

**IN THE COURT OF SESSIONS JUDGE, LAKHIMPUR,
AT NORTH LAKHIMPUR.**

ASLK010009352022



Present : Smt Sharmila Bhuyan,
Sessions Judge,
Lakhimpur, North Lakhimpur.

Date of Judgment: 29.07.2024.

Sessions Case No.132(NL)/2022.

(Corresponding to Panigaon PS Case No.47/2022 and
GR Case No.910/2022, u/s-314/315 of the IPC & Section-
5(2) of Medial Termination of Pregnancy Act, 1971,
committed by learned Addl. CJM, Lakhimpur, North
Lakhimpur)

State

-vs-

1. Smt Japori Orang,
W/o-Lt. Sama Orang,
Vill.- Chandmari, New Namghar,
P.S.-North Lakhimpur,
District - Lakhimpur.

... **A1.**

Advocates appeared :

For the State. : Mr. J. Saikia, Public Prosecutor.

For accused A1. : Mr. D. Pakhrel, Chief Legal Aid
Defence Counsel.


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APPENDIX- 13

Date of offence.	12.08.2022
Date of FIR.	15.08.2022
Date of submitting charge sheet.	26.09.2022
Date of committal of the case	20.10.2022
Date of Framing of charges.	15.11.2022
Date of commencement of evidence.	28.11.2022
Date of evidence.	28.11.2022, 19.01.2023, 14.03.2023, 16.06.2023, 14.07.2023, 21.12.2023, 28.02.2024.
Date of statement.	06.06.2024
Date of argument.	15.07.2024
Date on which judgment is reserved.	29.07.2024
Date of Judgment.	29.07.2024.
Date of the Sentencing Order, if any.	

Accused Details :

Rank of the accused	Name of accused	Date of arrest.	Date of release on bail.	Offences charged with.	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during Trial for purpose of Sec.428 CrPC.
A1	Smt. Japori Orang.	17.08.2022	03.07.2023	Under Sections 314/315 of IPC & Sec. 5(2) of MTP Act, 1971.	Acquitted	---	320 days.

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J U D G M E N T

Prosecution case:

1. The prosecution case in brief is that on 15.08.2022, the informant Dr. Manuram Tayung, SDM & HO, Boginadi Block PHC, Lakhimpur lodged an ejahar (Ext.P-1/PW1) before the Officer-in-charge of Panigaon Police Station citing inter-alia that on 12.08.2022, one patient Manju Nag Singh (since deceased) was admitted at Lakhimpur Medical College & Hospital in a critical condition following attempt of termination of 5 months pregnancy by an unauthorised person namely, Japori Orang (A1) and as per information received from the relatives of the patient Manju Nag Singh, A1 inserted some herbal roots inside her female genitalia few days back and subsequently, Manju Nag Singh expelled a premature baby in the next few days but the placenta retained and as the patient suffered from serious infection, she was taken to Lakhimpur Medical College and Hospital for better treatment. It has further been alleged that though the patient Manju Nag Singh was operated on 13.08.2022 in a very critical condition, she died subsequently in the ICU of LMCH while she was under treatment.

Investigation

2. On receipt of the ejahar, the Officer-in-charge of Panigaon Police Station registered a police case vide


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Panigaon PS Case No.47/2022,u/s- 314/315 of the IPC R/w- Section- 5(2) of MTP Act, 1971 and SI Merafat Ali was entrusted to conduct the investigation of the case. During investigation, the I.O of the case recorded the statement of the informant, visited the place of occurrence, prepared the sketch map of the place of occurrence and he also recorded the statements of other witnesses at the place of occurrence. He along with his staff including WSI (P) proceeded to the house of accused A1 and apprehended her from her house and forwarded to the Court and on completion of investigation, the I.O submitted charge-sheet against the accused A1 u/s- 314/315 of the IPC, R/w Section 5(2) of MTP Act, 1971.

3. On receipt of the charge-sheet, learned Committal Court took cognizance and on production of accused A1 before the Court, furnished copies to the accused A1 and committed the case for trial. The case was transferred to the Court of Additional Sessions Judge (FTC), Lakhimpur, North Lakhimpur for trial. During trial accused A1 was granted bail.

Charge:

4. After hearing learned counsels for both sides and perusal of materials on record, charge u/s 314/315 of the IPC & Section 5(2) of MTP Act, 1971 have been framed against the accused A1 by learned Additional Sessions



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Judge (FTC), Lakhimpur, North Lakhimpur and when charges were read over and explained to the accused A1, she pleaded not guilty and claimed to be tried.

Trial

5. In order to prove the prosecution charge against the accused A1, prosecution adduced evidence of altogether 13 numbers of witnesses including the IO, and exhibited 13 numbers of documents. Prosecution recorded evidence of Dr. Manuram Tayung as PW1, Smti Aanjali Nag as PW2, Smti Libita Islari Nag as PW3, Sri James Nag as PW4, Sri Sem Nag as PW5, Sri Ranjit Singha @ Ranjit Singh Nag as PW6, Dr. Geetali Dutta as PW7, Dr. Hridayananda Boruah as PW8, Dr. Gunin Kumar Gogoi as PW9, Dr. Bapdhan Dihingia as PW10, Dr. Mun Konwar as PW11, Dr. Gautam Khanikar as PW12 and SI- Merafat Ali as PW13.

6. On transfer of the Presiding Officer of the Court of Additional Sessions Judge (FTC), Lakhimpur, North Lakhimpur, the case is withdrawn to my Court for disposal vide order dtd.06.04.2024 at the stage of statement defence and then, the statement of the accused A1 recorded u/s 313 CrPC before this Court. Accused A1's plea is total denial, however declined to adduce evidence in support of her plea of denial.


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POINTS FOR DETERMINATION:

- (i) Whether the accused A1 on or before 12.08.2022 at Alengnora under Panigaon PS, District Lakhimpur, with intent to cause miscarriage of Lt. Manju Nag Singh, wife of Mr. Ranjit Singh, inserted some herbal root inside her genitalia because of which she suffered from serious infection and subsequently, it caused the death of said Manju Nag Singh,?
- (ii) Whether the accused A1, on the same date, time and place, inserted herbal root inside the female genitalia of victim Lt. Manju Nag Singh because of which she expelled a premature baby and by that act A1 prevented the child from being born alive and such act was not done in good faith for the purpose of saving the life of the mother Lt. Manju Nag Singh?
- (iii) Whether the accused A1, on the same date, time and place terminated the pregnancy of Lt. Manju Nag Singh and A1 being not a registered medical practitioner has done such act in contravention to Section 5(2) of Medical Termination of Pregnancy Act, 1971?


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ARGUMENT

7. Learned Public Prosecutor, Mr. J. Saikia made submission that the prosecution by adducing evidence of 13 nos. of witnesses produced sufficient materials against the accused A1 that established the prosecution case against the accused persons beyond all reasonable doubt and there is nothing to disbelieve the testimony of the prosecution witnesses.

8. Refuting the same, learned Chief Legal Aid Defence Counsel contended that the FIR was lodged after two days of death of deceased/ victim and there is no any explanation of such delay in lodging the ejahar before the police and as per the contents of the ejahar, the informant had no any personal knowledge about the attempt of termination of pregnancy by the accused A1. It is further contended that as per the evidence of PW1, he learnt about the accused from the concerned Surgeon and the patient did not reveal anything in front of him, but question arises as to whether in such a critical condition, as reflected in the ejahar, the victim patient was in a position to talk or not and the FIR is silent about any local investigation and hence, the fact of explanation regarding the local investigation made by the informant is an omission which amounts to contradiction as per provision of Section 163 of Cr.P.C. The evidence of PW5, father of the deceased Manju Nag Singh is that he does not know



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as to why Japori Orang has been implicated in the instant case and he does not know about the incident and he only stated that his deceased daughter was admitted in the hospital as she was suffering from pain in her abdomen. PW6, husband of the deceased stated that he does not know the cause of death of his deceased wife and he only deposed before the Court as per information received from the concerned Doctor. Thus, it revealed that the informant along with other Doctors tutored him to depose by concocting a false story about administration of herbal root by the accused A1 which caused death of Manju Nag Singh, as the Doctors were trying to hide their negligence and wrong treatment to the patient Manju Nag Singh. It is hence, proved that the death of the deceased victim was caused not for any other person, but due to negligence on the part of the concerned Doctors, which creates suspicion about the truthfulness of the prosecution version. Hence, the prosecution side has totally failed to prove the case against the accused person Japori Orang beyond all reasonable doubt and the accused A1 entitled acquittal from all the charges of this case.

DISCUSSION, DECISION & REASONS THEREOF

9. The prosecution allegation against the accused A1 is that accused A1 inserted herbal root inside the genitalia


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of deceased Manju Nag Singh to terminate her pregnancy that caused serious infection and septic and finally led to her death and second allegation is that accused A1 inserted herbal roots inside the genitalia of deceased with intention thereby preventing birth of living child and caused the child (5 months foetus) to die before birth of the child and A1 did the same not for the welfare of the mother. Third allegation is that A1 not being a registered medical practitioner terminated the pregnancy of the deceased Manju Nag Singh by inserting root of herbal.

10. I have scrutinized and scanned the case record and perused the Case Diary.

11. To establish the aforesaid allegation, prosecution adduced evidence of 13 Nos of witnesses including the informant of the case and the investigating officer. In the case in hand, there is no post-mortem report and inquest of the deceased available on the record. No inquest, no post- mortem was conducted on the dead body of the deceased. The pregnancy report of the deceased was also not present with the record. Admission and death of the deceased not informed to police on the date of Admission and on the date of death of the deceased. Ejahar was not lodged by 'the Doctor of Lakhimpur Medical College & Hospital who provided treatment to the deceased.

12. Ejahar, Ext.P1/PW1 was lodged by SDM & HO, Boginadi Block PHC, Lakhimpur. His evidence is that on

15.08.2022 he was working as SDM & HO at Boginadi Block PHC and on said date he lodged Ext.P-1/PW1 ejahar before the O/C, Panigaon PS. It is his further evidence that on 12.08.2022 one patient Smti Manju Nag Singh was admitted in Lakhimpur Medical College and Hospital with the history of induced septic abortion and from further investigation, they came to know that the A1 inserted herbal root through the private parts of the victim for abortion in absence of any trained medical practitioner and for this act foetus was expelled but placenta remained inside the uterus. He deposed due to medical complication, Doctor had to operate her immediately on 13.08.2022 but patient Manju Nag succumbed when she was shifted to ICU after operation.

13. In cross, he stated victim Manju Nag Singh told the concerned Doctor that A1 inserted herbal root to terminate her pregnancy and later on, he enquired the matter by visiting the house of Manju Nag's husband and her husband told the same thing to him. He deposed he does not know what herbal root inserted to terminate the pregnancy.

14. PW6 is the husband of the deceased Manju Nag Singh. His evidence is that he does not know informant Dr. Monuram Tayung. He stated incident took place in the month of August, 2022 and at that time he was at Arunachal Pradesh. He stated his wife was pregnant and

she was suffering from abdominal pain and family members took her to North Lakhimpur Civil Hospital and after 2 days, his wife expired at the Civil Hospital due to medical complication. His further evidence is that A1 is the 'pehi' of deceased from her father's side and she gave some medications to his wife and she became nervous and later on, when his wife felt severe pain, his family members took her to hospital and he came to know next day his wife admitted at hospital.

15. In cross, he stated his wife suffered severe pain at the labour room, Gynaecology, North Lakhimpur Civil Hospital and his wife died on the next day of her operation. He deposed one Doctor told him his wife will be recovered and another Doctor told him that due to administration of medicines by A1, this caused poison on the body of his wife.

16. PW7 to PW12 are the Doctors working at North Lakhimpur Hospital at the relevant point of time. PW2 to PW5 are the neighbours of PW6 and deceased.

17. The statement of PW1 that during his personal investigation of this matter when he visited the house of in-law of the deceased, he met husband of the deceased who told him that A1 administered herbal root on the private parts of the deceased has not been substantiated by the PW6 who is the husband of the deceased. PW6 deposed he does not know PW1. PW6's evidence does not


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point he ever meet PW1 either at his house or at North Lakhimpur Civil Hospital or when he visited the hospital. PW6's evidence reflected he met two Doctors one of whom told him that his wife will be recovered and another Doctor told him that his wife's whole body was poisoned due to medicines administered to his wife by A1. PW6 did not whisper he ever meet PW1. PW6's evidence does not disclose that he was informed by attending Doctor that herbal root inserted inside the private parts of the deceased and foetus expelled and placenta was remain in the uterus for which infection caused. The statement of PW6 bring on record that he never meet PW1 and he did not disclose before PW1 that A1 administered herbal root in the private parts of the deceased Manju Nag Singh and therefore, this piece of evidence of PW1 that he was informed by PW6 that A1 administered herbal root inside the private part of the deceased is not proved, hence, his this piece of evidence is not accepted.

18. PW2 deposed she does not know PW1. Her evidence is that she went to hospital when Manju Nag Singh was admitted due to pregnancy to give her some cloth as she is her neighbour. PW3 stated she do not know informant but knows the deceased and A1. She deposed Manju Nag Singh called her as she was suffering from pain and bleeding and she with Binanda took Manju to hospital and Manju succumbed after one day of her


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admission at hospital. She again stated that she does not know the cause of death of Manju and Doctor themselves discussed to lodged the case.

19. Evidence of PW2 and PW3 goes to show both of them met Manju Nag before her death and PW2 met her at hospital and it was PW3 and one Binanda who took deceased to hospital. Both the witnesses not disclosed that deceased told them that A1 administered herbal root in her private parts. Statement of PW3 pointed she met deceased Manju Nag Singh before she was taken to hospital and before she met the Doctor. But, the evidence of PW3 does not disclose any such fact as stated by PW1 that deceased before Doctor told that she was administered herbal root in her private parts by A1. The evidence of PW2 who not disclosed this vital fact of disclosing before her by deceased when she went to hospital to give cloth to the deceased Manju Nag at hospital create doubt that deceased told this fact to Doctor when PW3 accompanied her to hospital but PW3 not heard of this fact.

20. PW4 deposed Manju Nag was pregnant and during time of delivery she was taken to hospital where she succumbed. PW5 is the father of the deceased Manju Nag. His evidence is that he does not know why A1 is implicated in this case. He deposed his daughter was admitted in the hospital as she was suffering from pain


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inher abdomen. The prosecution not disputed this witness statement by declaring him hostile. Case Diary revealed PW5 not made any statement before the IO at the earliest and he did not implicate the accused. PW5 is the father of the deceased and if A1 inserted or administered herbal root to terminate the pregnancy, PW5 would have taken the name of the A1. Evidence of PW5 clearly pointed he did not support the story and allegation levelled by PW1 against A1 and evidence of PW2 to PW5 who are neighbouring witnesses, brother and father of the deceased, the closed relative and local residents of deceased not corroborated the testimony and allegation of PW1 made against the accused A1.

21. PW7 to PW12 are Doctors working at North Lakhimpur hospital at the time of incident, who attended the deceased when deceased was admitted at North Lakhimpur Hospital.

22. PW7 deposed she know informant but does not know accused and did not identify A1 and stated she never see her. Her further evidence pointed on 11.08.2022 she was on night duty till 8:00 AM of the morning of 12.08.2022 at North Lakhimpur Medical College and Hospital and she was working as Senior Medical and Health Officer, department of Gynaecology, Lakhimpur Medical College and Hospital. She again deposed on 12.08.2022 at about 6:20 AM, when she was

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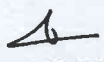
on duty one patient namely Manju Nag Singh came to the Emergency Labour Room with history of expulsion of foetus with retained placenta and she examined the patient and started routine investigation and treatment and informed visiting Specialist Dr. Hridayananda Boruah, Senior Medical and Health Officer about Manju Nag Singh over phone and she informed next Medical officer Dr. Jharna Pegu about the condition of patient at the end of her duty at 8:00 a.m.

23. She again deposed her next duty started from 8:00 a.m. of 13.08.2022 and she found condition of the patient Manju Nag was critical when attended her duty, accordingly, she, Dr. Hridayananda Boruah, Dr. Bijoy Dutta (HOD, Obstetrics and Gynaecology department) discussed about the condition of the patient and next course of treatment to be given to her and consulted with Dr. Bapdhan Dihingia, Anaesthesiologist whether operation can be done on general anaesthesia or not and after taking high risk consent from the guardian of the patient, Dr. Hridayananda Boruah and she operated the patient on 13.08.2022 and after operation shifted to ICU. She stated surgeon was also present at the time of the operation. She stated patient expired in the ICU on 13.08.2022. In cross, she stated she did not make statement before the police that patient Manju Nag Singh had told her history to them by saying that she inserted

some root of the tree in her vagina with a view to inducing abortion and she had done with the help of some relative. She deposed in cross that the patient Manju Nag Singh expired only after operation.

24. PW8 is Dr. Hridayananda Boruah. He deposed that on 12.08.2022 patient Manju Nag Singh was admitted at Lakhimpur hospital in the department of Obstetrics and Gynaecology and in the morning hours during his round duty, Junior Doctor Dr. Geetali Dutta, Dr. Moon Konwar informed about the above patient and patient was serious. Then he examined the patient, advised certain investigation and when asked patient, patient told before them that she tried to terminate her pregnancy of four to five months by taking help of Japori Orang but she could not tell her last menstrual period. He disclosed on 10.08.2022, the patient inserted some herbal root into her genital part through her vagina with a view to terminate her pregnancy and two days later she expelled one dead foetus but placenta retained inside her uterus.

25. He deposed on 12.08.2022 patient admitted with sign of severe infection and abnormal blood report and Ultrasound report revealed that some retained product of conception in her uterus and patient was initially treated with higher antibiotic to control infection and given tablet Misoprostol to cause expulsion of the retained product but as her condition was critical and uterus was in bad


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condition, medicines did not work and there was urgent need to remove the infection retain product from the uterus and in a desperate attempt to save life of the patient decided to operate and during operation Dr. Geetali Dutta assisted him and one General Surgeon and two Anaesthesiologist Dr. Bapdhan Dihingia and Dr. Gautam Khanikar who administered anaesthesia to the patient. He further stated during operation, the tissues of genital tract of the patient was found devitalized due to gross infection and so, they had to remove the uterus of the patient which was grossly infected.

26. PW-10 is Dr. Bapdhan Dihingia. His evidence is that date of incident is 13.08.2022 and on that day he was present in the Caesarean operation theatre at morning and a female patient namely, Manju Nag Singh was admitted in the Maternity Ward on previous day at LMCH. He deposed from the bed ticket of the patient he came to know that the patient had used some herbal product vaginally for inducing abortion and after abortion some placenta part remained inside the uterus that caused infection. His further evidence is that team of Doctors led by Dr. Hridayananda Boruah decided to operate the patient to remove the retaining product and accordingly, General Surgeon called by the maternity department and he checked the patient and did not find any bowel involvement. The operation was subtotal hysterectomy

i.e. the removal of uterus. Patient was extubated after the operation, but at that time also patient was in shock and in need of oxygen supplementation. So the patient was shifted to ICU after the operation for management. He deposed patient was having septic shock so it was high risk operation and they informed attendant of the patient about it. In cross, he stated patient died after operation and he did not state before the police that Maternity department called General Surgeon who checked the patient and did not find bowel involvement.

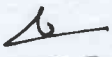
27. PW-11 is Dr. Mun Konwar. His evidence is that on 12.08.2022 he was MO on night duty in Obstetric and Gynaecology Department of LMCH and on the said date at morning patient Manju Nag Singh was admitted. He deposed previous MO on duty handed over the patient to him as a case of induced septic abortion in shock, he examined the patient, and patient was under vasopressor drugs (Noradrenaline). He informed visiting surgeon Dr. Barun Basumatary who came and examined the patient and advised for blood transfusion, medicine consultation and high risk explanation to the attendant. He again deposed later on he came to know subtotal hysterectomy was done on the patient and after operation patient was shifted to ICU where she died. He stated from the bed ticket of the patient he came to know that there was history of expulsion of foetus with retention of

placental parts in the uterus. He deposed he was not present at the time of operation.

28. PW12 is Dr. Gautam Khanikar. He deposed on 13.08.2022, he was working as senior Medical and Health Officer at North Lakhimpur Civil Hospital and was working in the department of Anaesthesia and on that day at around 10:30 AM laparotomy operation was done on a patient named Manju Nag Singh in the OT of department of Obstetrics and Gynaecology and he administered general anaesthesia on the patient prior to operation. He deposed as condition of the patient deteriorated after the operation, patient was shifted to ICU for further management and after 35 minutes, the patient expired at ICU. In cross, he stated prior to the operation patient was not in a position to talk also and operation was done by Dr. Hridayananda Boruah, no General Surgeon was present at the time of the operation.

29. PW-9 is Dr. Gunin Kumar Gogoi. He deposed that on 12.08.2022, while he was working as Superintendent of North Lakhimpur Civil Hospital, amalgamated to Lakhimpur Medical College and Hospital, on that day Dr. Hridayananda Boruah, Dr. Geetali Dutta and Dr. Mun Konwar informed him that one very serious patient was admitted in the LMCH and those Doctors told him that the case was of induced illegal abortion by herbal root to terminate the pregnancy of the patient, which was done

by another lady whose name he has forgotten. On his visiting the Gynaecology Ward of the hospital, they assessed the case, when the patient was in a very serious condition and the patient was anaemic as well as tachycardia and all the signs and symptoms of septic shock was there. Then, blood requisition was done and the then Additional Superintendent of LMCH, Dr. Nikhil Kakati was called by telephone to issue two or three bottles of blood immediately. He has further stated that all the required medical investigations were done on the patient by their Doctors; three bottles of blood were transfused; Misoprostol Tablet was administered so that the placenta could come out automatically, but the placenta retained and the condition of the patient did not change. He also stated that the patient was under heavy antibiotic cover to combat the infection of gram positive and gram negative and anaerobic bacteria, but as the placenta was not coming out and the condition of the patient was not changed, all the Doctors decided to go for laparotomy. Accordingly, on the following day, at about 10:00 AM, Laparotomy was done in presence of General Surgeon and hysterectomy was done, but as the condition of the patient was not improved, the patient was shifted to ICU, LMCH and after about one hour, the patient expired in the ICU. His further evidence is that the patient


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died because of septic shock arising from the herbal root applied for termination of pregnancy.

30. In cross, PW9 stated that he does not remember whether he had stated before the IO or not that Dr. Hridayananda Boruah, Dr. Geetali Dutta and Dr. Mun Konwar told him that the case was of induced illegal abortion by herbal root to terminate the pregnancy of the patient, which was done by another lady whose name he has forgotten and the patient Manju Nag Singh died about one and half hours after her operation.

31. PW-13 is the IO of the case. He stated that the O/C of Panigaon PS entrusted him to investigate the case registered vide Panigaon PS Case No. 47/2022 u/s- 314/315 of IPC, R/w- Section 5(2) of Medical Termination of Pregnancy Act, 1971 and on 16.08.2022, he visited the place of occurrence i.e., the house of the deceased Manju Nag Singh at Alangmora Gaon and examined the family members of the deceased and also the neighbours regarding the occurrence. He also inspected the place of occurrence and prepared a sketch map thereof vide Ext.P-2/PW13 wherein Ext. P-2(1)/PW13 is his signature. Thereafter, he went to Lakhimpur Medical College & Hospital because the deceased had died in the hospital and he examined as many as 6 Doctors of the said hospital in connection with this case. He came to know that one woman named Japori Orang had given herbal

root to the deceased, who was pregnant, for termination of her pregnancy by insertion of the herbal root into the vagina. He further deposed that he apprehended the accused A1 from her house and brought her to the PS, and after interrogating her, he arrested A1 and forwarded her to the Hon'ble Court. He also stated that the Ejahar of this case was lodged on 15.08.2022, but the deceased had already died on 13.08.2022 and her funeral had also been done, so post mortem of the deceased could not be done in this case. He collected a certified true copy of the cause of Death Certificate of the deceased from the Lakhimpur Medical College & Hospital and Ext. P-3/PW13 is the said certified true copy. Ext. P-4/PW13 is the filled up form of FIR and Ext. P-4(1)/PW13 is the signature of the then O/C of Panigaon PS namely, SI Palash Ranjan Das, which is known to him. His further evidence is that after completing the investigation, he submitted chargesheet against the accused A1 under section- 314/315 of IPC, R/w- Section 5(2) of Medical Termination of Pregnancy Act, 1971. Ext. P-5/PW13 is the charge sheet and Ext. P-5(1)/PW13 is his signature.

32. In cross, PW-13 stated that the Ejahar was received at the PS after two days of the death of Manju Nag Singh and the cause of delay in lodging the Ejahar was not mentioned in the ejahar. As the deceased Manju Nag Singh had already died and her funeral had already been


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done when the Ejahar was lodged, so no post-mortem examination could be done in this case. He further stated that the cause of death of the deceased could not be ascertained by way of post mortem examination, and the cause of death as ascertained during investigation was only on the basis of examination of doctors of the hospital. He also stated that Ext. P-3/PW13 is not the original certificate but only a certified true copy. He denied the fact that he visited Lakhimpur Medical College & Hospital after eight days of the lodging of Ejahar for examination of the Doctors and that without conducting investigation properly he submitted charge sheet against the accused only on the basis of examination of doctors.

33. On scanning of the evidence of PW7 to PW12, who are Doctor of Lakhimpur Medical College and Hospital, all known that patient Manju Nag Singh was admitted in the LMCH in the morning of 12.08.2022. PW7, PW8, PW9, PW10 and PW11 examined her and given treatment to her, PW8 conducted the operation. PW7, PW8, PW9, PW10 and PW11 deposed General Surgeon was present at the time of operation. PW9 was not present at the operation theatre. According to PW8, during operation he was assisted by Dr. Geetali Dutta (PW7) and one General Surgeon but PW12 who administered general Anaesthesia to the patient according to PW8 along with PW10 Dr. Bapdhan Dihingia, but PW12's evidence goes to show no

General Surgeon was present. PW7 deposed she and Dr. Hridayananda Boruah (PW8) operated the patient. PW7, PW8 and PW10 who were present at the operation theatre with PW12, except PW12 deposed that general surgeon was present and they specifically stated names of all the Doctors who are the members of the operation team but did not disclose the name of the General Surgeon whose presence stated by PW7, PW8, PW10. That apart, PW12's evidence pointed no General Surgeon was present at the time of the operation. Therefore, presence of the General Surgeon at the time of operation of the patient Manju Nag Singh is not established and evidence of PW7, PW8 and PW10 is not reliable and acceptable piece of evidence.

34. Evidence of PW7 to PW12 disclosed it was PW7 who received patient Manju Nag Singh in the morning of 12.08.2022 when she was admitted in the LMCH at 6:20 a.m. in the Emergency Labour Room. PW7 although in her in- chief stated that patient told before them that she inserted some roots of tree into her vagina with a view to inducing abortion but she did not make this statement before the police which she stated in her cross. Therefore, this piece of her statement is not reliable and acceptable piece of statement.

35. PW8 while deposing evidence adduced one more thing with the above statement of PW7 by stating that

patient took the help of Japori Orang. PW12 stated patient was not in a position to talk also. PW8 disclosed before them, that means patient told before him, PW7, PW12 and PW10 that patient inserted root in her vagina and one lady Japori Orang (A1) helped her. But PW7 not took the name of accused A1. PW12 deposed victim was not in a position to talk. PW10 deposed he could come to know the history of the patient from the bed ticket of the patient. Therefore, the evidence of PW8 that patient told before them that she inserted herbal root in her vagina and A1 helped her in inserting this, is not a reliable and acceptable piece of evidence.

36. PW12 deposed after 35 minutes of the operation the patient died. PW11 deposed on 12.08.2022 evening shift Doctor handed over patient Manju Nag Singh and he found the patient was under vasopressor drugs (Noradrenaline). PW11 deposed after operation the patient was extubated but at the same time patient was in shock and in need of oxygen supplementation, so shifted to ICU. PW7 and PW8 deposed patient was very much critical. Under such circumstances Manju Nag Singh disclosed any fact before them is not believable. There is no statement made by PW7, PW8, PW9, PW10 and PW11 that the patient was stable and she was in fit mental and physical condition to speak.

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37. PW7, PW8, PW9, PW10, PW11 and PW12 all came across the patient when patient was admitted at the hospital. PW7, PW8, PW9, PW10, PW11 all met the patient Manju Nag Singh. They all know her serious condition on the day of her admission at the hospital. PW7, PW8, PW9, PW10 and PW11 all stated they came to know that patient was administered herbal root to terminate her pregnancy. PW8 deposed he came to know from the patient that one Japori Orang (A1) helped the patient to administer the herbs inside her vagina for abortion. Now, crucial point is that why none of them informed the police on the very day of 12.08.2022 when patient was admitted to LMCH with history of administering herbal roots in her vagina for abortion and Japori Orang (A1) helped her and they have knowledge about the same. This question is not answered by any of the PWs and they are silent and there is no answer from the prosecution side. PW7 to PW12 are Doctors and are not illiterate person. They know the affects and consequence of abortion under the medical rules and under the law of the land. But even then they kept mum and did not take a single step. PW7 to PW12 deposed condition of the patient was so serious and critical but even then knowing all consequences they did not inform the police, not took steps to record her statement. As PW7 to PW12 are totally silent on this question and

prosecution failed to answer the same while placing the case against the accused, there appears fishy smell in the prosecution charge against the accused A1.

38. Ejahar, Ext.P-1/PW1 was not lodged by PW7 to PW12. Ejahar was not lodged either on the day of admission of the patient or on the day of death of the patient by PW1. PW1 was not working at LMCH. There is no evidence on this fact. He was working at Boginadi Block PHC. Patient was not taken to Boginadi PHC. Case of the patient Manju Nag Singh is not of referral case of Boginadi Block PHC to LMCH. It is a case of direct admission of patient at LMCH which is evident from the evidence of PW3 who took patient Manju Nag Singh to LMCH. According to PW3, Manju Nag Singh called her as she was suffering from pain and bleeding but she (PW3) did not state that patient told her that Japori Orang (A1) administered herbal roots in her vagina for abortion. PW1 stated that he could come to know the administration of herbal root to patient Manju Nag Singh (since deceased) by A1 from PW8. But PW8 did not speak the same. PW1 lodged the case on 15.02.2022 after two days of the death of the patient. But there is no explanation of delay when all the Doctors PW7 to PW12 with PW1 claimed that they came to know that A1 administered herbal root to terminate the pregnancy of Manju Nag Singh on the day of her admission then why they did not inform police

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about this fact and in this case delay in filing ejahar not being explained, is fatal for the prosecution case.

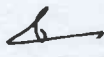
39. PW-13 is the IO of the case. During investigation he has not collected any document relating to the pregnancy of the deceased Manju Nag Singh and not explained the reason. This show investigation is not fair. PW7, PW8, PW9, PW10, PW11 and PW12 deposed foetus was expelled and there remains of placenta inside the uterus that caused infection and for that reason to save the patient, operation was done and subtotal hysterectomy was done i.e. uterus was removed. When PW7 to PW12 and PW1 claimed that this is a case of administration of herbal root in the vagina of the patient Manju Nag Singh (since deceased) and foetus was expelled but remains of placenta still inside the uterus and operation was done to remove the remains of placenta to save the patient and secondly, when PW8 claimed that patient took name of A1 and he did operation, then why uterus which was removed from the patient with remains of the placenta not preserved for chemical examination and same has not been answered by PW1, PW7 to PW12 and prosecution is totally silent on this fact. Prosecution is also silent why immediately after the death of patient Manju Nag Singh, Magistrate was not informed to do the inquest on the body of the deceased when PW1, PW7 to PW12 claimed that the death of the patient Manju Nag Singh is due to

illegal abortion done by A1 No post-mortem was conducted. All these facts make prosecution case against the A1 is unreliable and not believable and there witnesses suppressed vital thing coming before the Court and PW13, IO not took any steps to unearth the answer of their question and investigation is done in careless manner.

40. PW-13, the IO of the case stated he visited the house of the deceased patient Manju Nag Singh. PW-13 not made any statement why he did not take any steps to trace out the expelled foetus when PW1, PW7 to PW12 claimed it was done at patient home. If foetus was expelled, then it must be thrown away but no evidence, no statement, no investigation made by the IO(PW13), SI Merafat Ali. During investigation PW13 deposed he went to LMCH and recorded statement of 6 (six) numbers of Doctors. But he did not state why he did not seize the bed ticket, original death certificate, treatment details, investigation report of the patient. Not a single medical document of the deceased patient Manju Nag Singh regarding treatment provided and medicines given to her are produced by the prosecution before the Court and investigation is done in a very unreasonable manner. His evidence clearly pointed he conducted investigation in a very casual manner and due to his perfunctory investigation truth of the incident does not come out.

PW1, PW7 to PW12 not stated why removed uterus was not preserved and all these facts make the prosecution case against the accused A1 unbelievable and evidence of PW1, PW7 to PW12 are not acceptable and safe piece of evidence to rely upon.

41. PW1, PW7 to PW12 evidence pointed the patient Manju Nag Singh died after operation. PW-12 stated patient died after 35 minutes of operation. He stated Ext. P-3/PW13 is the photo copy of death certificate. Prosecution did not produce original death certificate. Ex.P-3/PW13 show immediate cause of death is cardio respiratory failure and antecedent cause shown septic shock following induced septic abortion. PW7 deposed on 10.08.2022 patient inserted herbal roots into her genital tract as told to her and after two days she expelled one dead foetus but placenta retained inside the uterus. This pointed if after two days of insertion of roots, foetus expelled then from 10.08.2022 it is 12.08.2022, but on 12.08.2022 she was admitted at LMCH. But PW7 to PW12 not whispered that they came across and found sign of expelled of foetus on the date of her admission and there clearly appears suppressing of material facts and documents by the prosecution side and prosecution totally failed to unfurl the true actual facts of the case that led death of Manju Nag Singh.


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42. Thus, appeared there is contradiction of the statement of PW1, PW7 to PW11 on the point of date of abortion as stated by them which they claimed to be stated by patient. PW12 deposed patient was unable to speak. Evidence of PW7 not disclosed A1 inserted herbal roots to the patient. PW5 stated he does not know why A1 is implicated in this case. Evidence of PW8 to PW12 are not reliable, believable and acceptable piece of evidence and scanning of the evidence on record clearly pointed prosecution failed to place on record any cogent believable, acceptable piece of evidence that goes to show and establish the fact of prosecution case that, A1 inserted herbal root to terminate the pregnancy of the deceased and caused her death and did not allow the birth of the child alive or A1 involved in illegal termination of the patient Manju Nag Singh the deceased of the case.

43. Therefore, in view of my detailed discussion above, I am constrained to hold that prosecution totally failed to bring home the prosecution charge against the accused and I hold A1 not found guilty for commission of offence u/s 314/315 of IPC and Section 5(2) of MTP Act, 1971.

44. In the result, accused Japori Orang (A1) is acquitted from the charge u/s 314/315 of IPC and Section 5(2) of MTP Act, 1971 and she is set at liberty.


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45. However, her bail bond shall remain stand for next six months u/s 437 (A) of CrPC.

46. Return GR record to the learned committal court with a copy of judgment.

Given under hand and seal of this Court on this 29th day of July, 2024 at North Lakhimpur, District-Lakhimpur.


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(Smt S. Bhuyan)
Sessions Judge,
Lakhimpur, North Lakhimpur.

Dictated and Corrected by me-


29.7.24

(Smt S. Bhuyan)
Sessions Judge,
Lakhimpur, North Lakhimpur.

Transcribed and typed by:
Sri Diganta Chetia, Steno. Grade-I.

APPENDIX-14**A. Prosecution :**

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Dr. ManuramTayung	Informant.
PW2	Smti Anjali Nag	Other witness
PW3	Smti Libita Islari Nag	Other witness.
PW4	Sri James Nag	Other witness.
PW5	Sri Sem Nag	Other witness.
PW6	Sri Ranjit Singha @ Ranjit Singh Nag	Other witness.
PW7	Dr.Geetali Dutta	Other witness.
PW8	Dr.Hridayananda Boruah	Other witness
PW9	Dr.Gunin Kumar Gogoi	Other witness
PW10	Dr.Bapdhan Dihingia	Other witness
PW11	Dr.Mun Konwar	Other witness
PW12	Dr.Gautam Khanikar	Other witness
PW13	SI- Merafat Ali	Police witness (IO).

B. Defence witnesses, if any :

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
Nil	Nil	Nil

C. Court witnesses, if any :

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH
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		WITNESS, OTHER WITNESS)
Nil	Nil	Nil

**LIST OF PROSECUTION / DEFENCE/ COURT
EXHIBITS.**

A. Prosecution :

Sr. No	Exhibit Number.	Description.
1	Ext.P1/PW1.	Ejaha
2	Ext.P2/PW13.	Sketch map
3	Ext.P3/PW13.	Death certificate
4	Ext.P4/PW13.	FIR form
5	Ext.P5/PW13.	Charge sheet

B. Defence :

Sr. No	Exhibit Number.	Description.
1	Nil	Nil

C. Court Exhibits :

Sr. No.	Exhibit Number.	Description.
1.	Nil.	Nil.

D. Material Objects :

Sr. No.	Exhibit Number.	Description.
1.	Nil.	Nil.

 29.7.24

(Smt S. Bhuyan)
Sessions Judge,
Lakhimpur, North Lakhimpur.