

GAHC010242322025



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2026:GAU-AS:5107-

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

Case No. : Death Sentence Ref./2/2025

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

VERSUS

RISHAB DAS
SON OF LATE SATISH CH. DAS, GANDHINAGAR WARD NO. 16, BARPETA

Advocate for the Petitioner : PP, ASSAM, MR. R R KAUSHIK, APP, ASSAM

Advocate for the Respondent : MR. A AHMED, AMICUS CURIAE, MR K AGARWAL, AMICUS CURIAE

Linked Case : CRL.A(J)/185/2025

RISHAB DAS
SON OF LATE SATISH CH. DAS
GANDHINAGAR WARD NO. 16
BARPETA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR

ASSAM

Advocate for : X
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE

HON'BLE THE CHIEF JUSTICE ASHUTOSH KUMAR

HON'BLE MR JUSTICE ARUN DEV CHOUDHURY

For the Appellant/petitioner

:Mr. K. Gogoi, learned PP &
:Ms. N.N. Sharma, Adv. in
Death Sen. Ref. No. 2/2025
:Ms. P. Neog, Adv.&
:Mr. A. Ahmed, Adv in
Crl.(J) No. 185/2025.

For the Respondent

:Mr. K.Gogoi, PP &
:Ms. N. N. Sharma, Adv. in Crl. A. (J)
No. 185/2025
:Ms. P. Neog, Adv. &,
:Mr. A. Ahmed, Adv. in Death Sen. Ref.
No.2/2025

Amicus Curiae

: Mr. K. Agarwal, Senior Advocate/Amicus
Curiae :Mr. Azad Ahmed, Amicus
Curiae.

Date on which Judgment is

Reserved : 26.03.2026

Date of pronouncement of
Judgment : 07.04.2026

Whether the pronouncement
is of the operative part of the
Judgement : NA.

Whether the full Judgment has
been pronounced : Yes.

JUDGMENT & ORDER (CAV)

(A.D.Choudhury, J)

1. The Death Sentence Ref. No. 2/2025 and Crl. A. (J) No. 185/2025 have been heard together and are being disposed of by this common Judgment and Order.
2. We have heard Mr K. Agrawal, learned Senior Adv./Amicus Curiae assisted by Ms. P. Neog, learned counsel, in Death Sentence Ref. No. 2/2025, Mr. Azad Ahmed, learned amicus curiae for the appellant in Crl. A. (J.) 185/2025 and for the respondent in Death Sentence Ref. No. 2/2025, Mr. K. Gogoi, learned Additional Public Prosecutor, Assam.
3. By the impugned judgment dated 15.10.2025 and order of sentence dated 22.10.2025 passed by the learned Sessions Judge, Barpeta in Sessions Case No. 14/2024, the accused/appellant was convicted under Section 302 IPC and treating such a criminal act under the category of "rarest of the rare case", sentenced him to death and also to pay fine of Rs. 5,000/-.

4. The prosecution case, in nutshell, is that on 13.10.2023, PW-2 Nitu Das of Palangdihati, along with her two daughters, Ankita Das (PW-3) and Mayuri Das (PW-4), paid a social visit to the house of Binita Das (deceased victim). On the same day, at about 05:00 pm, when PW-2 and her two daughters were about to return after the visit, they noticed that the accused had locked the main gate of the compound, and when the victim Binita asked the accused to unlock the main gate, the accused attacked her with an axe and a dao. On witnessing the attack, Hiya Das (the other deceased victim), daughter of the accused, tried to save her mother, Binita, but the accused attacked her too with the axe and dao, and as a result, both Binita and Hiya died on the spot.
5. PW-5 informed the police over the telephone regarding the incident immediately; accordingly, Barpeta P.S. case GDE No. 379/2023 was registered, and police visited the place of occurrence, made certain seizures, arrested the accused and sent the dead bodies for post-mortem examination on 13.10.2023 itself.
6. PW-1, Pulak Kr. Das, brother of the deceased Binita Das, lodged the FIR on 14.10.2023. Accordingly, Barpeta P.S. Case No. 504/2023 was registered under Sections 120B/302 IPC. Investigation continued. Upon completion of the investigation, a charge sheet was filed under Section 302 of the IPC.
7. The case was committed to the Court of the learned Sessions Judge, Barpeta, who framed a charge under Section 302 IPC and read it over to the accused, who pleaded not guilty; accordingly, the trial proceeded.
8. During the Trial, to bring home the charges, the prosecution examined as many as 22 witnesses, exhibited 18 documents and 4 pieces of material evidence. The accused was examined under Section 351 BNSS, 2023. The accused denied the allegation; however did not lead any defence evidence.
9. Thereafter, the impugned judgment and sentence were passed by the learned Sessions Judge, Barpeta, convicting and sentencing the accused as detailed hereinabove.

10. For the sake of completeness, the evidence of the prosecution witnesses is summarised below:

11. **PW-1 Pulak Kumar Das**, brother of the deceased Binita & informant of the case, deposed that on the day of the incident, he received a call from one Ankita Das informing him that his younger sister Binita Das and niece Hiya Das were killed by the accused Rishab Das. Arriving the house of accused, he found dead bodies of them lying on the 'Varanda' of the house of the accused and also noticed Ankita (PW-3) and Mayuri (PW-4) being examined by police, from whom, he came to know that on that day, they found the gate of the compound of accused was under lock and key and that when Binita asked the accused to unlock the gate, he brought one 'dao' and axe and applied blows on Binita and Hiya leaving both of them died at the spot. He also stated that Binita had told him that the mother and younger sister of the accused had instigated the accused to kill Binita. He further stated that a divorce case was pending between the accused and Binita at the time of the incident. Though both resided in the same compound, they had separate kitchens. He proved Ext. P-1 as FIR and Ext.P1(1) as his signature. In his presence, the concerned Executive Magistrate visited the house of the accused and did an inquest over the dead bodies. He also proved Ext. P2 & P3 as the inquest reports and Ext. P2(1) & P3(1) as his signatures.

During **the cross-examination**, he testified that the accused had tortured his sister and committed the crime. He denied that the accused is a mentally ill person, and at that time, he was under treatment for mental illness.

12. **PW-2 Nitu Das, an eyewitness** deposed that on the day of the incident, at around 03:00 PM, she visited the house of the victims with her two daughters, namely, Ankita (PW-3) and Mayuri (PW-4) and they noticed that the gate of the compound of Binita was under lock and key and that when Binita was ready to break the lock of the gate with a hammer, the accused came running with a 'dao' and 'axe' and he applied the said weapons on the body of Binita.

Thereafter, the victim Hiya came and embarrassed her mother Binita, and then the accused applied blows with 'dao' on her too. Both the victims died at the spot. She also deposed that the mother and younger sister of the accused were standing near the spot, but they did not resist the accused. Out of fear, she, along with her two daughters, went inside one room and called the police, and immediately, the police came and examined them. Her statement was recorded by the police. She proved Ext. P4 as her statement recorded by the concerned Magistrate, and she also proved her signature as Ext. P4(1),P4(2),P4(3),P4(4),P4(5)& P4(6).

In **Cross-examination**, she testified that she did not know the family life of Binita and the accused; the incident occurred near the gate of the compound of the accused and that at the time of her examination by the Investigating Officer, her daughters were not present. She denied that the accused is a mental patient and is an insane person.

- 13. PW-3 Ankita Das, another eyewitness**, deposed that, on 13.10.2023, she, along with her mother (PW-2) and younger sister Mayuri (PW-4), visited the house of her friend Hiya. When they were about to leave the house of the victims, they noticed that the gate of the compound was locked. While Hiya's mother, Binita, was trying to break the gate's lock with a hammer, the accused approached Binita with a dao and inflicted several blows with it on her. In the meantime, Hiya came and embarrassed her mother and then the accused inflicted blows with a dao on Hiya too. In the compound, she noticed the mother and the sister of the accused, who were present at the scene, but did not resist the accused. Out of fear, her mother informed the police over the phone. Thereafter, the police came and examined them. The police recorded her statement. She proved Ext. P5 as her statement recorded before the Magistrate and Ext. P5(1), Ext. P5(2) and Ext.P5(3) as her signatures.

In **the cross-examination**, she denied that the accused is a mentally ill person and that at the time of the incident, he was under medical treatment for his

mental sickness.

- 14. PW-4 Mayuri Das, another eyewitness,** deposed that on 13.10.2023, she, along with her elder sister (PW-3) and mother (PW-2), visited the house of the victims. On leaving the house of the victims, they found the gate of the compound was locked. While Binita tried to open the lock by breaking it, the accused came running and attacked Binita with a dao several times. Thereafter, the victim, Hiya, came. She proved Ext. P6 as her statement recorded by the Magistrate and Ext. P6(1), Ext. P6(2), Ext. P6(3) & Ext.6(4) as her signatures.

In cross-examination, she testified that she did not see that the mother and sister of the accused were participating in the assault, which caused the death of the victims and that she saw one Tarali (PW-10) inside the compound and that she did not see the accused hitting Hiya with a dao.

- 15. PW-10 Tarali Das, an eyewitness,** deposed that on 13.10.2023, she noticed the accused putting a lock on the gate of his compound. At that time, a lady and her two daughters were guests in the house of the accused. When Binita Das asked who had put the lock on the gate, she answered that it was the accused. The wife of the accused brought a hammer to break the lock open, but in the meantime, the accused came running with a dao and applied a blow to his wife. Out of fear, this witness entered her room and heard the cry of victim Binita and her daughter Hiya. Later, on the arrival of the police, she came out of her room and saw the blood-stained dead bodies of the victims. The police got her statement recorded in the Court. She proved Ext. P10 as her statement recorded in the Court and Ext. P10(1), Ext. P10(2) & Ext. P10(3) as her signature.

In cross-examination, she testified that she saw the accused inflicting a blow with the 'dao' on his wife and that the accused was a mentally ill person.

- 16. PW-5 Santanu Das, a seizure witness,** deposed that on the day of the incident, when he heard the noise from the compound of the accused, he went out and noticed Binita and Hiya were lying dead with injuries in their courtyard. He also

noticed the accused with an axe in his hand roaming around the dead bodies. Then the police were called. The compound, which was locked from the inside, was opened by the police. He also deposed that the police seized one 'axe,' one 'dao' and blood-stained clothes from the compound of the accused. The police took his signature as a witness to the seizure. He proved Ext. P7 & Ext. P8 as seizure list and Ext.P7(1) & Ext. P8(1) as his signature. In the compound, he saw one woman and two girls, who were Binita's guests.

In **Cross-examination**, he testified that he made a statement before the Investigating Officer that he noticed the accused person roaming around the dead bodies with an axe in his hand and that he did not see the accused assaulting his wife and daughter.

- 17. PW-6 Sharmistha Kakati, an immediate neighbour of the accused**, deposed that on 13.10.2023 at about 4.30 PM, while hearing a commotion near the compound of the accused, she went there, but the gate of the compound of the accused was locked from inside. She noticed the accused with an axe in his hand moving within his compound. She came to know that in the house of the accused, the dead bodies of Binita Das and her daughter were lying. She further deposed that Binita had told her that the accused had harassed her both mentally and physically and that the victims used to reside in a separate house within the same compound, which was also damaged by the accused.

In **cross-examination**, she testified that the surroundings of the compound of the accused were covered with CI Sheets of about seven feet height, and she did not enter into the said compound on the day of the incident and that the accused was unsociable, but he was not a mentally ill person. He earned his livelihood by running a Photostat shop.

- 18. PW-7, Tirtha Nath Sarma, another seizure witness**, deposed that after hearing commotion, he went out and, by peeping through the tin boundary fence of the accused, he noticed that both the deceased victims were lying with injuries on their persons in the courtyard and the accused was moving with an axe in

his hand, singing a Hindi song. With the police, he entered the compound and heard the accused confessing his guilt. He further deposed that the accused also produced one 'dao' by which he had assaulted his wife and daughter.

In **cross-examination**, he testified that the fact of confessing guilt by the accused before the police is not false.

- 19. PW-11 Kunja Lal Das, a seizure witness**, deposed that on the day of the incident, hearing the commotion, he went to the place of occurrence, where the police and the villagers were present. He noticed the dead bodies of the wife and daughter of the accused lying in their courtyard. The police seized a hammer in his presence and took his signature on a piece of paper. He proved Ext. P9(3) as his signature.

In **cross-examination**, he testified that he could not say who the owner of the hammer was and had not seen the seized hammer in Court.

- 20. PW- 8 Ranjit Das is another seizure witness**, who deposed that on 13.10.2023 at about 4.30 PM, while he was at the Municipality Office, Barpeta, he received a phone call from a person stating that an incident had occurred at the house of Rishab Das. He immediately rang the police and proceeded to the accused's house, where he found the police and the public. He also noticed blood-stained dead bodies of the victims lying in the courtyard. The police seized one axe, one 'dao', one hammer and some other materials from the compound of the accused, and he proved Exts. P7, P8 & P9 as his signatures. He also witnessed the accused confess his guilt.

In **cross-examination**, he testified that the police picked up the axe and the hammer, which were lying on the ground within the compound of the accused, and the police picked up one 'dao' from a place where dried woods were kept, one being led and shown by the accused Rishab Das.

- 21. PW-9 Kader Khusnobish Hazarika, another seizure witness**, deposed that after receiving information about the incident, he went to the spot and found the police interrogating the accused, Rishab Das, who admitted his guilt before

them. At that time, he also noticed blood-stained dead bodies of Binita and Hiya were lying by the side of the house of the accused.

In **cross-examination**, he testified that he noticed about 10/12 police personnel in the compound of the accused and that he could not say where the police had found the seized materials.

22. PW-17 Brigujit Choudhury, another seizure witness, deposed that the informant is his brother-in-law. He learned about the incident from his sister over the phone. After hearing about the incident, he immediately rushed to the house of the accused, where he found several people and the police. The accused was apprehended by the police. In his presence, the accused confessed to the police that he killed his wife and daughter, Hiya. He further deposed that he saw blood stains on the shirt of the accused, and the police seized it under Ext. P15, seizure list. He proved Ext. P15(1) as his signature and identified Ext. P15(2) as the signature of the accused in the seizure list.

In **cross-examination**, he testified that he did not know that the accused ever suffered from a mental disorder and that the accused confessed before the police that he killed his wife and daughter with a dao and an axe.

23.PW-12 Madhumita Das, a relative of the deceased Binita and co-villager, deposed that her house is situated about 100 meters away from the house of the accused, and she came to know from the informant that Binita Das was cut down in her husband's house.

24. PW-13 Abu Bakker Siddique, a petition writer, deposed that PW-1 asked him to write an ejahar regarding the murder of his younger sister Binita Das and niece Hiya Das, and he prepared an ejahar. He proved Ext. P1 as ejahar and Ext. P1 (2) and P1 (3) as his signatures.

25. PW-14 Dr. Yutika Nath, a Jr. Scientific Officer, Serology Division, Directorate of Forensic Science, Assam, Kahilipara, Guwahati, deposed that on the day of the

incident, she examined the articles in connection with. Barpeta P.S. Case No.504/2023, u/s 120(B)/302 IPC. Exh No. Sero-897/23/C and Sero-897/23/L gave negative results for the presence of human blood and the blood group of the blood present in Exh No. Sero-897/23/J could not be ascertained due to insufficient test material. She proved Ext-P11 as her report and Ext-P11(1) as her signature.

- 26. PW-15 Dr. Arup Manta, a Scientific Officer, DNA** Typing Unit, Directorate of Forensic Science, Assam, deposited that on that day, he received a parcel from the Directorate of Forensic Science, Assam, Kahilipara, in connection with Barpeta P.S. Case 504/2023 registered under Sections 120(B)/302 IPC. The parcel 1 consisted of seven exhibits in a sealed paper envelope; parcel 2 consisted of seven exhibits in a sealed paper envelope; and parcel 3 consisted of three exhibits in a sealed cloth-covered wooden box, which were sealed with the impression seal corresponding to the seal impression forwarded.

The result of the DNA fingerprinting analysis are to the following effect:

1. The DNA profile of exhibit no.DNA 7035/23, DNA 7036/23, DNA 7038/23, DNA 7039/23, DNA 7040/23, DNA 7047/23, DNA 7049/23 & DNA 7051/23. DNA 7042/23 (as marked) are matching with each other.
2. No amplifiable DNA could be obtained from the exhibit no.DNA 7037/23, DNA 7041/23, DNA 7043/23, DNA 7044/23, DNA 7045/23, DNA 7046/23, DNA 7048/23&DNA7050/23 (as marked). Ext-P12 is his report, and Ext-P12(1) is his signature.

- 27. PW-16 Dr. Manoj Kr. Singha, Professor & Head of the Department of Forensic Medicine, FAAMCH, Barpeta,** deposited that in connection with Barpeta P.S. GDE No. 379/2023, he performed post-mortem examinations on the dead bodies of Binita Das and Hiya Das on 13.03.2023. The dead bodies were identified by C 432 Gopesh Talukdar, and he found multiple cut injuries present over the scalp of Binita Das and over the forehead of Hiya. He opined that

death was due to coma as a result of head injuries. All injuries were ante-mortem and caused by a sharp cutting weapon and homicidal in nature. Approximate time since death was 12 to 24 hours. He proved Ext. P13 & P14 as the post-mortem examination reports of Binita & Hiya, respectively, prepared by him and Ext. P13(1) to Ext. P13(6) & P14(1) to P14(6) as his signatures therein. The injuries identified are to the following effect:

Deceased Binita Das

- (i) Multiple cut injuries present over the scalp. All bone deep.
- (ii) cut injuries present on the back side of the neck.
- (iii) cut injuries present on the left side of the mandible. Size 8x3 cm x bone deep.
- (iv) cut injuries present on the left side of the cheek, Mouth, cavity deep.
- (v) In both upper limbs, multiple cut injuries are present. In both hands, multiple cut injuries are present. Metacarpal bones are cut.

Deceased Hiya Das

- (I) Multiple cut injury present over the forehead.
- (II) Multiple cut injuries are present over the right temporal and occipital area of the scalp.
- (III) Multiple cut injury present below the right ear.
- (IV) Multiple cut injury present in the right upper limb. Multiple cut injury present on the left upper limb.
- (V) Multiple cut injury present on both hands. Metacarpal bones are cut.

28. PW-18 Diki Talukdar, Crime Scene Officer, Sub-Inspector of Police (P), deposed that as per the order of S.P., Barpeta, she acted as a Crime Scene Officer in connection with the serious offences registered at Barpeta PS and Howly PS. On that day, Addl. S.P, Crime, Barpeta District, called her to visit the spot as a Crime Scene Officer, stating that a murder case was registered at Barpeta P.S. She found the Sub-Inspector of Police, Biswajit Nath, who was the Investigating Officer of Barpeta PS Case No. 504/2023, other police personnel, and the accused on the spot, and two dead bodies were lying on the veranda of a

house of the accused. She took photographs of the dead bodies, collected blood-stained soil from the dead bodies; blood stain from the spot, blood-stained cloths from the dead bodies and hair mobile phone handset from the spot and blood-stained axe and dao which were lying near the dead bodies. After collecting it, she handed it over to the Investigating Officer. MO-1, MO-2, MO-3 & MO-4 (1 to 7) are the seized axe, dao, mobile phone handset & photographs.

In cross-examination, she testified that she found no Executive Magistrate on the spot and did not prepare any memorandum after collecting blood-stained hair, etc. and that in Ext. P8 seizure list, there is no mention of 'dao.'

- 29. PW- 19 Biswajit Nath**, Sub-Inspector of police, deposed that on the day of the incident, at about 5 PM, one Santanu Das (PW-5) informed OC, Barpeta Sadar PS over the phone that at Gandhinagar, one Rishab Das caused grievous injuries to his wife and his daughter. After receiving the telephonic information, the concerned OC made GD Entry 379 dated 13.10.2023 and directed him to take necessary steps. He proved the extract copy of Barpeta PS GD Entry No 379 dated 13.10.2023 as Ext. P16 and the signature of the OC Ranjan Doley as Ext. P16(1). Thereafter, he, along with the police staff, proceeded to the place of occurrence and found the dead bodies of a woman and a girl on the *veranda* of the house. He noticed several injury marks on the dead bodies and found the accused there, and noticed blood stains on his clothing. So he apprehended him. The accused identified the dead bodies. One of the dead bodies was his wife, Binita Das, and the other dead body was his minor daughter, Hiya Das. The accused confessed before him that he killed his wife and daughter with a dao and an axe. One axe with blood stains and a mobile phone handset were found lying near the dead bodies. He barricaded the scene of the incident, informing his senior officers. In the place of occurrence, there was another house. After a few minutes, one woman and two girls came out and identified themselves as Nitu Das (PW-2), Ankita Das (PW-3), and

Mayuri Das (PW-4), who had witnessed the incident. They stated that they came to attend a marriage in Gandhinagar and visited the accused's house. The accused had a heated exchange with his wife, and thereafter, he attacked his wife and daughter with a 'dao' and an axe.' He recorded their statements under Section 161 Cr. P.C. at the place of crime. On 16.10.2023, he produced them before the Judicial Magistrate for recording their statements under Section 164 Cr.P.C. In the meantime, senior police officers arrived at the spot. Sub-Inspector of Police Diki Talukdar, at that time, acted as Crime Scene Officer in connection with serious offences registered at Barpeta and Howly PSs, who arrived at the spot and took photographs of the dead bodies, collected blood from the dead bodies, and all other relevant materials.

The accused showed him the 'dao' used in the crime, and the same was recovered from the house where he was sitting.

He seized the axe, the 'dao' and the mobile phone handset. He proved Ext. P7 as the seizure list, Ext. PB as the seizure list whereby he seized the axe with grip, one mobile phone handset, blood stain collected cotton, blood stained piece of cloths, some control soil from the place of occurrence, blood stain collected in a cotton from the place of occurrence, where deceased Hiya Das was lying which was preserved in a plastic container, blood stain collected in cotton from deceased Binita Das which was preserved in a plastic container, piece of cloth with blood stain collected from the body of deceased Binita Das, some soil with blood collected from left side of the place of occurrence, blood stain collected from the place of occurrence where Binita Das was lying, some long hair found lying in the place of occurrence, some long hair lying near the place of occurrence in a distance of 21 feet from the place of. The dead bodies of Binita Das and Hiya Das were sent to FAAMCH, Barpeta.

In the morgue of the hospital, Executive Magistrate Nupur Bora conducted an inquest over both the dead bodies.

On the next day, i.e. 14.10.2023 at FAAMCH, Barpeta, postmortem examinations over the dead bodies of Binita Das and Hiya Das were conducted. On that day, one Pulak Kr. Das filed a formal ejahar against accused Rishab Das, his mother Kamini Das and his sister Junu Das and the same was registered as Barpeta PS Case No. 504/2023. He examined the informant and the editor, writer Abu Bakkar Siddique.

On 20.10.2023, he seized a hammer with wood grip from the place of occurrence. Ext P9 is the seizure list. Ext. P9(4) is his signature. Ext. P18 is the charge sheet filed by him. Ext. P18(1) is his signature.

In cross-examination, he testified that in the statement recorded u/s 161 of the Cr.PC., the informant mentioned the names of Kamini Das and Junu Das. But during the investigation, he did not find sufficient evidence against them to prosecute in this case; the accused confessed their guilt before him, and he did not request the Court to record the accused's confessional statement. No video was recorded while the Crime Scene Officer was collecting evidence from the crime scene, and he seized the articles.

30. PW-20 Nupur Bora, Circle Officer of Barpeta Revenue Circle as well as Executive Magistrate of Barpeta, deposed that she conducted an inquest over the dead bodies of Binita Das and Hiya Das, in connection with Barpeta Sadar P.S. GDE No. 379/2023 dated 23.10.2023. The dead bodies were identified by TSI Biswajit Nath and one Pulak Kr. Das relative of the deceased. In the presence of the above-mentioned relative of the deceased and independent witness Kishor Kr. Lahkar and Dipak Choudhury, she conducted an inquest over the dead bodies.

After inspection of the dead body of Binita Das, she found a head injury, injuries on the face, injuries in her right hand and injuries in her back. She detected multiple injury marks on the body of the deceased Binita Das. she proved Ext. P2 as the inquest report over the dead body of Binita Das and Ext. P2(2) is her

signature.

After inspection of the dead body of Hiya Das, she found head injuries, injuries on her face, injuries on her right and left hands and back. She proved Ext. P3 as the inquest report over the dead body of Hiya Das and Ext. P3(1) as her signature.

In cross-examination, she testified that at the time of conducting inquests over the dead bodies, she did not consult with any doctor of the FAAMCH, Barpeta. On being asked, TSI Biswajit Nath told her that he recovered a spear and a dao from the scene of the incident.

- 31. PW-21 Kishor Kumar Lahakar is a witness to the inquest.** He noticed injuries on the dead bodies of the victims. He proved Ext. P2 as the inquest over the dead body of Binita Das and Ext. P3 as the inquest over the dead body of Hiya Das and Ext. P2(3) and Ext. P3(3) as his signature.
- 32. PW-22 Dipak Choudhury, is another witness to the inquest.** In connection with the incident, the Executive Magistrate conducted an inquest over the dead bodies of Binita Das and Hiya Das in his presence at FAAMCH, Barpeta. He noticed injuries on the dead bodies of the victims. He proved Ext. P2(4) and Ext. P3(4) as his signature over the two inquest reports.
- 33.** We have given anxious consideration to the submissions advanced by the learned counsel for the parties. Also, perused the materials available on record.
- 34.** Now, let us revisit and reappraise the evidence placed before the learned Trial Court and examine its correctness.
- 35.** Upon careful re-appreciation of the entire evidence and record, this Court finds that the prosecution case rests on a coherent combination of ocular testimony, corroborative circumstances and medical evidence, which must be assessed holistically and not in isolation.
- 36.** In the present case, the testimonies of PW-2, PW-3, PW-4 and PW-10 assume

central importance, as they are eyewitnesses to the occurrence.

- 37.** The presence of PW-2, PW-3 & PW-4 at the place of occurrence is natural and stands established as they had visited the house of the deceased on the relevant day. From their depositions, it stands clearly proved that the gate of the compound was found locked; when the deceased Binita was attempted to open or break the lock, the accused arrived armed with 'dao' and 'axe'; he inflicted repeated blows upon Binita and that when the minor victim here intervened to save her mother, she too was assaulted in a similar manner, resulting in the instantaneous death of both.
- 38.** The consistency in the narration of these witnesses on these material particulars lends assurance to their credibility. During cross-examination, the defence failed to shake their account of the incident.
- 39.** PW10 is another eyewitness, and her presence at the scene of the crime is supported by her being a resident of the same compound where the crime occurred. Her presence is also supported by PW-4 during her cross-examination. This witness supports the aforesaid evidence of PW-2, PW-3 and PW-4. She has deposed that she saw the accused locking the gate and, thereafter, assaulting his wife with a 'dao.'
- 40.** This assumes significance in establishing the genesis of the occurrence and the conduct of the accused immediately preceding the assault. Though PW-10 did not witness the entire consequence, her testimony lends assurance to the prosecution version and corroborates the presence and active role of the accused in the commission of the crime.
- 41.** PW-5, PW-6, and PW-7, though they are not eyewitnesses to the assault, have provided evidence of considerable significance.
- 42.** These witnesses have consistently deposed that upon hearing the commotion, they reached the vicinity and saw the dead bodies of the victims lying within

the compound, while the accused was present inside, moving around with weapons in hand.

- 43.** PW-7 has further stated that the accused was behaving in an unusual manner and produced one of the weapons before the police.
- 44.** These witnesses have candidly admitted in cross-examination that they did not witness the assault itself, which in our view enhances rather than diminishes their credibility as they have not attempted to exaggerate their versions.
- 45.** Their testimonies establish the conduct of the accused immediately after the occurrence. The evidentiary value of such conduct is well recognised under Section 10 of the Bharatiya Sakshya Adhinyam (BSA for short).
- 46.** The accused's conduct before and after the occurrence constitutes a relevant circumstance and can serve as an important link in the chain of evidence, lending support to the eyewitnesses' accounts.
- 47.** The medical evidence, as deposed by PW-16, fully supports the ocular version.
- 48.** The presence of multiple antemortem injuries caused by sharp-cutting weapons leading to death is entirely consistent with the prosecution case of repeated blows by 'dao' and 'axe.'
- 49.** There is no inconsistency between the medical and ocular evidence.
- 50.** It needs no reiteration of the settled principle of law that where medical evidence corroborates ocular testimony, it lends assurance to the prosecution case, unless it completely rules out the prosecution version.
- 51.** The recovery of the weapons of the offence and other incriminating materials from the place of occurrence, as duly proved through the Investigating Officer and seizure witnesses, namely PW-5 and PW-8, provides further corroboration.
- 52.** The presence of the accused at the scene with blood-stained clothes, a

locked compound gate, and two dead bodies with multiple injuries lying inside there, coupled with the recovery of 'dao' and 'axe', strengthens the prosecution case.

- 53.** Minor lapses in investigation, such as absence of videography or certain omissions in seizure documentation raised by defence, do not go to the root of the matter when the substantive evidence is otherwise reliable.
- 54.** It is by now well settled that defects in investigation cannot be overlooked when the prosecution evidence is cogent and credible.
- 55.** An important circumstance that cannot be overlooked is that the prosecution has firmly established that the entire occurrence took place within the confines of the compound of the accused, which was found locked from the inside. The accused was present within the same enclosure, armed and in proximity to the dead bodies.
- 56.** These are facts, especially within the knowledge of the accused. In such a situation, the principle embodied under Section 109 of BSA assumes relevance.
- 57.** In the present case, the accused, however, had failed to furnish any explanation in his statements under Section 351 BNSS. Such failure constitutes an additional incriminating circumstance.
- 58.** PW 1, the informant and the brother of the deceased Binita Das, deposed regarding the immediate information received by him and his arrival at the place of occurrence, where he found the dead bodies lying on the 'veranda' of the house of the accused. Though not an eyewitness, his testimony is significant in establishing the prompt lodging of the FIR, the surrounding circumstances and the existence of prior matrimonial discord between the accused and the deceased.
- 59.** His evidence also proves that the inquest proceeding was conducted in his presence.

- 60.** Though the testimony of the informant is partially hearsay, it is relevant to the extent it explains the genesis of the prosecution case and provides assurance to the promptness and authenticity of the FIR.
- 61.** The forensic evidence, though partially inconclusive in serology, does not detract from the prosecution case or dent it.
- 62.** The DNA analysis indicates matching profiles among several exhibits, thereby supporting the presence of biological material consistent with the occurrence. This Expert evidence, though corroborative in nature, strengthens the prosecution case while aligned with other evidence.
- 63.** The Inquest reports, as proved by PW-20 and supported by PW-1, PW-21 and PW-22, further establish the condition of the dead bodies, and the multiple injuries recorded in the postmortem report, duly proved by the prosecution.
- 64.** The defence has attempted to raise a plea of insanity. However, apart from vague suggestions put to the witnesses in cross-examination, no substantive evidence has been adduced to establish that such a plea lies upon the accused under Section 105 BSA. Mere assertions or suggestions are insufficient in law.
- 65.** The alleged confession and statement made before the police officer, as deposed by PW-7, PW-8, PW-9, PW-17 & PW-19, are inadmissible under Section 23(1) & Section 23(2) of BSA and are accordingly excluded from our consideration.
- 66.** When the evidence is considered cumulatively, it establishes a complete and consistent chain; the direct eyewitness account of multiple assaults upon the victims by the accused, with 'dao' and 'axe' on 13.10.2023 at around 5 p.m. inside the residential compound of the accused in the presence of PW-2, PW-3, PW-4 and PW-10. It is also established beyond a reasonable doubt through the independent witness, such as PW-5, PW-7, PW-11 as to the immediate

aftermath and conduct of the accused, further supported through the seizure witnesses, the recovery of the weapons from the place of the occurrence. The medical evidence fully supports the manner of assault and the homicidal nature of the injury. Given the recovery of weapons from the place of occurrence, the absence of any plausible explanation from the accused, it can safely be concluded that the prosecution has been able to prove its case beyond any reasonable doubt.

67. The standard of proof required in criminal law, in our opinion, in the backdrop of the discussions made herein above, stands satisfied.
68. In these circumstances, we do not find any infirmity in the conclusion reached by the learned Trial Court that the accused committed the murder of his wife, Binita Das and his minor daughter, Hiya Das.
69. The conviction under Section 302 IPC is accordingly affirmed.
70. Now, coming to the sentence, the sentencing exercise is not a mechanical reaction to the nature of the crime, but a principled balancing of aggravating and mitigating factors.
71. The question, therefore, now arises whether the sentence of death imposed by the learned Trial Court can be sustained in law.
72. The sentencing exercise in capital cases is no longer unguided but is structured by constitutional principles evolved by the Supreme Court, beginning with **Bachan Singh versus State of Punjab, reported in 1982 SCC 684**, and consistently reaffirmed thereafter.
73. The governing norm is that the death penalty may be imposed only in the rarest of cases where the alternative of life imprisonment is unquestionably foreclosed.
74. The constitutional ethos supported by Article 21 of the Constitution of India demands that deprivation of life must be just, fair and reasonable, where lesser

yet adequate punishment, namely, life imprisonment, can meet ends of justice, the extreme penalty ought not to be imposed.

75. The framework of this inquiry, as laid down in **Bachan Singh (supra)**, has been further crystallised in **Vasanta Sampat Tupare versus Union of India**, reported in **AIR Online 2025 SC 1167**, which mandates a threefold assessment.
76. The Court is required first to evaluate the nature of the crime and the attendant aggravating circumstances; second, to consider the circumstances of the offender, including the possibility of reform and rehabilitation; and third, to undertake a principled balancing to determine whether life imprisonment would be inadequate and whether the accused is beyond reformation.
77. This approach underscores that sentencing must be both crime-centric and criminal-centric, rather than merely a reaction to the brutality of the act.
78. Tested on this framework, the present case undoubtedly discloses grave aggravating circumstances.
79. The accused has caused the death of his wife and minor daughter within the confines of his residence. The manner of assault involving repeated blows with sharp, cutting weapons reflects a high degree of brutality.
80. The victims were defenceless, and the crime constitutes a breach of the most intimate zone of trust. Such circumstances weigh heavily against the accused and satisfy the crime test as delineated in **Vasanta Sampath Tupare (Supra)**.
81. The Court is equally obliged to examine the criminal test, namely, whether the accused is beyond the possibility of reformation inasmuch as the penological goal of reform remains a concern of our criminal justice system.
82. There is no material on record to indicate that the accused is beyond the pale of reformation or that he constitutes a continuing threat to society. The learned Trial Court has also failed to carry out the exercise mandated by law to collate such material.

83. In the absence of such a finding and a collection assessment of materials, it would be contrary to the settled principles to extinguish the life of the accused when the law leans in favour of preserving it.
84. It is equally well settled that the burden lies on the prosecution to establish that the accused is incapable of reformation and that life imprisonment would be wholly inadequate.
85. The record is conspicuously silent on any psychological, behavioural, or institutional assessment suggesting incurable depravity. In such circumstances, the imposition of the death penalty would be disproportionate and constitutionally suspect.
86. The sentencing phase must reflect a comprehensive consideration of all relevant factors, including a meaningful hearing under Section 335(2)BNSS.
87. The material placed does not disclose a sufficiently informed sentencing enquiry. The absence of a detailed evaluation of mitigating circumstances vitiates the sentencing exercise, warranting appellate Court intervention.
88. In this regard, the record is conspicuously silent. No material has been placed by the prosecution relating to the psychological profile of the accused, his conduct in custody, or any other objective indicators that should enable the Court to arrive at a conclusion that he is incapable of reform.
89. The Supreme Court, more recently in **Manoj Vs. State of Madhya Pradesh**, reported in **2023-2-SCC-353**, has emphasised that the burden lies on the state to place such material, and absence thereof must operate as a mitigating circumstance.
90. It is now well settled that brutality, however grave, cannot by itself justify the imposition of the death penalty. Unless a definitive finding is recorded that the accused is beyond reformation, the extreme penalty would not be unwarranted.

91. The present case does not meet that threshold.
92. The mitigating factors, such as the absence of prior criminal antecedents, socio-economic background, the possibility of reformation, and the age of the accused, tilt the balance against the irreversible penalty of death. The sentencing Court, in our respectful view, has accorded disproportionate weightage to aggravating circumstances while insufficiently appreciating the mitigating spectrum.
93. The balancing stage, therefore, is in favour of the alternative punishment.
94. The gravity of the offence is such that a sentence of life imprisonment, subject to remission, would meet the ends of justice and the case does not satisfy the constitutional requirement for the imposition of the death penalty.
95. The appropriate course, in our opinion, lies in adopting the principle permitting the imposition of life sentence subject to remission.
96. In view of the above, this court is of the considered opinion that the sentence of death imposed upon the accused cannot be sustained. Having regard to the nature and gravity of the offence, the ends of justice would be met by imposing a sentence of life subject to remission.
97. In view of the aforesaid discussions, determinations and reasons, while affirming the conviction recorded by the learned Trial Court, we deem it appropriate to commute the sentence of death to imprisonment for life.
98. Accordingly, the Death Sentence Reference No. 2/2025 and CrI. A.(J) No. 185/2025 stands disposed of by modifying the order of sentence dated 22.10.2025 as recorded hereinabove.
99. The TCR be returned to the Trial Court forthwith.

JUDGE

CHIEF JUSTICE

Comparing Assistant