

HIGH COURT OF TRIPURA

AGARTALA

Crl. A(J) 69 of 2024

Paltu Jamatia,

son of late Manoranjan Majatia,
Resident of Nagrai Sardar para, Champlai,
Mungiakami, Khowai, Tripura

.....**The Convicted-Appellant**

Versus

State of Tripura

(To be represented by) the learned Public Prosecutor,
High Court of Tripura, Agartala

.....**Respondent**

For the Appellant(s) : Mr. Samarjit Bhattacharjee, Legal Aid Counsel.

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

Date of hearing & delivery
of judgment & order : 11.02.2026.

Whether fit for reporting : Yes/No.

HON'BLE JUSTICE DR. T. AMARNATH GOUD

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

J U D G M E N T & O R D E R (O R A L)

[Dr. T. Amarnath Goud, J]

[1] Heard Mr. Samarjit Bhattacharjee, learned Legal Aid Counsel for the appellant. Also heard Mr. Raju Datta, learned Public Prosecutor appearing for the State-respondent.

[2] This present appeal is filed under Section 374 (2) of the Code of Criminal procedure, 1973 against the Judgment and Order, dated 18.01.2023, passed by the learned Sessions Judge, Khowai, Tripura, in Case No. Sessions Trial (T-1) 06 of 2021 convicting the appellant for offence punishable under Section 302 of the Indian Penal Code and Sentencing him to suffer life imprisonment for commission of offence punishable under Section 302 of the Indian Penal Code with fine of Rs.5,000/- i.d. to suffer SI for 02(two) months.

[3] The prosecution story in brief is that on receipt of complaint from one Radhamohan Jamatia, the father of deceased Monoranjan Jamatia an FIR was lodged stating inter-alia that on 19.09.2020 at about 06.30 a.m. Paltu Jamatia, the son of deceased Monoranjan Jamatia indiscriminately attacked the deceased with a 'dao' (a sharp cutting iron made weapon) over one familial dispute. As a result of his attack, Monoranjan Jamatia died on the spot. It was further alleged that after the incident, Paltu Jamatia, the grandson of the informant fled away.

[4] On the basis of the said complaint, on 19.09.2020 at 1225 hours, a case was registered being MGK PS case No. 2020 MGK 021 dated 19.09.2020, u/s. 302 of IPC. Thereafter, the case was endorsed to an S.I. for investigation. During investigation, he visited the place of occurrence and prepared hand sketch-map with separate index, recorded the statements of the witnesses u/s. 161 of Cr.P.C., preparing inquest report of the deceased, seized blood sample, arranged for PM examination of the deceased, seized offending weapon i.e. the 'Dao', forwarded the toxicology exhibits, blood sample wearing apparels of the deceased and the offending weapon to the State Forensic Science and Laboratory, Tripura, Narshingharh for examination and collected the analysis report, collected the 65(B) certificate of Indian Evidence Act and also arrested the accused person.

[5] On completion of investigation, a prima-facie case having been appeared, the I.O. submitted charge-sheet being No. MGK PS case No.02/2021, dated 30.01.2021 u/s.302 of IPC against the FIR named accused person Paltu Jamatia, appellant herein to stand trial in the open court of law. Charge was framed against the accused person u/s. 302 of IPC to which, he pleaded not guilty and claimed to be tried.

[6] During trial, total 21 (Twenty one) witnesses were examined and cross-examined. The accused was examined under Section 313(1)(b) of Cr.P.C., and he denied evidence on his behalf and the defence case was of total denial.

[7] Thereafter, upon hearing the arguments of both sides and on perusal of the material evidence on record, learned trial Court by its order dated 18.01.2023 in case No. ST(T-1) 06 of 2021, sentenced the accused person, appellant herein in the following manner:

“.....As the convict is very young boy of 22 years, he is not sentenced to death but in view of the nature and gravity of the offence, I think it would meet the ends of justice, if he is sentenced to life imprisonment for the commission of offence punishable under Section 302 of IPC with fine of Rs.5,000/- i.d to suffer SI for 02 (two) months.

11.

ORDER

The convict is sentenced to suffer life imprisonment for the commission of offence punishable U/s. 302 of IPC with fine of Rs.5,000/-i.d to suffer SI for 02 (two) months.

The seized 'alamat' be destroyed after expiry of the appeal period.

The convict is duly informed about his right to appeal against the judgment of this Court.....”

[8] Aggrieved by the above-quoted sentence passed by the learned Court below, the appellant has preferred this present appeal seeking the following reliefs:

“.....Under the circumstances, stated above, it is submitted, that, Hon'ble High Court will be kind enough to allow the instant Appeal

filed Under Section 374(2) of the Code of Criminal Procedure, 1973, against the Judgment and Order, dated 18.01.2023, passed by the L'd Sessions Judge, Khowai, Tripura, in Case No. Sessions Trial (T-1) 06 of 2021, convicting the Appellant for offence punishable u/s 302 of the Indian Penal Code and Sentencing to suffer life imprisonment for the commission of offence punishable u/s 302 of the Indian Penal Code with fine of Rs.5,000/- i.d. to suffer SI for 02(two) months.

AND

The Hon'ble High Court may also pass any further Order/Orders as may be considered fit and proper so that, the Convicted-Appellant may be released and acquitted honourably.

AND

For this act of kindness, the Convicted-Appellant as in duty bound shall ever pray.”

[9] Mr. Samarjit Bhattacharjee, learned Legal Aid Counsel submits that learned trial Court convicted the appellant on the basis of the surmises and conjectures and the findings of the learned trial Court to the effect, that the appellant has committed offence punishable u/s 302 of IPC is liable to be interfered with by this Court. He contends that the motive of committing such offence is not proved and for a moment, if it is held that the homicide of the victim could have been committed on the spur of the moment due to hot altercation, the learned trial Court failed to appreciate that and sentenced the accused for life imprisonment which is unjustifiable. He, therefore, urges this Court to set aside/modify the impugned order dated 18.01.2023 passed by the learned trial Court in case No. ST(T-1) 06 of 2021.

[10] On the contrary, Mr. Raju Datta, learned P.P. representing the State opposes the submissions made on behalf of the appellant. He contends that the observation and decision made by the learned trial Court is based upon

all the evidences on record in connection with the present case and the same is just and proper which needs no further interference by this Court.

[11] Heard the submissions made at the Bar. Perused the material evidence on record.

[12] On perusal of record it is seen that P.W. 19 i.e. the wife of the deceased Manoranjan Jamatia, as an eye-witness deposed before the learned trial Court that one day in the morning at about 6/6:30 am she told her step-son Paltu Jamatia, appellant herein to lit the firewood for cooking but, Paltu did not do so and her husband lit the firewood. Her husband cooked the food and started taking it. She further deposed that after sometime, he(husband) went to kitchen to fetch 'dal' then he asked Paltu as to why he did not lit the firewood on being asked by his step-mother. Then, Paltu became furious and gave 'dao' blow (a sharp cutting tool) and she was present at that time. After attacking her husband Paltu fled away with the 'dao' and her husband died on the spot.

[13] In cross-examination by defence, the said eye-witness, i.e. P.W. 19 stated that when her husband was taking food, Paltu was also taking food in the kitchen. She heard that her husband had been in jail for sometime and on hearing this after her marriage, she asked her husband as to why he was in jail. Her husband informed her that a criminal case was lodged against him with an allegation that he murdered his first wife i.e. the mother of Paltu but, she denied that due to that allegation, Paltu had very bad relation with his father. She further disclosed that before the incident, the father of Paltu scolded him as he did not abide by the instruction of his step-mother i.e. P.W. 19 herself. It was also contended by her that for a considerable period, there was an altercation between Paltu and his father.

[14] In his disclosure statement, the accused stated that often he had dispute with his father over domestic issues. On 19.09.2020 A.D. last, at about 6.30 AM, he was taking meal in the kitchen and his father and step-mother were sitting in the next room at that time. Suddenly, his father came to him and started abusing him. He then got heated and took a sharp billhook that was on the fence of the room next to him and started hacking his father on the side of his ear, chest and hand resulting which, his father fell on the ground of the room and died. Then, on seeing the family members coming, he fled away by the door of the kitchen with the 'Dao'.

[15] From the post-mortem report of the deceased, it appears that the doctor observed in his final opinion that probable cause of death was due to injury by sharp heavy weapon to lung-tissue and pleura of the deceased, resulting in *hemorrhagic shock*.

[16] Upon the overall analysis of the material evidence on record more particularly, the deposition of the eye-witness i.e. P.W.19, the disclosure statement of the accused and the post-mortem report as discussed above, this Court has no hesitation to held that the accused appellant has killed his father with a sharp weapon. However, the prosecution has never brought on record any incident which indicates there had been any attempt from the accused to kill his father before the alleged homicide. Hence, the motive of killing the deceased has not been proved in the present case. The prosecution has not placed any previous criminal records too. The post-mortem report also does not indicate that the convict had repeatedly blown with the sharp weapon to kill her father.

[17] From the above-discussed deposition of P.W.19 i.e. the eye witness (step-mother of the accused) and the disclosure statement of the accused, it appears that there was hot altercation between the accused and his father (deceased) since he did not abide by the instruction of his step-mother.

[18] 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 deceased. In the present case, the convict-appellant was at his tender age at the time of committing the homicide and he has already been undergone imprisonment for couple of years. Considering the facts that the incident took place due to hot altercation between the convict-appellant and his father(deceased) and there is no criminal record pending against the convict, 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 converting the life imprisonment into seven years imprisonment. Accordingly, the same is ordered.

[19] Consequently, the sentence imposed by the learned Court below under Section 302 IPC is converted into Section 304 IPC. The period of detention undergone by the convict during investigation/trial/sentence if any, shall be set off. In that view of the matter, the judgment and order of conviction and sentence 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.

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

[21] Send down the LCRs.

S. DATTA PURKAYASTHA, J

DR. T. AMARNATH GOUD, J

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