

**HIGH COURT OF TRIPURA  
AGARTALA**

**Crl. A(J) 42/2020**

**Sri Jagat Gour,**

son of Fagu Gour, resident of Jamuna Basti, Champahaur,  
P.S. Champahaur, District- Khowai, Tripura

**----Appellant**

**Versus**

**The State of Tripura**

**----Respondent**

For the Appellant(s) : Mr. A. Acharjee, Legal Aid Counsel

For the Respondent(s): Mr. S. Debnath, Addl. PP

Date of hearing & delivery  
of judgment & Order : **19.03.2021**

Whether fit for reporting: **Yes / No**

**HON'BLE MR. JUSTICE ARINDAM LODH**

**JUDGMENT**

Heard Mr. A. Acharjee, learned legal Aid Counsel appearing for the appellant as well as Mr. S. Debnath, learned Additional PP appearing for the respondent-State.

2. The convict appellant has preferred the instant appeal against the judgment of conviction and order of sentence dated 10.01.2020 passed by the learned Sessions Judge, Khowai, Tripura, in connection with case No. S.T. (Type-1) 22 of 2019 wherein the appellant was convicted under Section 304 (Part II) of the IPC and was sentenced to suffer rigorous imprisonment for 8(eight) years and to pay a fine of Rs. 2,000/- with default stipulation.

3. Briefly stated, one Chinta Moni Gour, the wife of the deceased lodged a written complaint with the Officer-in-Charge of Champahaur police station stating *inter alia* that on 29.01.2019 when she was quarreling with her husband, Kabiraj Gour, in the house of Jagat Gour, the accused-appellant

herein, he tried to resist her husband but, as her husband continued to quarrel with her, he gave a blow with a aluminum pan (kadai) on his head. Kabiraj Gour sustained severe injury and was shifted to Khowai hospital and, on 31.01.2019 Kabiraj Gour succumbed to his injuries.

**4.** Accordingly, FIR was registered. Investigation was carried out. Being satisfied with the evidence surfaced, charge-sheet was submitted against the accused, Jagat Gour under Section 302 IPC. Being committed, charge was framed against the accused under Section 302 IPC. During trial, prosecution examined 17 witnesses. At the closure of recording evidence, the accused was examined under Section 313(1)(b) of the Cr.P.C. when he denied all the incriminating materials in prosecution evidence and also declined to adduce evidence in his defence.

**5.** After hearing the learned counsel appearing for the parties, the learned Sessions Judge convicted the accused and sentenced him under Section 302(Part-II) of the IPC, as aforesaid. Hence, the appellant has preferred this appeal.

**6.** Mr. Acharjee, learned counsel at the very outset of his argument has drawn my attention that the very basis of conviction was the evidence of PW-12, Smt. Chintamoni Gour, wife of the deceased.

**7.** In view of this submission, I have gone through the evidence of PW-12, who deposed that about one year back oneday, she had a quarrel with her husband in the morning in the house of one Jagat Gour. At that time her

husband attacked her with a lathi in his hand. Jagat Gour tried to save her from the attack of her husband but, her husband was adamant and out of that incident suddenly Jagat Gour by taking an aluminum pan (kadai) assaulted her husband on his forehead. After that incident her husband was firstly taken to Khowai hospital and, subsequently he had succumbed to his injuries.

**8.** Next, I have perused the evidence of Dr. John Debbarma who adduced as PW-16. In his evidence, he deposed that the blow which was given to the forehead of the deceased resulted the death of the husband of the complainant. The aluminum pan (kadai) was also seized and it has been taken into evidence as Exhibit-1.

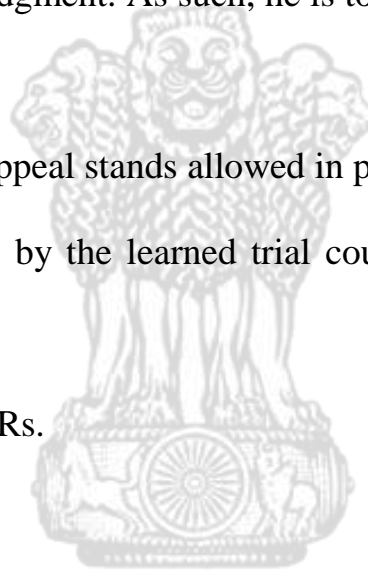
**9.** Having gone through the evidence of PW-12, in my opinion, the injury that was suffered by the deceased was supported by the statement of the doctor (PW-16). The weapon of offence has also been seized. There is no reason to disbelieve PW-12, the wife who is the eye witness to the incident. Though the charge was framed under section 302 IPC, considering the nature of offence, the learned trial court has converted the conviction and sentence under Section 302 Part II IPC and imposed 8 years of rigorous imprisonment upon the accused-appellant.

**10.** I have reconsidered the issue of sentence. The intention of the accused-appellant was to save Smt. Chitamoni Gour, the wife of the victim from the attack of her husband. He had no intention to kill the husband of PW-12.

**11.** Considering the factum of the incident, in my opinion, the period of imprisonment should be reduced further. Accordingly, I reduce the sentence and declare that the convict appellant shall suffer rigorous imprisonment for 3 (three) years instead of 8 (eight) years, which, according to me, would be just and reasonable. It is made clear that the period of imprisonment the appellant has already undergone will be included with the total period of sentence of 3(three) years. The appellant has been under imprisonment with effect from the date of judgment. As such, he is to undergo remaining period of sentence.

**12.** Accordingly, the appeal stands allowed in part in the above terms. The fine amount, as decided, by the learned trial court has not been interfered with.

Send down the LCRs.



**JUDGE**