

Form A

**IN THE COURT OF ADDL. DIST. & SESSION JUDGE,
FAST TRACK 1ST COURT, BASIRHAT.(I/C)**

Present : **SANJAY NASKAR.**
(J.O. Code no. W.B.01025)
A.D.J. FTC 1st Court, Basirhat. Incharge

Date of delivery of Judgment:- 16.07.2026

G. R. No. 175 of 2019

S.T. 4(7)2022

CNR no. WBNP100000862022

(under section 302 of IPC)

(Details of FIR/Crime and Police Station)

Complainant	STATE OF WEST BENGAL.
REPRESENTED BY	NAME OF THE ADVOCATES Ld. PP. in Charge, Mr. Raja Bhawmick
ACCUSED	NAME WITH ALL PARTICULARS. A-1. Nanda Das
REPRESENTED BY	NAME OF THE ADVOCATES Mr. Bapi Gayen

FORM B

Date of Offence	19.01.2019
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Date of F.I.R.	19.01.2019
Date of Charge sheet	29.03.2019
Date of Framing of Charges	15.07.2022
Date of Commencement of Evidence	24.08.2022
Date on which Judgement is reserved	16.07.2026
Date of the Judgement	16.07.2026
Date of the Sentencing Order, if any	Acquitted.

Accused Details :

Ran k of the Acc use d	Name of the Accused	Date of arrest /prod uction	Date of releas e on Bail	Offen ce charg ed with	Wheth er acquitt ed or convict ed	Sent ence impo sed	Period of Detenti on undergo ne during Trial for purpose of section 428 of Cr.P.C.
A-1	Nanda Das	20.01. 2019	N/A	Menti oned	Acquitt ed.	N/A	20.01. 2019 to 16.07.2 026.

FORM C
LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Aparna Das	Defacto complainant.
PW-2	Kakoli Das	Scribe of this case.
PW-3	Debdas Das	Local witness.
PW-4	Rajkumar Singh	Official witness.
PW-5	Samaresh Das	Husband of the de facto complainant.
PW-6	Krishna Pramanik	Relative of the de facto complainant.
PW-7	Harashit Das	Local witness.
PW-8	Tapan Mondal	Local witness.
PW-9	Pradip Ghosh	Local witness.
PW-10	Parinita Das	Local witness.
PW-11	Shyamali Mondal	Local witness.
PW-12	Lakshman Pramanik	Local witness.

PW-13	Debabrata Das	R.O. of this case.
PW-14	Dr. Sukdeb Biswas	Medical Officer.
PW-15	Ranjit Kumar Biswas	I.O. of this case.

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
Nil.	Nil.	

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
Nil	Nil	N.A.

LIST OF PROSECUTION/~~DEFENCE~~/COURT EXHIBITS**A. Prosecution :**

Sr. No.	Exhibit Number	Description
1.	Exhibit-1	The written complaint.
2.	Exhibit- P1/1(PW-2)	The signature of PW-2 on the written complaint.
3	Exhibit- P1/2(PW-15)	Endorsement of Sri Badal Chandra Mondal, ASI of Police on the written complaint.
4.	Exhibit- P2(PW-3)	Signature of PW-3 on the seizure list dated, 22.01.2019.
5.	Exhibit- P2/1(PW-9)	Signature of PW-9 on the seizure list dated,22.01.2019.
6.	Exhibit- P2/1(PW-15)	Signature of Pradip Ghsoh on the seizure list.
7.	Exhibit- P3(PW-3)	The statement of PW-3 u/s 164 of Cr.P.C.
8.	Exhibit- P4(PW-4)	Inquest report.
9.	Exhibit-P4/1(PW-5)	Signature of PW-5 on the inquest report.
10.	Exhibit- P5 collectively (PW-6)	Signatures of PW-5 on the statement u/s 164 of Cr.P.C.
11.	Exhibit- P6(PW-13)	The authorization letter.
12.	Exhibit- P7(PW-13)	Disposal order accompanying corpses.
13.	Exhibit- P8(PW-13)	Requisition for Post Mortem

		examination.
14.	Exhibit- P9(PW-13)	Dead body challan.
15.	Exhibit- P10(PW-14)	Post mortem report.
16.	Exhibit- P11(PW-15)	Formal FIR.
17.	Exhibit- P12(PW-15)	The rough sketch map.
18.	Exhibit- P13(PW-15)	Photographs.

B. Defence :

Sr. No.	Exhibit Number	Description

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
	Nil	Nil

D. Material Objects :

Sr. No.	Material Object Number	Description
1.	MO1	Bamboo stick.

JUDGEMENT

1. The instant case is under section **302 of IPC**. This case was initiated on the basis of the written complaint lodged by the defacto complainant.
2. The fact of the prosecution case, in short, is that the defacto complainant, Smt. Aparna Das happens to be the daughter of the deceased, Pratima Das and sister of the accused, Nanda Das. Both the accused and the deceased being son and mother would reside together

in joint mess in their dwelling house and the defacto complainant, having been married, would reside in her matrimonial house at the material time.

3. It is the further case of the prosecution case that the accused was habituated to consuming liquor and he would abuse and beat his mother since deceased indiscriminately under the influence of liquor. On several occasion, the villager convened village meetings and resolved the matter and requested the accused not to abuse, assault his mother but, all are in vain.
4. It is alleged that on 19.01.2019, around 00:30 hrs, the accused, while under the influence of liquor, abused his mother in filthy language and assaulted her mercilessly with bamboo stick. Hearing her cries the neighbors came and pacified the incident for the time being and whereafter they left the place.
5. The accused went out of the room after threatening her to kill and upon having consumed alcohol he returned home and struck her on the head with bamboo stick and caused bleeding injury in her nose, mouth, head and throttled her and finally caused her death at the spot in her room.
6. Over the said allegation the de facto complainant lodged the written complaint against the accused person on the basis of which Hasnabad PS case No. 38/2019, dated 19.01.2019 was started. After completion of investigation, the charge sheet was filed against the accused person for committing the offence under section **302** of IPC and cognizance was taken and the case was committed to the Ld. Additional District & Sessions Judge, Basirhat and finally the case record has been transferred to this court for disposal. Hence this case.
7. On 15.07.2022, charge has been framed against the accused person and the accused pleaded not guilty and claimed to be tried.
8. Defence case as this court finds from the trend of cross-examination of the prosecution witnesses and from the examination of the accused u/s 313 of Cr.P.C. is the denial of the prosecution case.

-: Points for Consideration :-

1. Is the accused person guilty of the offence punishable under sections **302 of IPC** ?
2. Whether the prosecution has been able to prove its case beyond shadow of reasonable doubt ?

-: Decision with reason :-

9. The Ld. P.P.-in-charge submitted that prosecution has adduced as many as fifteen witnesses and have proved the documents described herein above and the said documents have been marked exhibits, details described in the exhibit list as mentioned above. Ld. P.P.-in-charge, during the course of argument, submitted that the case of the prosecution has been proved in toto. According to the Ld. P.P.-in-charge, the accused persons were directly involved in commission of the alleged crime on the relevant date and time and as such, he should be given appropriate punishment.
10. The Ld. Advocate for the accused submitted that though the prosecution has adduced fifteen witnesses but the materials come on record are not sufficient to book the accused in commission of the alleged offence. It is submitted that the case against accused is totally false and fabricated and the accused has been implicated falsely. According to the Ld defence Counsel, the accused person is entitled to be acquitted from the alleged charges.
11. This court has heard both the Ld. Advocates for the accused and Ld. PP-in-Charge and perused the evidence on record.
12. It is the case of the prosecution as well as version of the PW-1(Aparna Das), PW-3(Debdas Das), 5(Samaresh Das), 6(krishna Pramanik) that the deceased died after being severely beaten.
13. The PW-13, Debabrata Das has stated that he had examined the dead body and prepared the inquest report. On his identification and proof, the carbon copy of the inquest report has been marked exhibit no. P-4/2(PW-13) which recorded mark of bleeding injury in both ear; nose; back of head found swelling.

14. The PW-1, Aparna Das, PW-6(Krishna Pramanik) stated to have seen the dead body in the morning following the alleged incident and noticed fracture injury on her head; cut injury on her ear.
15. The PW-14, Dr. Sukdeb Biswas has performed PM examination over the dead body and opined that the death was due to the head injury with shock and ante mortem and homicidal in nature. The PM report was marked exhibit no. P-10(PW-14).
16. **The aforesaid ocular and medical evidence on record has proved that the Pratima Das died on 19.01.2019 in her house due to internal head injury, shock which was ante mortem, homicidal in nature.**
17. The PW-2, Kakoli Das has deposed that on 19.01.2019, she had scribed the complaint of information at the instruction and version of the defacto complainant, PW-1 which finds corroboration also from the oral evidence of the PW-1. The PW-15, IO has stated that on 19.01.2019, ASI Badal Ch. Mondal had received the complaint of information from the defacto complainant and started Hasnabad PS case no. 38 of 2019 dt. 19.01.2019 and prepared the formal FIR. His endorsement on the complaint of information has been marked exhibit no. P1/2(PW-15) and the formal FIR has been marked exhibit no. P-11(PW-15). Both these exhibits recorded that the complaint of information has been received and FIR was made on 19.01.2019, at the afternoon, 12:55 PM whereas the alleged incident took place on 19.01.2019, around 00:30 hrs. These approximately delay of 12 hours in lodging FIR is not fatal for the prosecution case on the context that the defacto complainant is drastic village woman and may not have been aware of prompt lodging case. Be that as it may, the delay in facts and circumstance of the case, can not be said to have adversely affected the prosecution case or its evidentiary value.
18. Admittedly, the PW-1, FIR maker did not witness the alleged incident or had no first hand knowledge of the occurrence of murder but she stated to have seen the dead body with mark of bleeding injury on her arrival at her mother's house; this portion of complaint

of information refers to her direct knowledge and as such, the prosecution could use the same as corroboration and the defence can use it for contradiction. However in so far as the first part of the written complaint relates to the manner of committing the alleged offence is based on hearsay; it can not be relied upon by the prosecution as corroboration. Nevertheless the defence could use it for the purpose of contradiction.

- 19.** The PW-1 remains firm in her cross examination in so far as her testimony relates to find her dead in injured condition. So, the prosecution has proved that the deceased was found dead in her room on 19.01.2019 and the FIR has been properly lodged since it being homicidal death.
- 20.** The remaining portion of the complaint of information regarding assaulting the deceased to death by the accused with the help of lathi has not been proved by the evidence of the PW-1 because of being hearsay.
- 21.** The defence did not dispute and deny the fact that the accused and the deceased used to reside in joint mess.
- 22.** The PW-7 (Harashit Das), PW-8 (Tapan Mondal), PW-12 Lakshman Pramanik did not support the prosecution case.
- 23.** Admittedly, there are no eye witnesses to the alleged incident. The prosecution case rests upon the circumstantial evidence, specially on "last seen together theory".
- 24.** The PW-3, Debdas Das, is the neighbor who stated in his examination-in-chief that the accused, while under the influence of liquor, used to assault his mother, Pratima Das. They being villagers asked the accused to mend his ways. In his statement u/s 164 of Cr.PC, Ext.P-3(PW-3), he stated that hearing shouting in the morning from the house of the accused, he along with others had gone to his house and found his mother lying dead with fracture, bleeding injury in her head, mouth.
- 25.** The IO, PW-15 did not determine whether he was a habitual drunkard; even his breath has not been analyzed on the date of his

arrest to determine, at least at the time of his arrest, he was intoxicated. Further, no previous case history like offence u/s 290 of IPC has been brought on record to lend assurance the version of the PW-3 in this behalf. Mere accused's habit of consuming alcohol is not sufficient to create any nexus in the alleged offence.

26. It appears from the evidence of the PW-15, IO that he had arrested the accused and taken into police custody and recovered the alleged murderous weapon, bamboo stick on 22.01.2019 around 15:30 hours to 16:05 hours from the house of the accused being produced by the accused leading to the discovery statement of the accused but, the PW-15, the IO did not state the exact words uttered by the accused during police remand to lead the police to recover the alleged murderous weapon. There being no such leading to discovery statement recorded, the alleged recovery of bamboo stick does not create any nexus to prove the guilt of the accused. Further more the alleged bamboo stick was not produced during the course of trial, resulting which the seizure witnesses had no scope to identify the alleged bamboo stick before the court.

27. It is also pertinent to mention that there is no case made out by the prosecution regarding finding out finger print of the accused over the alleged bamboo stick; nor has it been proved, it was bloodstained. Therefore, this court finds and holds that the prosecution has failed to prove the alleged recovery of the murderous weapon, bamboo stick.

28. The Ld. PP-in-charge reliance upon the sole testimony of the PW-6, Krishna Pramanik who had allegedly seen both the accused and the deceased together before the occurrence.

29. PW-6, Krishna Pramanik, stated in her statement recorded under section 164 of CrPC, marked exhibit P-5 (PW-6) that on the fateful night around 8:30 o'clock the deceased had come to her house in search of her son, the accused and when the PW-6 reported her that her son had been watching TV in neighbour's house, the deceased had gone to that neighbour's house and having found her son, the accused there, the deceased came back to the house of the

PW-6 and had been talking with the PW-6 at her kitchen. At that time the accused had come to the said kitchen and been talking with his mother in a loud voice. Then the son of the PW-6, as was studying, told him to lower voice and to leave the place. The PW-6 also scolded the accused for his behaviour towards his mother, deceased and also reported him that the deceased was physically sick, unwell and advised him to return home early but the accused was found angry and he told, he will deal his mother when she returned home. Thereafter the accused left the place. The deceased told the PW-6 that the accused will beat her up when she returned home and expressed her apprehension, one day he will beat her to die. The PW-6 though requested the deceased to stay in her house in that night but, she expressed her fear that if she didn't go back home, her son would smash up the household belongings. In the next morning, the PW-6 heard, Pratima Das had died.

30. The court's testimony of the PW-6 is that the deceased was her elder sister; she used to reside in a house with her son; the accused used to abuse her in filthy language and used to assault her when his mother could not meet his demand of money; having reached to her house, the PW-6 found her lying injured and noticed injury on her head, ears; in the last night the deceased came to her house in search of her son and the accused came to her house following his mother; then they asked the accused to go to his house but he was angry with his mother as she came to the house of PW-6; the accused abused his mother and threatened her, he will deal with his mother when returned home; in the following morning PW-6 found her dead.

31. The PW-5, Samaresh Das is the son-in-law of the deceased. The PW-5, Samaresh Das, PW-10, Parinita Das, PW-11 Shayamali Mondal stated that both the deceased and the accused used to reside in joint mess under the same roof; the relation between the two was strained; the accused used to consume alcohol and create disturbance and misbehave with her; the accused demanded money from his mother but upon her failure to the said demand, the accused pushed her,

assaulted her on her head with a lathi resulting which she died. Upon received the information of death of his mother-in-law, the PW-5 came to her house.

32. According to the version of the PW-6, she had seen both the accused and the deceased in her house around 8:30 hours in the previous night of the occurrence as would appear from her 164 statement of CrPC. She further mentioned, the accused had first left her house followed by the deceased. On the following morning the dead body was found lying in her bedroom. There is no witness who had seen the accused to return his home in the fateful night after leaving the house of the PW-6. Even the probable time since death has not been elicited by any of prosecution witnesses. The PW-1 though stated in the complaint of information the time of death but it was not her first hand knowledge. Even the probable time since death has not been elicited from the PW-14, Dr. Sukdeb Biswas who performed PM examination resulting which the probable time of death of the deceased has not been proved. If the probable time of death is not proved, the “theory of last seen together” cannot be safely applied. The theory of “last seen together” also cannot be applied where there is no evidence to suggest that the accused had come back his house in that night. The “theory of last seen together” is a weak piece of evidence and it needs corroboration from the other witnesses. The prosecution has neither proved the seizure of the murderous weapon; nor has it been established the probable time of death of the deceased; nor they could establish, the accused had returned his house in the fateful night and **so, the “theory of last seen together” can not be pressed into service against the accused.**

33. The prosecution case is based on the allegation that the accused and the deceased had been staying in joint mess; their relation was strained; the accused used to demand money for alcohol consumption and when she could not give him the money, the accused used to assault her. These are all general allegation unsupported with specific date, time, place, manner of demanding money or torturing,

assaulting her. In absence of such particular, these allegation can not be accepted as corroborative of the prosecution case based on “last seen together” theory.

34. In view of the above discussion, this court finds and holds that the prosecution has miserably failed to prove the guilt of the accused beyond reasonable doubt and so the accused should be acquitted from this case. All the points are thus answered in the negative. In the result prosecution case fails and the accused person is entitled to be acquitted.

35. Hence, it is

o r d e r e d

36. that that the accused person namely, Nanda Das is found not guilty of committing the offences punishable under section **302 of IPC** and he is acquitted under section 235(1) of Cr.P.C.

37. The accused Nanda Das is in J.C. and let accused be released at once and on his release, he is to submit PR bond of Rs. 500/- u/s 437A of Cr.P.C which will remain in force for a period of six months. Let the accused be set at liberty.

38. The victim has a right to prefer an appeal against this order and judgment and if necessary, she may avail free legal aid for such prayer. Let the copy of this judgment of acquittal be forwarded to the D.M. Barasat and Chairman of SDLSC, Barasat for due intimation to the victim as defined.

39. Let the seized articles be destroyed according to law. Thus, this case is disposed off finally.

Dictated & Corrected by me.

Addl. Dist. & Session Judge, FTC
1st Court, Basirhat. Incharge.

Sanjay Naskar.

Addl. Dist. & Session Judge, FTC
1st Court, Basirhat.