

DISTRICT : GOLAGHAT.

IN THE COURT OF THE SESSIONS JUDGE AT GOLAGHAT.

Ref. :- **Sessions Case No. 37/2013.**

G.R. Case No. 121/2013.

U/S. 302 of IPC.

The State of Assam Prosecution.

Vs.

Sri Puran Munda. Accused.

Date of charge 15.03.2013.

Dates of evidence 01.08.2013, 16.08.2013,
08.10.2013.

Date of argument 20.11.2013.

Date of judgment 21.11.2013.

APPEARANCES :-

For the prosecution Mr. N.P. Acharjee,
Public Prosecutor, Golaghat

AND

For the accused person Mr. S. Singh,
Legal Aid Counsel, Golaghat.

P R E S E N T :
SHRI T. LOHAR,
SESSIONS JUDGE,
GOLAGHAT.

JUDGMENT AND ORDER :

1. The prosecution case, as unfolded in the ejahar, in brief, is that on 17.1.2013, at around 5'30 P.M., while Naren Munda was absent from his house, his wife Smti. Deepali Munda was killed by accused Puran Munda inflicting by an iron rod. Deepali Munda succumbed to the injury on the way when she was taken to Golaghat Civil Hospital by 108 Ambulance.
2. The O/C of Golaghat police station on receipt of the written ejahar from the informant Naren Munda on 18.1.2013, registered the case vide Golaghat P.S. Case No. 54/2013 u/s 302 of IPC and investigated into the case. After completion of investigation, the police submitted the charge sheet u/s 302 of IPC against accused Puran Munda to face the trial.
3. As the case is exclusively triable by the Court of Sessions, the learned Additional Chief Judicial Magistrate, Golaghat committed the case to the Court of Sessions. Accordingly, the case came up before this Court for trial.
4. As the accused person is an UTP in this case. Hence, the learned counsel Mr. S. Singh from the penal of Legal Aid Counsel, Golaghat has been appointed to conduct the case of the accused person on the defence side at the cost of DLSA, Golaghat.
5. After hearing from both the sides and on perusal of the case record, the prima facie material for the offence u/s 302 of IPC was found against the accused Puran Munda to proceed with. Accordingly, the accused Sri Puran Munda was charged u/s 302 of IPC and the contents of the charge was read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
6. The prosecution examined as many as 6 witnesses to prove the case. The informant Sri Naren Munda and one Mintu have not been examined by the prosecution on the ground that they were not found at the place of their residence. The police submitted a report stating that during the relevant period, they were living at the rented house and now, they left for some unknown place. Their present addresses could not be procured to send the summons.
7. After hearing from both the sides, the examination of these witnesses has been dispensed with. After recording the evidence of remaining 6 witnesses, the accused person has been examined u/s 313 of Cr.P.C. No incriminating evidence found against the accused person.

8. Heard the learned counsels of both the sides.

9. The only point for determination in this case is :-

“ Whether the accused Puran Munda on 17.1.2013, at around 5'30 P.M., committed murder by causing the death of Deepali Munda ?”

DISCUSSIONS, DECISION AND REASONS

THEREOF :

10. Let me discuss the evidence on record to see as to whether the prosecution is able to prove the above point.

11. P.W.1 Sri Babul Munda has deposed in evidence that he knows the accused person, as well as the informant of this case. Deceased Deepali Munda was the wife of informant Naren Munda and accused Puran Munda is the younger brother of informant Naren Munda. At the time of occurrence, when he (PW.1) returned home from school, he came to know about the incident. Deepali Munda succumbed to the injury at hospital. Thereafter, the dead body of Deepali Munda was brought to the house. He could not say how Deepali Munda died. At present, the informant Naren Munda is not available. He could not know where Naren Munda is living.

12. P.W.2 Sri Ajit Karmakar has deposed in evidence that he knew the accused, informant and the deceased person. On the next day of the occurrence, the husband of deceased Deepali Munda told him to go to Golaghat Civil hospital. Accordingly, he went to Golaghat Civil hospital and police took his signature there in connection with the dead body of a female. He did not see any injury on the dead body of the deceased. Further, he could not say how Deepali Munda died.

13. P.W.3 Sri Latu Rawtia has deposed in evidence that he knew both the accused and the deceased. At the time of occurrence both Naren Munda and his wife Deepali Munda were living in a rented house belonging to Bijoy Kheria. The occurrence took place at night of about 10 P.M. He came to know about the occurrence from his mother when he returned home from his working place. He was told by his mother that accused Puran Munda killed

Deepali Munda. Thereafter, he went to Golaghat Civil Hospital with Naren Munda. But he did not see any injury on the dead body of Deepali Munda. Police took his signature in the hospital. He could not say how Deepali Munda died.

14. P.W.4 Sri Bijoy Kheria has deposed in evidence that accused Puran Munda is known to him. He did not see any incident. The occurrence took place at night of about 9 P.M. The dead body of Deepali Munda was sent to Kushal Konwar Civil Hospital, Golaghat.

15. P.W.5 Dr. Mukul Sarmah on 18.1.2013 conducted the post mortem examination over the dead body of deceased Deepali Munda, aged about 32 years, female, wife of Naren Munda at Kushal Konwar Civil Hospital, Golaghat on police requisition in connection with Golaghat P.S. Case No. 54/13 on being escorted and identified by UBC-78 Ambeswar Rajkhowa and relative of the deceased Naren Munda, Babul Munda and Nitumoni Munda and found the following-

Dead body of a healthy young lady, aged about 32 years, female, Hindu. Rigor mortis present.

INJURIES :

Extensive lacerated wound over the right temporo-parietal region of head, size – 6.1/2" X 5" X 4".

Another wound over the left side of parietal region of head, size – 5'1/2" X 5" X 4".

Fracture of right forearm in front side.

Extensive clotted blood present over the brain matter.

Others organs are found healthy.

All the injuries are ante mortem in nature.

After examination, the Doctor, P.W.5 has opined that the cause of death of the deceased was due to shock and haemorrhage as a result of the injury sustained by the deceased on her head. Ext-1 is the post mortem examination report, upon which Ext-1(1) is his signature. Ext-1(2) is the signature of Dr. S.N. Hussain, the Superintendent of Kushal Konwar Civil Hospital, Golaghat. Ext-1(3) is the signature of Dr. S.G. Goswami, the Joint Director of Health Services, Golaghat, which he knew their signatures.

16. P.W. 6 Constable-78 Ambeswar Rajkhowa has deposed in evidence that on the instruction of the O/C of Golaghat police station, he escorted the dead body of Deepali Munda on 18.1.2013 to Golaghat Civil

hospital for post mortem examination. After completion of post mortem examination, the dead body was handed over to her guardian.

17. From the aforesaid evidence on record, it is found that Deepali Munda died on 17.1.2013 at around 5'30 P.M. in the rented house belonging to Bijoy Kheria. But there is no evidence on record to connect the accused person in this case. There is no eye witness to the occurrence. The informant Naren Munda, who is the husband of the deceased was living in the rented house of Bijoy Kheria along with his deceased wife. But at present, he has left the place and his present address is not known. Therefore, the prosecution could not procure the presence of the said person to examine him as witness.

18. Considering all these facts, I find and hold that the prosecution has failed to prove the case against the accused Puran Munda u/s 302 of IPC beyond all reasonable doubt and in the result, I acquit him of the charge and set them at liberty.

19. The Superintendent of District Jail, Golaghat is directed to release the accused Puran Munda from this case, if he is not wanted in any other case.

20. The judgment and order is pronounced in my open Court today in presence of accused person , as well as, learned counsels of both the sides.

19. Send back the case record of G.R. Case No. 121/13 to the learned original Court along with a copy of the judgment and order.

Given under my hand and seal of the Court on this the 21st day of November, 2013.

(T. Lohar),
SESSIONS JUDGE,
GOLAGHAT.

APPENDIX :

WITNESSES FOR THE PROSECUTION :

1. P.W.1 - Sri Babul Munda,
2. P.W.2 - Sri Ajit Karmakar,
3. P.W.3 - Sri Latu Rawtia,
4. P.W.4 - Sri Bijoy Kheria,

5. P.W.5 - Dr. Mukul Sarmah, M.O.
6. P.W.6 - Sri Ambeswar Rajkhowa.

EXHIBITS FOR THE PROSECUTION :

1. Ext-1 - Post mortem examination report.

WITNESSES FOR THE DEFENCE :- NIL.

EXHIBITS FOR THE DEFENCE :- NIL.

Dictated & Corrected

by me.

(T. Lohar),

SESSIONS JUDGE,

GOLAGHAT.

Dictation taken & transcribed

by me:-S. Borpatra, Steno.