

GAHC040014822023

2026:GAU-AP:13-DB



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

Case No. : CRL.A(J)/34/2023

Shri Adungfa Jebisow,
S/o – Gandhi Jebisow,
Vill- Upper Bhalukpong,
PO/PS- Bhalukpong,
Dist.- West Kameng,
Arunachal Pradesh.

....APPELLANT

VERSUS

The State of Arunachal Pradesh, represented by the Addl. P.P.

....RESPONDENT

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

HON'BLE Mr. JUSTICE BUDI HABUNG

Advocate for the Appellant : Mr. Jungam Jini
Advocate for the State Respondent : Mr. Token Ete, Addl.P.P
Date on which Judgment is reserved : 17.11.2025
Date of Hearing : 17.11.2025
Date of Judgment and Order : 09.01.2026
Whether the pronouncement is of the Operative part of the Judgment? :No
Whether the full Judgment has been pronounced ? : Yes

JUDGMENT & ORDER

(CAV)

[Budi Habung, J]

The present jail appeal arises out of the judgment and order dated 21.12.2022, whereby the learned Trial Court convicted the appellant for the offence punishable under Section 302 of the IPC and sentenced him to life imprisonment with a fine of Rs. 10,000/-, and in default thereof, to suffer simple imprisonment for two months.

2. The facts leading to the conviction of the accused and the filing of the present jail appeal are that on 27.10.2021, PW-4, Shri Dilip Khaduju, lodged a written FIR before the Officer-in-Charge of Bhalukpong Police Station, stating that he came to know from Shri Sitow Jebisow, Gaon Burah (PW-3), that Lukhi

Das (the deceased), who was married to Adungfa Jebisow (the accused), was found dead in the rented house. Accordingly, they went to the house and saw the dead body of the deceased. Her hair had been cut, and her entire body appeared bluish due to assault with an iron rod, etc. Injury marks were also seen on the right side of her face. They suspected that she had been murdered by her husband, who had earlier told the owner of the rented house (PW-3) that his wife had fled away.

3. Accordingly, a case was registered under Section 302 of IPC, investigated into, and upon completion of investigation, charge sheet was submitted against the accused for commission of offence punishable under section 302 IPC.

4. To bring home to the charge, the prosecution has examined as many as 6 (six) witnesses and also relied upon some document duly proved during the course of the trial. After completion of prosecution evidences, the accused was examined and his statement recorded under Section 313 of Cr.P.C. The accused although did not fully and directly admit his guilt but did not plead innocent either. The accused examined two defense witnesses including himself.

5. Upon completion of the trial, the learned Sessions Judge found that the prosecution had proved its case against the accused beyond reasonable doubt. The accused was found guilty of committing an offence punishable under Section 302 of the IPC. Accordingly, by the impugned judgment and order dated 21.12.2022, the accused was convicted and sentenced to undergo imprisonment for life and to pay a fine of Rs. 10,000/- only, and in default of payment of fine, to further undergo simple imprisonment for two months for the offence under Section 302 of the IPC, against which the present jail appeal has been filed.

6. We have heard Mr. Jumgam Jini, the learned Legal Aid Counsel for the

appellant and Mr. Token Ete, learned Additional Public Prosecutor for the state respondent.

SUBMISSION OF THE LEARNED LEGAL COUNSEL FOR THE APPELLANT

7. The learned legal Aid counsel for the appellant contended that there is no eye-witness to the incident, and thus, the conviction of the accused is based purely on suspicion. He further contended that the extra judicial confession and admission during his examination under 313 Cr.P.C based on which the appellant has been convicted is a weak piece of evidence. He further contended that in the instant case the motive of a convict is not conclusively proved. He further contended that the absence of eye-witness makes the prosecution case doubtful. Therefore; benefit of doubt ought to have been given to the accused.

SUBMISSION OF THE LEARNED ADDITIONAL PUBLIC PROSECUTOR

8. The learned Additional Public Prosecutor submitted that the prosecution case rest entirely on circumstantial evidence; namely: that the appellant and the deceased being wife and husband were last seen together inside their house; There was frequent quarrel between them, and in the incident evening also they were seen quarrelling; That on the next morning the accused falsely informed PW-3 that his wife had fled away; The accused also informed his neighbours that his wife was found dead and that he killed her. That the weapons of offence, namely a wooden stick and a dao, were recovered and seized on being disclosed and led by the accused. The learned Addl. Public Prosecutor also contended that the accused gave extra-judicial and judicial confession under section 164 Cr.P.C and the medical evidence indicating homicidal death which corroborates the prosecution case. He further submitted that the accused

admitted almost all of the above facts in his examination under section 313 Cr.P.C.

9. We have given our thoughts and consideration to the argument advanced by the learned counsel for the parties and perused the entire materials on record including the TCR. Since this Court being the first appellate court and it is a fact-finding court, in order to find out the truth it has to appreciate the evidences. For the proper appreciation we may now briefly examine the evidence adduced by the prosecution witnesses.

10. PW-1, Smti Jam Miji, a neighbour of the accused, deposed that the accused, Adungfa Jebisow, is her uncle. She further deposed that she had heard about the death of the wife of the accused. She also stated that she personally heard quarrels between the accused and his deceased wife. Her house is situated at a distance of about 6 meters from the house of the accused. On the previous evening, she went to the house of the accused and tendered her advice to him to remain calm. Being a neighbour, she heard quarrels between the accused and the deceased on as many as three to four occasions.

In her cross-examination, she deposed that she did not personally witness the accused assaulting the deceased.

11. PW-2, Shri Orgen Khaduja, deposed that the deceased, Lukhi Jebisow, was taken care of by him as her parents had passed away. She stayed at his residence for about 17 to 18 years. After she grew up, she got married to the accused, Adungfa Jebisow, and both of them stayed in a rented house belonging to Sitow Jebisow (PW-3). He further deposed that he heard from his son that the deceased was murdered by the accused.

In his cross-examination, he stated that the deceased was not suffering from any illness.

12. PW-3, Shri Sitow Jebisow, is the Gaon Burah of the village and the owner of the rented house where the accused and the deceased were staying as tenants. He deposed that on the night of the incident, he returned home at about 11:00 p.m. and noticed that the room of the accused was locked from inside, so he assumed that they had gone to bed. He further deposed that on the next morning, one villager, Sang Khandu Jebisow, came to his residence to ask for some forms. At that time, he saw the accused coming out of his room and the accused told him that his wife had run away. PW-3 then instructed the accused to search for his wife. Thereafter, the accused went away. After some time, a woman from the village came to his residence and informed him that the accused had killed his wife on the previous night. Accordingly, this witness, along with his guest Sang Khandu Jebisow, went inside the room of the accused but did not find anyone there. Upon searching further, they found the wife of the accused lying under the bed, with her body wrapped in a bedsheet. He became frightened and immediately asked the accused over the phone to come to his residence.

Upon arrival of the accused, he inquired about the death of his wife. This witness further deposed that the accused admitted before him that he had killed his wife. Thereafter, he immediately took the accused to Bhalukpong Police Station and handed him over to the police. Subsequently, the police came to the residence of the accused and recovered the dead body of the deceased from beneath the bed in his room. He was also informed that one dao and a piece of wood were used in committing the offence. This witness also deposed that he

saw a bunch of hair belonging to the deceased lying near the bed. Later, the body was taken to the hospital for post-mortem examination (PME), and the accused was arrested. He further stated that, as per customary rituals, a religious ceremony was performed for purification of the residence after the death. He also deposed that the police seized the weapon and conducted the inquest in his presence, on which he put his signature.

During his cross-examination, he clarified that he had not witnessed the incident of murder. He further stated that the accused had not admitted the murder before him prior to the arrival of the police. Although he was shown the material exhibits at the police station at the time of signing the seizure memo, he did not see the police recover the seized articles from the place of occurrence.

13. PW-4, Shri Dilip Khaduju, son of Orgen Khaduju (PW-2), deposed that he knew the accused since his childhood. The accused was married to the deceased, Lukhi Das, who stayed at their residence since her childhood like a family member and helped in household work until her marriage to the accused. This witness deposed that he was informed by the Gaon Burah about the killing of the deceased by the accused. Since his father was out of the station, he went to Bhalukpong and saw the dead body of the deceased, while the accused was already in police custody. He saw the police recovering the dead body of the deceased from the room of the accused and accordingly lodged the FIR. He also identified the inquest report, FIR, and photographs of the deceased and the bedsheet.

In his cross-examination, this witness stated that he had no information regarding any quarrel between the accused and the deceased and that he

cannot say whether the accused had murdered the deceased or not.

14. PW-5, Dr. Shri Tage Neha, conducted the post-mortem examination and prepared the post-mortem report. He deposed that he observed multiple contusions (swelling with redness/bluish) on the back, lower limbs, and head of the deceased. There was a fracture of the left ulna (forearm bone). Internally, brain hemorrhage was present. Upon completion of the examination, he opined that death was caused due to brain hemorrhage resulting from external force and that the nature of death was homicidal. He prepared the PME report and submitted it to the Investigating Officer through the DMO. The injuries to the head and brain were fatal and sufficient to cause death in the ordinary course of nature. The age of the injuries was about 12 to 18 hours at the time of PME, which was conducted on 27.10.2021. He further deposed that the weapon of offence appeared to be blunt in nature. On being shown Material Exhibit Nos. 4 (dao) and 5 (wooden piece), he opined that the injuries could have been caused by those articles, particularly by the blunt side of the dao.

In his cross-examination, PW-5 clarified that the presence of rigor mortis indicated the age of the injuries as 12 to 18 hours. He stated that he had not mentioned the nature of the weapon used in the PME report. He further clarified that the injuries could not have been caused by a fall, although the fracture might occur due to falling. The contusions and fracture were recent and could have been caused at the time of death. He also clarified that the death was not accidental in nature.

15. PW-6, Shri Leiki Norbu, is the Investigating Officer of the case. He deposed that during investigation, he visited the place of occurrence at around 6:00 a.m. immediately after receipt of the FIR and saw the dead body of the

deceased inside the bedroom. He observed multiple injury marks on the body. He conducted the inquest in the presence of witnesses and forwarded the body to CHC Bhalukpong for PME. After the PME, the body was handed over to the relatives for last rites. He recorded the statements of the informant and other available witnesses. The accused was produced at the police station by the Gaon Burah. During examination, the accused disclosed that he had beaten his wife with a piece of wood. Pursuant to the disclosure statement and led by the accused, one wooden piece and one dao was recovered from his room, which were used for beating the deceased and cutting her hair. He seized the wooden piece, dao, and hair of the deceased from the place of occurrence.

P.W-6 further stated that he moved an application for recording the confessional statement of the accused, which was recorded by the CJM, Seppa, wherein the accused confessed that, out of anger, he assaulted his wife with a wooden piece. The accused stated that his wife was addicted to alcohol. On 26.10.2021, when the accused returned home from work, his wife was not present. At about 8:30 p.m., she returned home under the influence of liquor and her clothes were drenched with water. In a fit of anger, he assaulted her without intending to kill her. He slept beside her that night and, in the morning, found her dead. Upon completion of the investigation, PW-6 found a *prima facie* case under Section 302 IPC against the accused and accordingly submitted the charge-sheet.

In his cross-examination, this witness fairly stated that he could not find that the accused had any other motive or intention to kill the deceased. He admitted that the seized articles were not sent for FSL examination and that no fingerprints were lifted from the place of occurrence. He further stated that

although the weapons were recovered pursuant to the disclosure of the accused, no disclosure memo under Section 27 of the Indian Evidence Act was prepared, though a recovery memo was prepared at the spot. He denied the suggestions that the deceased died due to illness or drunkenness and that the accused did not kill her; he also denied the suggestion that the accused was falsely implicated.

FINDING OF THE COURT AND CONCLUSION:

16. We have gone through the oral evidence of the relevant witnesses. It is not disputed that the prosecution case is based entirely on circumstantial evidence, as there is no eye-witness to the occurrence. Therefore, the settled principles governing appreciation of circumstantial evidence are required to be strictly applied.

Principles Governing Circumstantial Evidence:

17. In this regard a reference may be made to the case decided by the Hon'ble Supreme Court in **Sharad Birdhichand Sarda v. State of Maharashtra**, reported in **(1984) 4 SCC 116**, where in it is settled that:

- i). The circumstances from which the conclusion of guilt is drawn must be fully proved;
- (ii) . The proved circumstances must be consistent only with the hypothesis of the guilt of the accused;
- (iii). The circumstances must be of a conclusive nature;
- (iv). They should exclude every possible hypothesis except the one to

be proved;

(v). There must be a complete chain of evidence which leaves no reasonable ground for a conclusion consistent with the innocence of the accused.

Circumstances Established by Prosecution:

18. On careful re-appreciation of the evidence recorded by the learned trial Court, the following circumstances stand proved beyond reasonable doubt:

(i) **Homicidal Death:** PW-5 (Doctor) who testified the PM report categorically opined that the death of the deceased was homicidal in nature. He further opined that the cause of death of the deceased was: brain hemorrhage, with multiple contusions and fracture of ulna. In cross-examination, the doctor specifically denied the possibility of accidental death. Hence, the prosecution has conclusively established that the deceased died an unnatural and homicidal death.

(ii) **Deceased Last Seen with the Accused:** The evidence shows that the **PW-1** who is one of the immediate neighbour of the accused heard quarrel between the accused and deceased on the intervening night. She went to the house of the accused and advised the accused to stay calm. Further, the **PW-3** (GB of the village) who is the house owner deposed that the house of the accused was locked from inside during the night and the accused was present with the deceased. Furthermore, the accused himself admitted in his confessional statement under section 164 Cr.P.C and examination under Section 313 Cr.P.C that he was with the deceased in the house that night. Thus, the

“last seen together” circumstance stands firmly established.

(iii) **Conduct of the Accused:** In the present case, the conduct of the accused is highly incriminating. Firstly, he falsely told PW-3 on the next morning that his wife had fled away. Secondly, the dead body of the deceased was found concealed under the bed, wrapped in a bedsheet. It is observed that the accused gave contradictory explanations at different stages. In this regard, to support his case, the learned Addl. PP relied on the decision of the Hon’ble Supreme Court in ***State of Rajasthan v. Raja Ram***, reported in ***(2003) 8 SCC 180***, wherein it is held that false explanation and unnatural conduct of the accused constitute an additional link in the chain of circumstances.

(iv) **Extra-Judicial Confession:** PW-3 who is GB of the village categorically deposed that the accused admitted before him that he had killed his wife.

The learned Addl. PP referring to the decision of the Hon’ble Supreme Court in ***Harivadan Babubhai Patel v. State of Gujarat***, reported in ***(2012) 7 SCC 45***, submitted that though extra-judicial confession is a weak piece of evidence, but when it is made-Voluntary, Truthful, and corroborated by medical and other evidence, it can be relied upon.

(v) **Judicial Confession under Section 164 Cr.P.C:** The learned Legal Aid Counsel for the appellant submitted that the accused cannot be convicted for offence under Section 302 IPC merely based on confessional statement recorded by the Magistrate. However, the

learned Addl. P.P submitted that the accused can be convicted based on judicial confession if it is corroborated by other evidence. He further submitted that the accused voluntarily confessed before the Chief Judicial Magistrate, Seppa that on 11.11.2021. There is no allegation of coercion or procedural irregularity in recording confessional statement of the accused by the Chief Judicial Magistrate. The extra judicial confession of the accused before PW-3 and judicial confession before the Chief Judicial Magistrate finds corroboration from Medical evidence of the doctor (PW-5); Recovery and seizure of weapons of offence that is wooden stick and local dao based on disclosure statement and on being led by the accused; Conduct of the accused, that he falsely informed PW-3 on the following morning that his wife had fled away; and on his suggestion to trace her out, the accused went back, wrapped the dead body with bed sheet and put it beneath the bed. Thereafter, he came out and admittedly informed other neighbours and relatives that his wife was dead.

(vi) The Addl. P.P while relying on the decision of the Hon'ble Supreme Court in ***Visva Singh v. State of Punjab***, reported in ***AIR 1958 SC 465*** submitted that a voluntary and truthful judicial confession can form the basis of conviction.

(vii) **Admissions under Section 313 Cr.P.C:** The learned Legal Aid Counsel for the appellant submitted that the accused cannot be convicted based on the admission in his statement under 313 Cr.P.C. On the contrary, the learned Addl. P.P submitted that the accused in his examination under section 313 Cr.P.C has admitted that he had a

quarrel with the deceased in the incident evening; he also admitted that in the incident evening he was present in his house with his deceased wife; the appellant further admitted that he used the wooden stick against the deceased. Furthermore, the accused also admitted that he wrapped the dead body of the deceased and kept under the bed. Not only that, the accused also admitted that he had given false information to PW-3 on the next morning stating that his wife had fled away. It is submitted that such admissions further strengthen the prosecution case.

19. Effect of Non-Production of FSL Report: The learned Legal Aid Counsel for the appellant submitted that no FSL examination was conducted over the seized weapon of offence nor any finger print analysis was done. Hence, the seized weapon cannot be automatically linked with the crime and the accused. Further, no disclosure memo under Section 27 of Indian Evidence Act was prepared. Therefore, he contended that it cannot be said that the accused had given any disclosure statement and the weapons of offence was seized on his disclosure and being led by him.

20. The Addl. P.P on the other hand submitted that it is true that- No FSL examination was conducted; No fingerprint analysis was done; and no disclosure memo under Section 27 of Indian Evidence Act was prepared. However, it is equally settled law that defective investigation cannot be a ground for acquittal if the prosecution evidence otherwise proves guilt beyond reasonable doubt. To support his point of argument the learned Addl. P.P relied on the decision of the Hon'ble Supreme Court in ***Bijender Alias Mandar v. State of Haryana***, reported in **(2022) 1 SCC 92**, the learned Addl. P.P further

submitted that the recovery of weapons is corroborative and not the sole basis of conviction.

21. Now, Whether the Offence Falls Under Section 302 or Section 304 IPC: The principal contention of the appellant is that although the dead body of the deceased was found inside the house of the accused, there was no intention to kill. It is further contended that the act occurred in a fit of anger when the deceased shown her adamancy and did not listen to the accused and she was not at all ready to go for treatment in the hospital for her treatment; therefore, at best, the offence falls under Section 304 of IPC.

22. This contention of the appellant does not merit acceptance in the instant case for the following reasons: (i) that there were multiple injuries found on the vital parts of the body of the deceased; (ii) that there was a fracture of ulna and brain hemorrhage; (iii) that the multiple injuries on body show continued assault with a wooden stick and a dao by the accused; all injuries aged between 12-18 hours which indicates the time when the deceased was with the appellant in his house; (iv) Besides, the accused wrapped the dead body with bed sheet and kept it under concealment beneath the bed; and (v) Furthermore, after commission of the offence, the accused admittedly gave false explanation about the incident to the witness including the PW-3.

23. The nature, number, and severity of the injuries on the body of the deceased clearly indicate an intention to cause such bodily harm, and the injuries sustained are sufficient, in the ordinary course of nature, to cause the death of the deceased.

24. Hence, the present case squarely falls under Section 300 Thirdly, which

read as- "*Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or...Thirdly.-If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death,*" and punishable under Section 302 of IPC.

25. Complete Chain of Circumstances: The learned Legal Aid Counsel for the appellant contended that, in the absence of any eyewitness, the prosecution has failed to establish a complete chain of circumstances. Therefore, the conviction of the appellant for the offence of murder under Section 302 of IPC, based solely on circumstantial evidence, is unsustainable in law.

26. Considering the fact and circumstances of the present case, this submission of the learned Legal Aid Counsel for the appellant cannot be accepted. In the present case, the following chain of circumstances is complete and unbroken:

- (a) Deceased being a wife was living with accused in his rented house at the time of incident;
- (b) There was a frequent quarrel between them and despite advised tendered by the neighbour, the accused continued his assault in the incident evening;
- (c) That the accused and the deceased were last seen together by the neighbours inside his rented house;

- (d) That there was a homicidal death of the deceased inside accused's house;
- (e) That the accused gave false explanation on the next morning to the PW-3 that his wife (deceased) had fled away;
- (f) That the accused kept the body under concealment beneath the bed wrapped in bed sheet and there is no any explanation for this act of the accused;
- (g) That the accused gave Extra-judicial confession before the PW-3 and other neighbours on the next morning immediately after commission of the offence of murder;
- (h) That during investigation period the accused gave Judicial confession voluntarily which he had reiterated in his examination under Section 313 of Cr.P.C; and
- (i) That the injuries on the body, as admitted by the accused, and the cause of death of the deceased are corroborated by the medical evidence.

27. The above chain of circumstances is complete, unbroken and leads to only one conclusion—that it is the accused and no one else had committed the crime in the intervening evening/night in his house, and the accused offers no plausible explanation for the incriminating facts within his special knowledge.

28. On our appreciation of the entire oral and documentary evidence relied, we are of the view that the prosecution has proved its case against the appellant beyond reasonable doubt that the deceased was murdered on the

intervening night of 26.10.2021 and 27.10.2021. And the appellant alone had committed the offence and none other. Thus, the conviction of the accused/appellant under Section 302 of IPC is legal and justified. The learned Trial Court has correctly appreciated the evidence and applied the law.

29. Accordingly, this Appeal is dismissed.

30. As a result, the impugned judgment and order of conviction and sentence dated 21.12.2022 passed by the learned Trial Court convicting the appellant under Section 302 of IPC and sentencing him to life imprisonment with fine of Rs.10,000/-, in default to suffer SI for two months, is affirmed.

31. Appellant shall continue to undergo the sentence imposed upon him.

32. Before parting, we put on record the appreciation for the valuable assistance rendered by Mr. Jini, learned Legal Aid Counsel, and we recommend that he is entitled to a fee, as per the notified rate, to be paid by the State Legal Services Authority.

33. Send back the case record.

JUDGE

JUDGE

Comparing Assistant