. She was bleeding from her mouth. The accused pressed her neck and threatened to kill her and her minor daughter if she does not agree to his proposal. Then the accused forcefully disrobed her and committed sex against her will. Thereafter, the accused gave her water to wash her mouth and proposed to commit rape on her again to which she agreed and took a break for going to toilet. Thereafter, she came out of the room and went to the house of her elder brother to the next hillock in naked condition and narrated the incident to him. When her brother and others appeared at the spot, the accused fled away.

[4] On receipt of the complaint, O/C, Silachori P.S. registered FIR No. 11 of 2021 dated 25.09.2021 under Sections-457/376/325/506 of IPC and put SI Sanjib Sharma the charge of investigation. The I/O on completion of investigation submitted charge-sheet against Doangya Mog under Sections -457/376/325/506 of IPC.

[5] On commitment of the case, the case was taken up for trial. Charges were framed against the appellant under Sections-

457/376(1)/325/506 of IPC against the accused. In course of trial, the prosecution has examined as many 9 witnesses and proved some documents details of which are already entered in the format of the title page. Thereafter, the appellant was examined under Section-313 Cr. P.C. During examination, the appellant denied all the allegations and pleaded his innocence and also declined to adduce any defence witness.

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

“43. In the result thereof, the convict namely, Doangya Mog (A1) is sentenced to suffer Rigorous Imprisonment for a period of 10(ten) years and to pay a fine of Rs.2,000/- (Rupees Two Thousand) for his conviction under Section-376(1) of IPC. In default of payment of fine he shall suffer RI for a further period of 3(three) months.

He is further sentenced to suffer Rigorous Imprisonment for a period of 3(three) years and to pay a fine of Rs.1,000/- (Rupees One Thousand) for his conviction under Section 457 of IPC. In default of payment of fine he shall suffer R.I. for a further period of 2(two) months.

He is also sentenced to suffer Rigorous Imprisonment for a period of 3(three) years and to pay a fine of Rs.1,000/- (Rupees One Thousand) for his conviction under Section 325 of IPC. In default of payment of fine he shall suffer R.I. for a further period of 2(two) months.

He is again sentenced to suffer Rigorous Imprisonment for a period of 3(three) months and to pay a fine of Rs.500/- (Rupees Five Hundred) for his conviction under Section 506 of IPC. In default of payment of fine he shall suffer R.I. For a further period of 1(one) month.

All the sentences shall run concurrently.

Fine money, if realized, shall be paid to the victim lady.

44. The period of detention in custody suffered during the investigation or trial of this case shall be set off from the substantive sentence of imprisonment.

45. Issue warrant of commitment on the sentence of imprisonment.

46. Destroy the seized alamats (Exbt.MO.I & II) on expiry of the period of appeal. Inform Court Inspector, Police Court, Udaipur accordingly.

47. The case is disposed of on contest.

48. Make necessary entries in the Trial Register/CIS.

49. Supply a copy of this judgment free to the convict.

50. Also supply a copy of this judgment to DM & Collector as per Section 365 of Cr. P.C.”

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

[8] Mr. S. Bhattacharjee, learned legal aid counsel appearing for the appellant has made his argument by assailing the prosecution case on the grounds mainly there is no clear and convincing evidence about the alleged commission of rape by the convict appellant. There are number of inconsistencies and contradictions in the evidence of PWs rendering their evidence doubtful with regard to the involvement of the convict appellant in the alleged crime. The evidence led by the prosecution is not strong enough to show that the appellant has committed the alleged crime. The case against the appellant was not established.

[9] It has been contended that the learned Court below did not consider the fact that the admission of PW-1 that the complaint was prepared by PW-2, the husband of the victim as per the version of the victim and the contents of the ejahar was read over to the complainant to which she admitted the contents of the entire episode was correctly prepared by her husband, which creates a serious shadow of doubts as to the authenticity and genuineness of the contents towards the incident in the FIR.

[10] The learned Court below also did not consider the fact that the IO in his evidence clearly stated that he arranged for recording statement of the victim by a woman constable and on that day itself he also recorded statement of the woman constable who recorded statement of the victim. Whereas, neither PW-3 nor PW-6 in their respective evidence ever supported the abovementioned evidence of PW-9 that either PW-3 or PW-6 were there while the victim was produced before the learned Magistrate to record her voluntary statement under Section-164(5) of the Code of Criminal Procedure.

[11] The learned Court below while appreciating the evidence did not even consider the evidence of PW-1 that the victim in her evidence

never stated the fact that she narrated the entire episode of the incident to her husband and that he upon hearing her narration prepared the complaint of the victim, and she admitted that the contents of the complaint prepared by her husband was correct and that it was prepared as per her version which also creates shadow of doubt regarding the veracity of the complaint filed by the husband of the victim on her behalf.

[12] The learned Court below did not even understand the requirements of Section-68 of the Indian Evidence Act, 1872 were not followed. A "certificate of scribe for FIR" is a document that verifies the identity and capability of a person who has acted as a scribe to write down a First Information Report (FIR) on behalf of someone who is unable to write themselves due to a disability or other limitations. Whereas the victim, PW.1 never stated in her evidence that she is unable to write owing to language problem, on the other hand she had signed in English in the FIR.

[13] The learned Court below also did not consider the forensic report of Smt Rupali Majumder (PW.7), Scientific Officer-cum-Asst. Chemical Examiner to the Government of Tripura "that seminal stain/spermatozoa of human origin could not be detected in the exhibits marked as A1 (One red coloured panty, said to be one red/ brown coloured jangia (inner wear) of victim, B1 (One violet coloured plazo pant with three marked area B1, B2 and B3 marked by IO subsequently marked the whole exhibit as B in the laboratory, said to be one violet coloured plazo of the victim, D (One sealed plastic container wrapped with white sticking plaster bearing name of victim and seal & signature of Medical Officer, Silachari PHC, Karbook, Gomati Tripura contained two sticks being wrapped with cotton, said to be vaginal swab of the victim, E1 (One black coloured jeans full pant, said to be one black jeans pant of accused Doangya Mog)" and the learned Court below came to the conclusion simply on the basis of surmises and conjectures.

[14] It has been further contended that the Learned Court below while appreciating the evidence in the judgment delivered by him did not

consider the fact that while the PW. 1 (prosecutrix) in her evidence repeatedly stated that when she started shouting the accused forcibly put his hand on her mouth and at that time, she bit his fingers and the accused while forcibly pulling out his fingers broke three teeth of her on the lower jaw and there was bleeding profusely from the mouth whereas the matter of the fact is that there is no evidence of bite mark(s) on any of the finger(s) of the accused. If the pulling out of the hand of the accused on the bite of the victim was with that much force that it broke three incisors of the lower jaw of the victim then the bite mark would have been evident on the medical report of the convict appellant. This fact alone creates serious doubt and hence leaves a false impression on the prosecution story. If this incident of bite mark(s) on any of the finger(s) of the accused did not happen as there is no evidence as such, then the alleged act of rape also did not happen as this all was happening in the course of the appellant committing the alleged rape; hence the charge of rape is falsely framed upon the appellant.

[15] Mr. R. Datta, learned P.P. submitted that the prosecution has examined total 9 witnesses including the victim, her husband, her brothers, police personnel, forensic expert, medical Officer and the I/O. Learned P.P. mainly focused on the evidence of the victim and according to him, the evidence of victim is of sterling quality and her sole testimony can be based to hold the appellant guilty. The incriminating circumstances against the convict appellant is strong and convincing enough to fasten guilt on the appellant. On the said premises, the contention of learned PP is that the prosecution has successfully proved the case against the appellant beyond reasonable doubt. So, has urged for conviction of the convict appellant.

[16] Here in the case at hand, we have discussed the evidence on record of the prosecution in detail. Now we are to conclude our decision on the basis of material evidence on record. In our ultimate analysis, it is crystal clear that there is no reason as to why the continuity of the chain of circumstances and the complaint made against the appellant to be disbelieved. The witnesses supported the entire case of the prosecution with

regard to the commission of offence by the appellant herein and furthermore, we find that the statement made by the witnesses needs no interference. Consequently, we find no reason to interfere with the observations made by the learned Court below and thus, the same is affirmed.

[17] In the result, the appeal stands dismissed. As a sequel, miscellaneous applications pending, if any, shall stand closed. Send down the LCRs forthwith.

S. DATTA PURKAYASTHA, J

DR.T. AMARNATH GOUD, J

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