

**HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A**

Crl. A(J) No. 58 of 2024

Shri Rakel Munda, son of late Jahan Munda of Chinibagan, Bhuiyapara,
P.S. Kailashahar, District: Unakoti Tripura.

.....Appellant

-VERSUS-

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)	:	Ms. A. Saha Hirawat, Advocate.
For Respondent(s)	:	Mr. R. Saha, Addl. P.P.
Date of hearing and delivery of judgment and order	:	04.02.2026
Whether fit for reporting	:	YES/NO

JUDGMENT & ORDER [ORAL]

[Dr. T. Amarnath Goud, J]

Heard Ms. A. Saha Hirawat, learned counsel appearing for the appellant also heard Mr. R. Saha, learned Addl. P.P. appearing for the respondent-State.

[2] This is an appeal filed under Section-374 of Cr. P.C. against the judgment and order of sentence dated 12.10.2023 passed by the learned Sessions Judge, Unakoti Judicial District, Kailashahar in connection with Case No. S.T. 26 (U/K) 2022 (Type-1), whereby and whereunder, the appellant has been sentenced to suffer rigorous imprisonment for life for the offence punishable under Section-302 of IPC and also a liability to pay a fine of Rs.10,000/- for the said offence and in default, to suffer further rigorous imprisonment for a period of 3 months.

[3] The facts of the case in brief are that on 19.06.2022 night at about 2330 hrs the FIR named accused person namely Rakel Munda, the appellant herein, appeared in the house of complainant and informed him

that he killed his wife namely Moni Munda by blowing with a piece of firewood on her head. Immediately the complainant rushed to the house of Rakel Munda and found that the dead body of Moni Munda lying on the floor of the house with sustaining blood injuries. Then the complainant immediately informed the matter to neighbours. The next day morning he informed the matter to one local police personal and accordingly, the police of Kailashahar PS came to the spot and arrested the accused and took him their custody by registering a case being no. 2022 KLS 03 dated 20.06.2022 under Sections-302 of IPC and after completion of the investigation, the I.O. submitted charge-sheet before the learned Court against the accused person under Sections-302 of IPC.

[4] On commitment of the case, the learned Sessions Judge, Unakoti Judicial District, Kailashahar took cognizance of the offence and framed charge against the present convict appellant under Section-302 of IPC. After examination of P.Ws and the convict appellant under Section-313 of Cr.P.C. and after hearing argument of both sides, the learned Sessions Judge, Unakoti, Kailashahar Tripura, passed the impugned judgment and order of conviction and sentence dated 12.10.2023, in case No. ST 26 (U/K) of 2022 (T-I), convicting the appellant for commission of offence punishable under Section-302 of IPC to suffer rigorous imprisonment for life and also to pay a fine of Rs.10,000/- and in default, to undergo further rigorous imprisonment for three months.

[5] On commitment of the case, the learned Sessions Judge took cognizance of offence and after completion of all legal formalities, framed charge against the present convict appellant under Section-302 of the IPC and trial began accordingly. To prove the case, prosecution has examined as many as 16 (sixteen) witnesses and also exhibited some documents. Defence did not adduce any evidence. Defence case, however, as revealed from the trend of the cross-examination of the prosecution witnesses and examination of the accused person under Section-313 of Cr.P.C is of total denial.

[6] Having heard the learned counsel appearing for the parties and gone through the material evidence on record, the learned Court below has observed as under:

“14. Hence, in the result, I do hereby sentence the convict Shri Rakel Munda for commission of offence punishable U/S 302 of the IPC to suffer rigorous imprisonment for life and also to pay a fine of Rs10,000/- (rupees ten thousand) only, i.d. to undergo further rigorous imprisonment for three (3) months for commission of offence U/S 302 of IPC.

The fine money, if realized, shall be paid to his family member.

The period of detention undergone by the convict during the period of investigation and trial will be set off from the period of imprisonment.

The case stands disposed of accordingly on contest.

The seized material, if any, of this case, be disposed of after expiry of appeal period as per law. Inform Court Inspector, Police Court, Unakoti, Kailashahar and the 10 through the concerned PS accordingly.

Supply a copy of this judgment free of cost to the convict Rakel Munda.

Also communicate a copy of this judgment to the District Magistrate, Unakoti District, Kailashahar and also to the District Secretary, District Legal Services Authority, Unakoti District.

Make necessary entry in the T.R and C.I.S.”

[7] Being aggrieved by and dissatisfied with the same, has been preferred before this Court for ends of justice.

[8] Ms. A. Saha Hirawat, learned counsel appearing has submitted that there is no direct evidence or eye witness to the incident. All the prosecution witnesses are hearsay in nature and the appellant has been convicted based on mere presumption. Hence, the order of conviction and sentence is liable to be set aside. The learned Court below convicted the appellant on the basis of extra-judicial confession which is not at all admissible in law. The facts elicited in cross-examination were not at all considered by the learned Court below.

[9] It has been contended that there are material discrepancies between the statements of the witnesses. PW-5 in her deposition has stated that on the date of incident after getting information from the convict appellant regarding the incident she along with her husband PW-9, PW-4, PW-2 and PW-3 came to the house of the convict and found that the dead

body of Moni Munda in her house on the ground. On the contrary, in their examination-in-chief the PW-9, PW-4, PW-2 and PW-3 deposed that they found that the dead body of Moni Munda in her house on the bed. Thus, the prosecution story is doubtful and baseless. But this fact was not at all considered by the learned Court below.

[10] PW-1 Tusumoni Munda, daughter of the deceased and the convict appellant deposed in her cross-examination that before the said incident her father was suffering from mental illness. The learned Court below did not consider this aspect and as such the impugned judgment and order of conviction and sentence is liable to be set aside. It reveals from the deposition of PW-1 that one day at about 12:30 am her father Rakel Munda, the appellant herein, came to her house and told her that he has killed her mother Moni Munda but being a daughter she didn't visit her father's house immediately rather went to his house on the next morning which is unbelievable.

[11] From the perusal of SFSL report and also from the deposition of PW-15 it is transpired that the report clearly mentioned that *"No alleles has been amplified from Exhibit A2 (Source: Gauze swab taken from one fire wooden piece), except amelogenin indicative of human male origin."* The PW-15 also arrived into conclusion that *"Genetic profile was not generated from the blood stain of Exhibit-A2 (source: gauze swab taken from one fire wooden piece). However, the amplification of amelogenin indicates the blood stain was human male origin."* Meaning thereby, the said piece of firewood which was projected as "murder weapon" by the prosecution is not at all proved. But the learned Court below convicted the appellant on mere presumptions and hypothesis therefore the sentence is liable to be set-aside.

[12] From the FIR, it is transpired that due to heavy rain with storm on the night of alleged date of incident the complainant and other prosecution witnesses could not inform to the local police about the incident on that day itself. But such fact was neither deposed by the complainant nor

any other prosecution witnesses before the learned Court which creates a gross doubt in the prosecution story.

[13] Every criminal act is done with a motive but in this case, prosecution failed to prove what can be the motive of the alleged murder. Thus, the learned Court below did not consider this aspect and as such the impugned judgment and order of conviction and sentence is liable to be set aside. There exist many lacunas in the process of investigation as well as in the development of the chain of events, which creates a doubt in the part of the IO. The extra judicial confessions are generally a weak piece of evidence and as such the order of conviction and sentence is liable to be set aside.

[14] In support her argument, has relied on a decision of the Hon'ble Apex Court on the point of circumstantial evidence in ***Reena Hazarika v. State of Assam*** reported in ***(2019) 13 SCC 289***, wherein, it has been observed as under:

“The essentials of circumstantial evidence stand well established by precedents and we do not consider it necessary to reiterate the same and burden the order unnecessarily. Suffice it to observe that in a case of circumstantial evidence the prosecution is required to establish the continuity in the links of the chain of circumstances, so as to lead to the only and inescapable conclusion of the accused being the assailant, inconsistent or incompatible with the possibility of any other hypothesis compatible with the innocence of the accused. Mere invocation of the last seen theory, sans the facts and evidence in a case, will not suffice to shift the onus upon the accused under Section 106 of the Evidence Act, 1872 unless the prosecution first establishes a prima facie case. If the links in the chain of circumstances itself are not complete, and the prosecution is unable to establish a prima facie case, leaving open the possibility that the occurrence may have taken place in some other manner, the onus will not shift to the accused, and the benefit of doubt will have to be given.”

[15] ***Regarding extra judicial confession in Ramu Appa Mahapatra v. State of Maharashtra***, reported in ***(2025) 3 SCC 565***, the Hon'ble Apex Court has observed as under:

“This ruling significantly reinforces the view that courts must exercise heightened caution when relying on extra-judicial confessions. Prosecutors and investigators must now be meticulous in corroborating such admissions and ensuring that the chain of evidence is free from contradictions or gaps. Defense attorneys, on the other hand, will likely invoke this precedent to

argue for acquittal in cases where the prosecution relies heavily or solely on purported confessions not made in the presence of judicial authorities.”

[16] In view of above and having heard the learned counsel appearing for the parties and the observations made by the learned Court below, for a definite conclusion, let us revisit the material evidence once again. PW-1 Tusumani Munda, is the daughter of the deceased and the accused person of this case. She stated in her evidence that about 7/8 months back one day in the night hours at about 12:30 am her father Rakel Munda came to her house and told her that he has killed her mother Moni Munda. On that night she could not go to her father's house. On the next morning she went to her father's house and saw her mother in dead condition there. Thereafter Police came there and prepared inquest report over the dead body of her mother and she put her signature on the said inquest report. She identified her signature on the inquest report which on her identification is marked as Exbt. P-1. She also put her signature in the seizure list relating to seizure of body parts of her mother along with some clothes She identified her signature on the said seizure list which on her identification is marked as Exbt.P 2. She also stated that she was also brought before the Court by Police where she gave her statement and put her signature on the said statement. In her cross-examination she has stated that before the incident her father was suffering from mental illness.

[17] PW-5 in her deposition has stated that on the date of incident after getting information from the convict appellant regarding the incident she along with her husband PW-9, PW-4, PW-2 and PW-3 came to the house of the convict and found that the dead body of Moni Munda in her house on the ground. On the contrary, in their examination-in-chief the PW-9, PW-4, PW-2 and PW-3 deposed that they found that the dead body of Moni Munda in her house on the bed.

[18] Analyzing the evidence of PW-1 it reveals from her evidence that accused person made extra-judicial confession before her that he has killed her mother. She stated in her cross-examination that she has told before the Magistrate that her father confessed that he killed her mother, but PW-16, who is the IO of the present case stated in his cross-examination

that PW-1 did not give any judicial statement that her father confessed that he has killed his wife. Thus, the evidence of PW-1 that her father told her that he has killed her mother is an improved version, as compared to her judicial statement given before the Court.

[19] In our considered opinion, the “sterling witness” should be of a very high quality and caliber, whose version should, therefore, be unassailable. The court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the court which is little bit inconsistent in the present case.

[20] The Hon’ble Apex Court recently held that while extra-judicial confessions are typically considered weak pieces of evidence, they can still serve as grounds for conviction if proven to be voluntary, truthful, and free of inducement. The court must be convinced of the reliability of the confession, and this evaluation takes into account the surrounding circumstances. It is trite law that extra judicial confession is considered as a weak type of evidence and is only used as a corroborative link to lend credibility to the other evidence on record. The probative value of the testimonies of the witnesses, as well as, their credibility will though be examined by the learned Court below at an appropriate stage but an overview of the statements of the material witnesses tilts the balance in favour of the appellant for granting relief. It is also not the case of the prosecution that, the appellant has previous criminal records or there is possibility of the appellant fleeing from justice.

[21] Hence, this Court, after evaluating all the evidences 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 for couple of years and considering the mental condition of the accused-appellant, a lenient view is taken and the case of the accused is considered as an act of culpable homicide not amounting to murder. Thus, the 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 i.e. converting the life imprisonment into seven years of punishment. Accordingly, the same is ordered.

[22] 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 is modified to the extent as indicated above. Accordingly, the present appeal stands partly allowed and thereby, the same is disposed of.

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

S. DATTA PURKAYASTHA, J

DR.T. AMARNATH GOUD, J

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