GAHC010017222014

2026:GAU-AS:17058

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.A./300/2014

MD. SOKAT ALI RAJBARBHUIYA
S/O LATE ASAB ALI RAJBARBHUIYA, R/O RAJNAGAR PATHARIGRAM, P.S. SILCHAR,D IST. CACHAR, ASSAM.

VERSUS

STATE OF ASSAM and ANR

2:ABDUR RAHIM RAJBARBHUIYA

S/O LATE AJMAN ALI
R/O RAJNAGAR
PATHARKANDI
P.S. SILCHAR
DIST. CACHAR
ASSAM

Advocate for the Petitioner : MR.L R MAZUMDER,

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

12/11/2026

Heard Mr. L R Mazumdar, learned counsel for the appellant and Mr. B Sarma, learned Additional Public Prosecutor, Assam.

2. The appellant by way of instituting the present criminal appeal has presented a challenge to the judgment & order dated 08.09.2014, passed by the Court of learned Sessions Judge, Cachar, Silchar in Sessions Case No. 38/2013, convicting the appellant, herein, under Section 324 IPC and sentencing him to undergo Rigorous Imprisonment for 1 (one) year and to pay a fine of Rs.5,000/- (Rupees Five Thousand), in default, to undergo Simple Imprisonment for 1 (one) month.

3. The prosecution case in brief is that on 08.09.2008, Abdur Rahim Rajbarbhuiya, had lodged an Ejahar before the Officer-in-Charge of Arunachal Outpost, inter-alia, alleging, therein that the appellant, herein, had assaulted Babul Hussain Rajbarbhuiya with a dao on his head, elbow and thigh with the intention of causing his death. It was further alleged that on account of such assault, the victim suffered various injuries, which led to his hospitalization.

The FIR on being received was registered at Arunachal Outpost as G.D. Entry No.120 dated 08.09.2008 and thereafter, the same was forwarded to the Officer-in-Charge, Silchar Police Station and the same was registered as Silchar P.S. Case No. 1820/2008 under Sections 326/307 IPC.

On conclusion of the investigation, police submitted a charge-sheet against

the appellant, herein. The matter on being committed to the Court of the learned Sessions Judge, Cachar, Silchar, the learned Trial Court framed a charge under Section 307 IPC against the appellant, herein and the same on being read over and explained to the appellant, he having pleaded not guilty and claimed to be tried, a trial ensued.

During the trial, the prosecution examined 9 (nine) witnesses. Thereafter, the appellant was examined under Section 313 Cr.P.C. The appellant had not adduced any defence evidence.

On conclusion of the trial, the learned Trial Court, basing on the evidences coming on record, proceeded to acquit the appellant from the charge framed against him under Sections 307/326 IPC and convicted the appellant under Section 324 IPC.

On his such conviction, the appellant was sentenced to undergo Rigorous Imprisonment for 1 (one) year and to pay a fine of Rs.5,000/-, in default, to undergo Simple Imprisonment for 1 (one) month for the offence under Section 324 IPC.

Being aggrieved, the appellant has instituted the present appeal.

4. I have heard the learned counsel for the parties and also perused the materials available on record.

5. The learned Trial Court, upon examining the evidences coming on record, had framed the following issues for determination:

"*1) What are the nature/types of injuries suffered by the victim, if any?*

(2) Whether the accused person assaulted the victim with the intention of

causing his death or with the knowledge that had he caused death by such act, he would have been guilty of murder ?

(3) If not, whether the accused person voluntarily caused grievous hurt or hurt to the victim whether by means of any dangerous weapon or otherwise ?"

6. With regard to the issue No. 1, the learned Trial Court on a consideration of the matter, basing on the evidences coming on record, proceeded to draw a conclusion that the injuries suffered by the victim was not sufficient to bring it within the ambit of Sections 320/326 IPC. However, it was held that the victim had sustained simple injuries over his head, right elbow and left thigh, caused by sharp weapon.

7. With regard to the issue No. 2, the learned Trial Court basing on the materials coming on record, proceeded to hold that the victim having sustained only simple injuries, the appellant, herein, cannot be made liable for the offence under Sections 307/326 IPC and that the guilt of the appellant would be squarely covered by the provisions of Section 324 IPC, i.e., causing hurt by dangerous weapon.

8. Basing on the said conclusions drawn, taking the aid of Section 222 of the Code of Criminal Procedure, 1973, the learned Trial Court proceeded to convict the appellant, herein, under Section 324 IPC and sentenced him, as noticed hereinabove.

9. On a perusal of the conclusions drawn by the learned Trial Court, this Court is of the considered view that the conclusions so drawn with regard to the guilt of the appellant, herein, were so drawn basing on the evidences coming on record during the trial and accordingly, this Court is of the considered view that

the conviction of the appellant, herein, under Section 324 IPC, would not mandate an interference from this Court.

10. Having drawn the above conclusions, this Court notices that the offence involved in the matter was committed by the appellant in the year 2008 and more than 18 years have lapsed since the date of commission of the offence by the appellant.

11. Accordingly, considering the long lapse of time occasioning in the matter since the date of commission of the offence by the appellant, this Court is of the considered view that the appellant, herein, is entitled to be extended with the benefits under the provisions of the Probation of Offenders Act, 1958. The said benefit being permissible to be granted by this Court in exercise of its Appellate jurisdiction, this Court extends the benefit under the Act of 1958 to the appellant, herein.

12. Accordingly, for the reasons recorded, hereinabove, the appellant, herein, is given the benefit under the Act of 1958 and the sentence stands modified to the effect that instead of sending the appellant to jail, he should be given the benefit under the Probation of Offenders Act, 1958.

13. This Court has only modified the sentencing with regard to imprisonment of the appellant and the fine as imposed by the learned Trial Court, not having been interfered with, the appellant, herein, would be liable to deposit the fine amount.

14. In view of the above discussion, it is directed that the appellant, herein, will file two sureties to the tune of Rs.10,000/- (Rupees Ten Thousand) along with a personal bond before the learned Sessions Judge, Cachar, Silchar and

undertake to the effect that the appellant, herein, shall maintain peace and good behaviour during the period of 1 (one) year from the date of filing of the bond. The aforesaid bond be filed by the appellant within a period of 2 (two) months from the date of this order, along with the deposit of the fine amount, as imposed by the learned Trial Court.

15. With the above observations and directions, the present appeal stands disposed of.

16. Send down the records of the case to the learned Trial Court along with a copy of this order for information and necessary action.

JUDGE

Comparing Assistant