

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. A. (J) 71/2025

Sri Kalam Joy Tripura, son of late Bhadu Kumar Tripura,
resident of Girachandra Para, P.S. Gandacherra, District- Dhalai,
Tripura, PIN-799284;

.... Appellant

Versus

The State of Tripura, represented by its Secretary, Home
Department, Government of Tripura, P.O. Secretariat-799010,
P.S. New Capital Complex, District- West Tripura.

----Respondent

For the Appellant(s)	:	Mr. A. Bhaumik, Advocate Mr. S. Saha, Advocate Mr. U. Das, Advocate Ms. I. Chakma, Advocate
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For the Respondent(s)	:	Mr. Raju Datta, PP
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Date of hearing & delivery of Judgment & Order	:	07.04.2026
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Whether fit for reporting	:	Yes
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BEFORE

**HON'BLE JUSTICE DR. T. AMARNATH GOUD
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA**

JUDGMENT(ORAL)

(Dr.T.Amarnath Goud, J)

Heard Mr. A. Bhaumik, learned counsel appearing for
the appellant. Also heard Mr. Raju Datta, learned Public Prosecutor
appearing for the respondent-State.

2. The appellants, by means of filing the present appeal
have challenged the judgment and order of conviction and
sentence dated 27.03.2024 and 30.03.2024, respectively, passed
by the learned Sessions Judge, Dhalai Judicial District, Ambassa,
in connection with case No. S.T.(Type-1) 6 of 2023, whereby the
appellant had been convicted under Section 302 IPC, and
sentenced to suffer rigorous imprisonment for life and also to pay
a fine of Rs.10,000/- with default stipulation under Section 302
IPC.

3. The case of prosecution, in brief, is that, on 31.03.2023, the complainant, Ranajoy Tripura (husband of the victim) lodged a written ejahar with the Officer-in-Charge of Gandacherra police station alleging *inter alia* that on 25.03.2023 in the morning at about 7 a.m. his wife, Brihabala Tripura, went out of her dwelling hut to a nearby jungle, but when she did not return home till evening, the complainant searched for his wife in the nearby jungle, but was not traceable. It was also alleged that on the next day afternoon, the complainant accompanied by 40/50 nos. of villagers conducted search in the jungle of Raja Singh Hadok area from where the dead body of his wife was recovered. It was also alleged that when his wife was entering into the said jungle, some villagers could see the accused-appellant to follow the deceased from her back and also they saw the accused-appellant to come out of the jungle. It was further alleged that the accused-appellant might have murdered his wife.

4. The complaint thereafter was registered as FIR vide Gandacherra PS case No. 9 of 2023 dated 31.03.2023 under Section 302 IPC and the same was endorsed for investigation to PW-32. During the course of investigation, the I.O. visited the PO, seized some available materials under seizure lists from the possession of the accused-appellant in presence of witnesses, arrested the accused-appellant, recorded the disclosure statement of the accused-appellant followed by pointing out memorandum. The I.O. has also recorded statements of the material witnesses, arranged medical examination of the accused-appellant, collected

medical evidences, and upon completion of investigation, submitted charge-sheet against the accused-appellant for commission of offence punishable under Section 302 IPC. On receipt of the charge-sheet, cognizance was taken by the SDJM, Gandacherra and documents were supplied to the accused. At commencement of trial, charge was framed against the accused under Section 302 IPC, to which the appellant pleaded not guilty and claimed to be tried.

5. The prosecution to substantiate the charge adduced as many as 32 witnesses and introduced some documents which were exhibited by the learned trial court. On closure of the prosecution evidence, the accused was examined under Section 313 Cr.P.C. to which he denied all the allegations and declined to adduce evidence on his behalf. After completion of recording of evidences and having heard the learned counsel appearing for the parties, the learned Sessions Judge convicted and sentenced the accused, as stated here-in-above. Hence, this appeal before this court.

6. Mr. Bhaumik, learned counsel appearing for the appellant has submitted that there are substantial contradictions in the statement of the prosecution witnesses. Learned counsel has also submitted that the delay in lodging the FIR has not been properly explained and first part of the FIR is totally different from deposition of the complainant before the learned Court. He has also submitted that initially the complainant did not lodge any missing diary before the police though in his complaint he alleged

that he wife was missing. Learned counsel has further submitted that the prosecution case is hit by Section 26 and 27 of the Indian Evidence Act. Learned counsel has further questioned the authenticity of the examination report/SFSL report. Learned counsel also has raised serious objection to the discrepancies arose between the complainant, the witnesses, seizure and the reports. Learned counsel further submitted that the prosecution has failed to mention the exact date and time of the alleged murder of the victim. He has also submitted that from the PO except some soil, nothing was discovered and the same would reveal that the appellant has been falsely involved with the alleged incident. Learned counsel has tried to persuade this court that PWs 1,5,7,8,9,10,11,19 and 30 are hearsay witnesses and their deposition has no credibility. He has also submitted that PWs 2,4,20 and 28 had been declared hostile by the prosecution. Showing all the discrepancies therein learned counsel has submitted that the entire investigation is perfunctory, hence, has submitted that this is a clear case of acquittal.

7. On the other hand Mr. Datta, learned PP appearing for the State-respondent has submitted that the presence of the accused at the scene of occurrence on that fateful date has been proved beyond reasonable doubt though there is no eye witness. Mr. Datta, learned Additional PP has submitted that from the deposition of the witnesses, it is aptly clear that the accused had entered into the jungle following the victim and had murdered the victim by strangulation. Learned PP has further submitted that the appellant during his examination under Section 313

Cr.P.C. declined to adduce any witness on his behalf. Further the disclosure statement of the appellant is taken in police custody in presence of DCM and the said disclosure statement subsequently led to discovery. Learned PP has further submitted that the conviction returned by the learned trial court is based on a thorough and careful appreciation of the oral and documentary evidences which is well-reasoned and legally sound and the same requires no interference.

8. This court has meticulously gone through the case records, the orders and the judgments relied upon by the learned counsel to the *lis*, contained therein.

9. To prove the case prosecution has examined as many as 32 witnesses. Out of those 32 witnesses, PWs 1,5,7,8,9,10, 11,19,30 are hearsay witnesses, but they had conjointly deposed in trial that from other villagers they had come to learn that the appellant had followed the victim to the jungle, but none could establish that the appellant had committed the crime. Further, PWs- 2, 4, 20, 27, 28 had been declared hostile by the prosecution. Further, from the post mortem report (Exbt. P/24) it is evident that no specific mark of ligature has been ascertained on the neck of the deceased and dissection of neck shows no fracture of thyroid bone or thyroid cartilage and cause of death could be due to advanced decomposition and putrification of whole body which means advanced stage of decomposition. Further, PW-17, who conducted post mortem examination over the dead body of the victim also opined that no bruises, abrasion

or any other injuries were found in the dead body and no specific mark of ligature could be ascertained on the neck of the dead body. He also has deposed that there was no trace of common pesticides or drugs or ethyl alcohol. The evidence of PW-15, Deputy Director, DNA Department also shows that there was no possibility to draw any DNA profiling. Thus, medical evidence also did not support the prosecution case.

10. The disclosure statement of the victim was without any pressure or coercion, and the same led to discovery of material i.e. soil. There is no evidence on record to show that anything material has evolved from testing of the seized soil from the place of occurrence so as to support the prosecution story. The manner of recovery and preparation of seizure memos raises grave doubts about the version of disclosure and recovery put forth by the prosecution. Also, there is absence of corroboration in the testimonies of independent prosecution witnesses for which this Court has doubt with respect to the 'last seen' circumstance too. The evidence led by the prosecution cannot by any mean said to be credible, reliable, trustworthy.

10. It is trite law that conviction under Section 302 IPC shall be set aside when there is no direct eyewitness and the circumstantial evidence is weak, inconsistent, or fails to form a complete chain leading to the guilt of the accused. The benefit of the doubt shall be given to the accused if the prosecution fails to prove the case beyond reasonable doubt. In the instant case in hand, on over all appreciation of the evidence available on

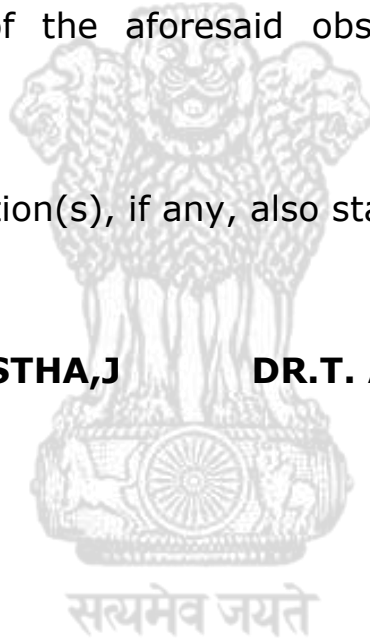
record, this court of the considered view that the prosecution has miserably failed to proved its case beyond any shadow of doubt. As a result, the present criminal appeal is allowed. The impugned judgment and order of conviction dated 27.03.2024 as well as sentence recorded by the trial court dated 30.03.2024, is set aside. The appellant, is hereby, acquitted of the charge for which he has been tried. Accordingly, the appellant is directed to be set free from incarceration, if not required in any other case.

11. In view of the aforesaid observations, the appeal stands, **allowed**.

Pending application(s), if any, also stands disposed.

S.DATTA PURKAYASTHA,J

DR.T. AMARNATH GOUD,J



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