



2026:GAU-AS:384-DB

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

CRL.A.(J) No. 27 of 2021

Smti. Laxmi Karuwa
W/o- Late Mohan Karuwa
R/o- Village No. 1 Bholatar,
P.S- Dimakuchi, District- Udalguri.

.....Appellant

-Versus-

State of Assam.
Represented by the Public Prosecutor,
Assam,

..... Respondent

- B E F O R E -

HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

For the Appellant(s) : Mr. Atal Tewari, Amicus Curiae

For the Respondent(s) : Ms. B. Bhuyan, Additional Public
Prosecutor, assisted by Ms. R. Das, learned
counsel.

Date on which judgment
is reserved : 06.01.2026.

Date of pronouncement
of judgment : **09.01.2026.**

Whether the pronouncement
is of the operative part
of the judgment ? : **NA.**

Whether the full judgment
has been pronounced : **Yes.**

JUDGMENT & ORDER (CAV)

(Kaushik Goswami, J)

Heard Mr. Atal Tewari, learned Amicus Curiae appearing for the appellant. Also heard Ms. B. Bhuyan, learned Senior Counsel/Additional Public Prosecutor assisted by Ms. R. Das, learned counsel appearing for the State respondent.

2] This criminal appeal is directed against the judgment and order dated 22.12.2020 passed by the learned Sessions Judge, Udalguri (hereinafter referred to as the "trial court"), in Sessions Case No. 44/2019 (arising out of G.R. Case No. 74/2018), whereby the accused/appellant was convicted for the offence punishable under Section 302 of the Indian Penal Code, 1860 (hereinafter referred to as the "IPC"), and was sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs. 1,000/-, in default to suffer simple imprisonment for 3 (three) months.

3] The prosecution case in brief is that upon a quarrel having taken place between the deceased, i.e., the husband of the accused/appellant and the accused/appellant on 21.01.2018 (Sunday) around 7 pm, the accused/appellant assaulted the deceased on the head with firewood, resulting

in the death of the deceased. Thereafter, an F.I.R. was lodged on the following morning at around 10 am by PW-1 (Guddu Karua), who resides in the neighbourhood. Accordingly, an investigation commenced, whereafter the Investigating Officer, investigated the matter by interrogating the witnesses and arresting the accused/appellant.

4] Upon completion of the investigation, a charge-sheet was submitted vide charge-sheet No. 4 of 2019 against the accused/appellant under Section 302 of the IPC. Thereafter, the trial court framed charges against the accused/appellant under Section 302 of the IPC and commenced the trial.

5] During the trial the prosecution examined 7 (seven) prosecution witnesses, including the informant/PW-1, PW-2 (Sankar Sonari), PW-3 (Panda Munda), PW-4 (Jiten Tanti), PW-5 (Smti. Nalini Brahma, WSI), the Investigating Officer PW-6 (S.I. Maheswar Sarmah), and the Medical Officer PW-7 (Dr. Arindom Bora). After closure of the prosecution evidence, all the incriminating circumstances were put to the accused/appellant under Section 313 of the Code of Criminal Procedure (hereinafter referred to as the "Cr.P.C."), wherein the accused/appellant, after denying the circumstances, stated that she is innocent and that on the date of occurrence in the evening at about 5 pm, after coming from her work in the tea garden, she found the dead body of her husband lying in the room of their house, and accordingly, she informed the *Gaonburha*. However, the accused/appellant did not adduce any evidence in support of her defence. The trial court, after hearing the parties, found the accused/appellant guilty of the

charge under Section 302 of the IPC and convicted the accused/appellant thereunder and sentenced her thereof. Situated thus, the present criminal appeal has been preferred.

6] Mr. Atal Tewari, learned Amicus Curiae for the appellant, submits that the conviction is erroneous on the grounds that the accused/appellant was not present in the house at the time of the occurrence; the prosecution case rests on circumstantial evidence, which does not form a complete chain; and the trial court erred in drawing an adverse inference against the accused/appellant. He further relies upon the decision of the Apex Court in the case of ***Anees vs. The State Govt. of NCT***, reported in **(2024) 0 Supreme (SC) 409**.

7] *Per contra*, Ms. B. Bhuyan, learned Additional Public Prosecutor, submits that the prosecution has established the presence of the accused/appellant in the house beyond reasonable doubt, and hence the conviction warrants no interference. She further submits that though the accused/appellant had taken a plea of alibi in her Section 313 Cr.P.C. examination, she has failed to establish the said plea by leading any evidence whatsoever. In support of the above, she relies upon the decision of the Apex Court in the case of ***Shaikh Sattar vs. State of Maharashtra***, reported in **(2010) 8 SCC 430**.

8] We have given our prudent consideration to the arguments advanced by the learned counsels for both the

parties and have perused the material available on record. We have also duly considered the case laws cited at the bar.

9] **PW-1** has categorically deposed that the accused/appellant was present in the house when he rushed to their house at about 5-5:30 am in the morning on 22.01.2018, upon hearing from the children of the neighbourhood about the quarrel that had taken place between the deceased and the accused/appellant the previous night. He further deposed that upon reaching the house of the accused/appellant, he found the accused/appellant sitting in the doorway of the house, and inside the house, he found the dead body of the deceased in a sitting position leaning on the wall of the house with blood oozing out of his head. He further deposed to the effect that the said blood in the house had already clotted. He further deposed to the effect that there was no other person in the house of the deceased except the deceased and the accused/appellant, along with four to five minor children from the neighbourhood. He further deposed that upon another neighbor, Sunil Tanti, having come to the place of occurrence, he asked him to inform the incident to the *Gaonburha*. He further deposed that Sunil Tanti accordingly went to the house of the *Gaonburha* and later came back, and thereafter they together informed the police.

10] During cross-examination PW-1 clarified that the accused/appellant confessed to him that during a quarrel she assaulted her husband, but she had not intended to kill him. Nothing substantial was elicited in the cross-examination to

discredit his testimony. There is no suggestion of animus or motive for false implication.

11] **PW-2**, who is a neighbor, similarly deposed regarding the presence of the accused in the house and the fact that no hue and cry or alarm was raised during the night. PW-2 corroborated the prosecution case that the dead body was found inside the house in the morning. His evidence lends independent corroboration to the conduct of the accused/appellant and the place of occurrence.

12] **PW-3** also supported the prosecution version by deposing that the accused and the deceased were residing in the same house and that the accused was present there during the relevant time. PW-3 further deposed about the unusual silence from the house despite the occurrence of a serious incident. PW-3 further proved the seizure of the material object, i.e., pieces of firewood from inside the house of the accused/appellant.

13] Likewise, **PW-4** also proved the seizure of the material object, i.e., pieces of firewood from inside the house of the accused/appellant. Their testimonies strengthen the prosecution case regarding presence and post-occurrence conduct.

14] **PW-5**, who was working as Officer-in-Charge of Dimakuchi P.S., deposed to the effect that upon PW-6 handing over the case to him, he received the case diary of the instant case on 30.11.2018. Thereafter, he collected the

post-mortem examination report and submitted the charge-sheet against the accused/appellant.

15] **PW-6** is the Investigating Officer who detailed the entire course of investigation, including registration of the FIR, preparation of the inquest report, seizure of material objects, examination of witnesses, and handing over the case diary to PW-5.

16] **PW-7** is the doctor who conducted the post-mortem examination. He categorically opined that the death was homicidal, that the injuries were ante-mortem, and that they were sufficient in the ordinary course of nature to cause death. His evidence remained unshaken in cross-examination. It is thus conclusively established from his testimony and the post-mortem report that the death of the deceased was homicidal. The injuries were ante mortem and sufficient in the ordinary course of nature to cause death. No material contradiction or infirmity has been elicited in the cross-examination of the medical witness.

17] It is further established from the reading of the prosecution evidence that the place of occurrence is the residential house where the deceased and the accused/appellant were residing as husband and wife. This fact is not disputed by the defence. The recovery of the dead body from inside the house is thus firmly established and undisputed.

18] It further appears that the prosecution has adduced cogent evidence to prove the presence of the

accused/appellant in the house on the relevant night. Thus, when the presence of the appellant with the deceased has been proved prior to the filing of the F.I.R., it was the duty of the appellant to explain as to how the deceased had died within the four walls of their home, which is woefully lacking in terms of Section 106 of the Indian Evidence Act. Instead the appellant has taken the plea of alibi which has turned out to be false.

19] PW-1 deposed that the accused/appellant was present in the house and remained there throughout the night. PW-2 and PW-3, independent neighbours, corroborated that the accused/appellant was present in the house and that no hue and cry or alarm was raised during the night. PW-1's testimony inspires confidence, and there is no material to show any motive for false implication. It is thus clearly established that the accused/appellant remained in the house throughout the night along with the dead body. This fact is corroborated by surrounding circumstances and remains unchallenged. Importantly, the accused/appellant in her explanation under Section 313 of the Cr.P.C., while denying involvement, does not convincingly deny her presence. In fact, she categorically stated that on the date of occurrence in the evening at 5 pm, after coming from her work in the tea garden, she found the dead body of her husband lying in the room of the house. The defence plea of absence is unsupported by evidence and hence is nothing but a bald assertion and stands contradicted by consistent prosecution testimony. Thus, on a holistic reading, her answers rather

corroborate the prosecution case on presence. That apart, PW-1 during cross-examination categorically clarified that the accused/appellant made a confession admitting her involvement. The said extra-judicial confession made by PW-1 cannot be ignored. Undoubtedly, such an extrajudicial confession is ordinarily a weak piece of evidence by itself; however, the same becomes reliable when corroborated by other circumstances.

20] In the present case, the confession was made immediately after the incident before police intervention on the arrival of PW-1 and is corroborated by the accused/appellant's conduct and presence and surrounding circumstances. It thus lends assurance to the prosecution case. The trial court has rightly treated it the same as a corroborative circumstance.

21] That apart, the conduct of the accused/appellant is highly incriminating. Despite the deceased having suffered fatal injuries, the accused/appellant did not raise any alarm, did not seek medical help, and did not inform neighbours or relatives. Such conduct is wholly unnatural and is a relevant fact under Section 8 of the Indian Evidence Act. It strongly militates against innocence.

22] At the cost of repetition, despite all incriminating circumstances having been put to the accused/appellant during her examination under Section 313 of the Cr.P.C., the accused/appellant failed to offer any explanation as to how the deceased sustained fatal injuries inside the house. The

denial is bald and evasive. No alternative hypothesis is offered. It is well settled that while the prosecution must stand on its own legs, failure of the accused to explain facts within the accused/appellant's special knowledge is a relevant circumstance.

23] The occurrence having taken place inside the house during night hours, the accused/appellant had exclusive knowledge of the circumstances leading to the death. Once the prosecution establishes homicidal death and the presence of the accused, the burden shifts to the accused to explain the circumstances.

24] In ***Shaikh Sattar (supra)*** the Apex Court held that where an offence is committed in the secrecy of the house, failure of the inmate to explain the circumstances provides an additional link in the chain of circumstances. The present case squarely falls within this principle. The accused/appellant's silence permits drawing an adverse inference.

25] Upon an overall assessment of the prosecution testimony, taken cumulatively, the following circumstantial evidence emerges:

- (i) PW- 1 established the presence of the accused, initial disclosure and extrajudicial confession;
- (ii) PW- 2 and PW-3 corroborate the presence and conduct of the accused;

(iii) PW- 4 and PW-5 support the place of occurrence and investigation;

(iv) PW- 6 completes the chain of investigation

(v) PW- 7 conclusively proves homicidal death.

We are thus of the unhesitant view that the testimonies are consistent, mutually corroborative, and inspire confidence.

26] Hence, the prosecution has proved the following circumstances beyond reasonable doubt: (i) homicidal death of the deceased; (ii) occurrence inside the house; (iii) presence of the accused/appellant during the relevant time, (iv) extrajudicial confession, (v) unnatural conduct of the accused and (vi) failure to explain incriminating circumstances. These circumstances form a complete, unbroken chain leading only to the hypothesis of the guilt of the accused and exclude every reasonable possibility of innocence.

27] The reliance placed by the accused/appellant on ***Annes (supra)*** is misplaced. The said judgment turned on the absence of proof of presence and an incomplete chain of circumstances. The facts of the present case are clearly distinguishable. Here, presence and exclusive knowledge are firmly established. It is worth mentioning that the reliance placed by the prosecution on ***Shaikh Sattar (supra)*** is apposite and squarely applicable.

28] This court, while exercising appellate jurisdiction, finds no perversity, illegality, or misappreciation of evidence in the judgment of the learned Sessions Judge. The findings are based on sound reasoning and settled principles of criminal jurisprudence.

29] Upon independent and careful reappreciation of the entire evidence on record, we are satisfied that the prosecution has proved its case beyond reasonable doubt. The conviction of the accused/appellant under Section 302 of the IPC and the sentence imposed are just and legal.

30] Accordingly, the appeal is devoid of merit and stands dismissed.

31] Resultantly, the conviction and sentence imposed upon the accused/appellant on 22.12.2020 by the learned Sessions Judge, Udalguri, in Sessions Case No. 44/2019, is hereby affirmed *in toto*.

32] The appellant shall undergo the remaining part of the sentence.

33] Return the trial court record.

34] This court appreciates the service rendered by Mr. Atal Tewari, learned Amicus Curiae, and his fee is fixed at Rs. 9,000/- (rupees nine thousand).

JUDGE

JUDGE

Comparing Assistant

Pranab
Chandra
Das

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by Pranab
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