

HIGH COURT OF TRIPURA
AGARTALA

Crl. A(J) 44/2024

Sri Purbahari Jamatia, son of late Suresh Chandra Jamatia,
resident of Rajapada Para (Krishnabhaktabari), P.S. R.K. Pur,
District- Gomati, Tripura.

----Appellant

Versus

The State of Tripura

----Respondent

For the Appellant(s)	:	Ms. Varsha Poddar, Legal Aid Counsel
For the Respondent(s)	:	Mr. R. Saha, Addl. PP
Date of hearing & delivery of Judgment & Order	:	07.01.2026
Whether fit for reporting	:	Yes/No

BEFORE
HON'BLE JUSTICE DR. T. AMARNATH GOUD
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA
JUDGMENT(ORAL)

(Dr.T.Amarnath Goud, J)

Heard Ms. Varsha Poddar, learned Legal Aid Counsel appearing
for the appellant. Also heard Mr. R. Saha, learned Additional Public
Prosecutor, appearing for the respondent-State of Tripura.

2. The appellant, by means of filing the present appeal has
challenged the judgment and order of conviction and sentence dated
25.07.2022 and 27.07.2022, respectively, passed by the learned Additional
Sessions Judge, Gomati Judicial District, Udaipur, in connection with case
No. Sessions Trial 09 of 2020, whereby the appellant has been convicted
under Section 302 IPC and sentenced to suffer rigorous imprisonment for life
with default stipulation.

3. Facts leading to the present appeal are that, on 20.04.2020 at
around 8.00 p.m. the mother of the complainant, Durgarani Jamatia, went to
the house of their neighbour Ramhari Jamatia to attend a kirtan and at around

9.00 p.m. while her mother was about to leave the courtyard of Ramhari Jamatia for her house, at that time father of the informant, namely, Purbahari Jamatia, came there and gave random dao blows on the neck of the mother of the informant, as a result of which she died at the spot. A specific case was registered against the accused-appellant. In course of investigation, the Investigating Officer recorded the statement of the available witnesses, seized the material articles, arranged for post mortem of the deceased and arrested the appellant-accused. After completion of investigation, charge sheet was submitted against the accused appellant under Section 302 IPC. After receipt of the papers, learned CJM, Gomati, Udaipur, took cognizance of the offence against the accused-appellant and thereby committed the case to the court of learned Sessions Judge, Gomati. Learned Sessions Judge, after supplying the prosecution papers, framed charge against the accused-appellant to which he pleaded not guilty and claimed to be tried. Accordingly, trial commenced. During trial, prosecution examined 25 witnesses and exhibited some documents. Subsequently, examination of the prosecution witnesses was closed and the accused appellant was examined under Section 313 Cr.P.C. wherein he denied all the incriminating materials brought against him and also declined to adduce any defence witness. Having heard learned counsels appearing for the parties, and after considering the oral and documentary evidence, the learned trial Court passed the impugned judgment of conviction and order of sentence. Being aggrieved, the appellant has filed the present appeal challenging the impugned judgment and order of conviction and sentence.

4. Ms. Poddar, learned Legal Aid Counsel appearing for the appellant has submitted that the conviction passed by the learned trial court is

not based on cogent evidence. Learned counsel has also submitted that the deposition of the alleged eye-witness i.e. PW-1, has not been corroborated with deposition of other witnesses. Learned counsel has further submitted that the entire case is based on circumstantial evidence, but the prosecution has miserably failed to prove the circumstance. Learned counsel for the appellant has also submitted that there are many discrepancies in the deposition of the witnesses and also the medical documents/reports do not support the prosecution story. Thus, learned counsel has urged this court for clear acquittal of the appellant. Another argument, which has been advanced by the learned counsel for the appellant is that even if it is to be held that the accused was responsible for the death of deceased i.e. his wife, and further that her death was a culpable homicide, he would still not be guilty of the offence of murder and at best it could be a case of culpable homicide, not amounting to murder punishable under the second part of Section 304 IPC since it is well established from the deposition of the prosecution witnesses that the relation between the accused-appellant and his wife i.e. the victim was not cordial and relating to resolve dispute between them, several village meetings were held, and sought for interference of this Court.

5. Mr. Saha, learned Additional PP defending the judgment of conviction and order of sentence has submitted that the case is well-proved as there are three eye- witnesses to the incident, namely, Ramhari Jamatia (PW-1), Smt. Indrabhakti Jamatia (PW-16) and Smt. Renubala Jamatia (PW-17). Mr. Saha, has further submitted that the medical report has established the fact that the deceased was killed due to deadly hit by a dao inflicted by the appellant at her neck. Learned Additional PP has further submitted that the depositions of the other witnesses are consistent. In fine, learned Additional

PP has urged this court that the finding of the learned trial Court requires no interference.

6. Taking the aforesaid submissions into consideration, this Court would proceed to decide the appeal at hand to examine whether there is any manifest error or illegality and whether any miscarriage of justice on account of misreading or ignoring material evidence has occurred in the present case. This invariably would require a proper examination of the facts and context of the case, for which we must revisit the background facts of the case and evidence adduced.

7. In course of trial, prosecution has examined as many as 25 witnesses, out of which PW-1, PW-16, and PW-17, are the eye-witnesses to the alleged incident. PW-1, in his deposition has categorically stated that one year back at night at around 8/8.30 p.m., Durga Rani Jamatia visited his house for the purpose of Gariya Puja and at that time he alongwith four others were present having some homely made cakes. PW-1 further deposed that, when the victim (Durga Rani), was about to leave his house and on the way between the courtyard and road, she was brutally attacked with a 'dao' on her neck by her husband, namely, Purbahari Jamatia and then Durga Rani fell down on the ground and died on the spot. PW-1, further deposed that thereafter Purbahari fled away. PW-16, in her deposition stated that about one and half year back at around 9.00 p.m. after completion of kirtan she alongwith Durga Rani Jamatia (the victim) was sitting in the house of PW-1, for taking homely made cake and at that time the husband of Durga Rani Jamatia, namely, Purbahari Jamatia came there and gave her a dao blow on her neck resulting which Durga Rani fell down on the ground. PW-16 further deposed that thereafter

Purbahari Jamatia left the place of occurrence. The deposition of PW-17 was a replica to the deposition adduced by PW-16.

PWs-2, 3, 4, 5, 6 (complainant herein), 7, 8, 9, 10, 11, 12, 13, 14,15, are the local inhabitants of Rajapadapara, and all these witnesses are hearsay witnesses, but they have collectively deposed that the appellant has killed his wife by a sharp cutting dao in the courtyard of Ramahari Jamatia. These witnesses have further stated that the relation between the appellant and the victim was not cordial and the appellant used to torture the victim after consuming alcohol.

PW-6 and PW-12, are the sons of the victim and the appellant. PW-6 and 12 conjointly have stated that from their childhood they used to see that their father i.e. the appellant, used to assault their mother i.e. the victim, and on that issue, both the witnesses used to intervene. PW-6, also stated that his mother brought the matter of torture to the village Panchayat and several meetings were convened to settle their dispute and finally in one village baithak held on 16.04.2020 it was decided that the victim will stay with her sons and the appellant will reside separately.

PW-11, is the Village Chowdhury (Sardar) of Rajapadapara village. This witness deposed that the victim, Durga Rani Jamatia used to pray for village baithak about causing assault upon her by her husband i.e. the appellant herein, and PW-11 being the Village Sardar settled their dispute on several occasions. PW-11, further deposed that the victim prior to the alleged incident filed a written complaint to him against her husband to settle their dispute and finally the same was settled after which the appellant and the victim started to reside separately.

PW-8 and 9 in their deposition stated that on 20.04.2020 at about 1.00 p.m., the appellant was detained by police nearby their house in the rubber plantation with the offending weapon i.e. the dao, which was then seized by the I.O. by preparing a seizure list marked as Exhibit-M.O. 6, and PW-8 and 9 put their signatures on the seizure list marked as Exhibit-10 and 10/1.

Thus, from the entire deposition of the prosecution witnesses, as stated above, it is evident that the testimony of the witnesses is corroborative in nature. The witnesses also identified the accused in the dock. Further, the appellant in his examination under Section 313 Cr.P.C. also declined to adduce any evidence on his behalf.

Now, if we go through the medical evidence, it is found that PW-24, Medical Officer, has conducted PM examination over the dead body of the deceased. As per his examination a chop wound measuring 8cm x 4cm x bone deep was found in the left side of the neck of the victim and the same was sharp directing above downwards. As per his opinion, the cause of death was haemorrhagic shock due to sharp force trauma to the neck in association with injury to the vital organs of neck, and all the injuries were ante mortem in nature.

Further, from the Surathal/Inquest report, it is revealed that some portion of the throat of the victim on its left side is lacerated which is caused by the hacking blows with sharp-edged weapon.

If the post mortem examination report, surathal/inquest report and the deposition of PWs 1, 16 and 17 are read unanimously, it would conclusively be seen that the PWs 1, 16 and 17 deposed that the appellant gave a dao blow on the neck of the victim wherein the PM examination report and the inquest report also speak that the cause of death was due to haemorrhagic shock due

to sharp force trauma to the neck in association with injury to the vital organs of neck and the left side of the neck is lacerated caused by sharp-edged weapon.

Thus, the evidence of PWs 1, 16 and 17, who are eye-witnesses to the alleged incident, are trustworthy, consistent and reliable.

Consequently, the evidence of PWs-2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,15, falls under the same line to that of PWs 1, 16 and 17.

8. Upon scrutiny of the depositions of the material witnesses as well as the exhibits produced by the prosecution, predominantly, it is evident that on the alleged date, time and place, the deceased died due to the injuries caused due to a dao blow on her neck inflicted by her husband, the appellant herein, which has been clearly demonstrated in their deposition that the accused was having a sharp cutting weapon and all on a sudden the appellant inflicted dao blow upon the neck of the deceased. Further, from the line of the evidence of the prosecution witness it is revealed that the appellant prior to commission of the alleged crime used to assault the victim i.e.his wife under the influence of liquor and the same happened to be a regular phenomenon. Thus, it can be presumed that there was no sudden provocation or in a heat of moment he had committed the alleged offence rather the same was predetermined.

9. Though learned counsel for the appellant pointed out certain inconsistencies/contradictions in the evidence let in by the prosecution, they being minor in nature, cannot be considered as remissness in the investigation enabling the appellant's acquittal when the presence and act of the appellant was well proved through the prosecution witnesses, more particularly, PWs 1, 16 and 17, and also through the medical papers. It is settled proposition of law

that even if there are some omissions, contradictions and discrepancies, the entire evidence cannot be discarded. Thus, it can be held that there is nothing which could shatter the veracity of the prosecution witnesses or falsify the claim of the prosecution. All the prosecution witnesses have materially supported the prosecution case and, the testimonies of the prosecution witnesses do not suffer from any material infirmity or contradiction and are consistent and corroborative. The evidence of the prosecution witnesses is natural and trustworthy and corroborated by medical evidence. The prosecution witnesses have been able to build up a continuous link. Therefore, it is established beyond reasonable doubt that the accused-appellant committed the murder of his wife.

10. In fine, taking into consideration all these circumstances cumulatively, we find that the trial Court was justified in arriving at the conclusion that it was the accused-appellant who committed the crime in question. On re-appreciation of the entire oral and documentary evidence, we find that the conclusion arrived at by the learned trial Court is neither illegal nor perverse. Hence, we find no reason to disturb with the judgment and order of conviction and sentence dated 25.07.2022 and 27.07.2022 respectively passed by the learned trial Court. Hence, the appeal stands dismissed. Consequently, the finding of conviction and sentence as returned by the learned trial Court is confirmed.

S.DATTA PURKAYASTHA,J

DR.T. AMARNATH GOUD,J

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