

<p style="text-align: center;">IN THE COURT OF SESSIONS JUDGE::::BAKSA::::MUSHALPUR Present: Mr. A. Rahman, L.L.M, AJS. Date of judgment: 25.04.2022</p> <p style="text-align: center;">SESSIONS CASE NO. 22/19 u/s 302/34 IPC FIR No. 77/2005, Tamulpur P.S, Baksa</p>	
Complainant	: State
Represented by	: Mr. R. Chetry, Learned Public Prosecutor
Accused	: A1- Sabin Brahma, A2- Budhi Boro and A3- Nagen Boro.
Represented by	: Mr. G.C. Nath, Learned Advocate

Date of offence	19.06.2005.
Date of FIR	21.06.2005.
Date of charge-sheet	31.03.2007.
Date of framing of charge	08.04.2019.
Date of recording evidence	01.10.2019, 20.03.2021, 08.02.2022 & 25.04.2022.
Date of judgment	25.04.2022.

Accused details

Rank of accused	Name of accused	Date of arrest	Date of release on bail	Offence charged with	Acquitted or convicted	Sentence imposed	Period of detention undergone during trial
A-1	Sabin Brahma	24.06.2005.	15.02.2019	u/s 302/34 IPC	Acquitted	N/A	Nil
A-2	Budhi Boro	03.06.2006	15.02.2019	u/s 302/34 IPC	Acquitted	N/A	Nil
A-3	Nagen Boro	23.10.2006.	15.02.2019	u/s 302/34 IPC	Acquitted	N/A	Nil

JUDGMENT

1. Prosecution case, in a nutshell runs as follows- One Smti Drupadi Brahma lodged a FIR on 29-06-2005 with the officer in-charge of Tamulpur P.S to the effect that on 19-06-2005 at around 8.30a.m unknown miscreants called the her son Dimbeswar Brahma while he was taking rice. But he did not return home on the fateful night. on 21-06-2005 at around 5.00a.m, dead body of her son Dimbeswar Brahma bearing cur injuries on neck, head, lips and forehead was lying on a nearby paddy field.

2. Based on the FIR, Tamulpur P.S Case no. 77/05 was registered under section 302/201 IPC and the criminal

investigation was put into motion. During the investigation, police visited the place of occurrence, drew sketch map, held inquest on the dead body, recorded the statement of the witnesses and sent the dead body to SMK Civil Hospital Nalbari for postmortem examination.

3. After completion of investigation, police submitted charge-sheet against accused Sabin Brahma , Buddi Boro and Nagen Boro u/s 302/34 IPC.

4. Ld. CJM, Baksa having complied the mandate of section 207 Cr.PC committed the records of PRC case no.125/18 (corresponding to Tamulpur P.S case no. 77/05) to this court.

5. On receipt of the case record, the instant Sessions case was registered.

6. My Ld. Predecessor after hearing both sides and considering the materials on record framed charge u/s 302/34 IPC. The charge was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

7. Prosecution, during the trial, in order bring home the charge against the accused persons examined all together

7(seven) witnesses including the complainant and M.O who conducted the postmortem examination on the deceased.

8. Accused persons were examined u/s 313 CrPC. The defense plea is of total denial. The accused persons declined to adduce defence evidence.

9. Now the point for determination is as follows-

POINT FOR DETERMINATION:

Whether the accused persons in furtherance of their common intention on 19-06-2005 at about 8.50 p.m at village Santola committed murder Dimbeswar Brahma and thereby committed offense punishable under section 302/34 IPC?

10. I have heard Mr. R. Chetry, Ld. PP as well as Mr. G.C Nath, Ld. Counsel for the defence. I have also carefully and thoroughly gone through the evidence

DISCUSSIONS AND DECISIONS WITH REASONS

THEREOF:

11. Before appreciation of evidence of the witnesses, let us discuss the relevant evidence of the witnesses

12. PW-7 Dr. Ramedra Nath Sarma on 26-06-2005 at SMK Civil Hospital Nalbari on conducted autopsy on the deceased Dimbeswar Brahma in connection with Tamulpur P.S case no. 77/05, us/ 302/201 IPC. The dead body was escorted and identified by C/426 Sunil Tay, Prashin Brahma and Khargeswar Daimary on examination he found the following- I. External appearance- The body belongs to a young man- It is swollen due to decomposition and foul smell is coming from it. Eyes and mouth open. Short haired. No mustache. Skin is peeled of in different sides. Multiple sign of physical torture (bruises and laceration over forehead, back side of head, lips, left leg, right shoulder, etc). A portion of the left ear is chopped. A ligature mark is seen over the neck.

II. Cranium and Spinal Canal: Scalp, skull and vertabrae: Healthy, Membrane: Healthy, Brain and Spinal Cord: Brain- Pale, Oedematous.

III. Thorax: Wall, ribs and cartilages: healthy, Pleurae: Oedematous, Larynx and trachea: Fractured laryngcal cartilage, Right lung & Left Lung: Oedematous, Pericardium: Healthy, Heart: Pale, Vessels: Empty.

IV. Abdomen: Walls: Bruise and Abrasion, Peritonium: Oedematous, Mouth, pharynx and oesophagus: healthy, Stomach and its contents: healthy, Small intestine and its

contents and Large intestine and its contents: Healthy, Liver: Pale, Spleen: Healthy, Kidneys: Both pale, Bladder: empty, Organs of generation, external and internal: healthy.

V. Muscles, bones and joints: No injury, disease or dislocation detected. Fracture: Laryngcal cartilage.

More detailed description of injury or disease:

Ligature mark- It completely encircles the neck below the thyroid cartilage damaging the skin & fracturing the Laryngcal cartilage. Injuries to the left carotid artery seen. Looks to be homicidal death.

13. PW7 has opined that the death was due to asphyxia caused by homicidal strangulation. PW7 has proved that Exbt.3 is the post mortem report. Exbt.3 (1) is his signature. He has also confirmed that Exbt. 4 is the inquest report and Exbt.4(1) is his signature. Exbt.5 is the dead body challan and Exbt.5(1) is his signature.

14. Cross-examination of PW-7 was declined by the defence side.

15. PW-1 Smti. Drupadi Brahma is the informant as well as mother of victim Dimbeswar Brahma. She testified that about 16/17 years back on the fateful night at around 8.00 p.m, somebody from the road called her son Dimbeswar

Brahma while he was taking dinner. In response to the call, her son had gone to the road but did not return home on the fateful night. After two days his dead body was found lying on the water nearby a field to so she lodged Ext.1 ejahar. She confirmed that Ext.1(1) is her signature. She has also confirmed that Ext.2 is the seizure list and Ext.2(1) is his signature. Cross examination of PW1 was declined by the defense side.

16. PW2 Sri Harapati Daimary is the village headman of Sontala village. PW3 Jogen Basumatary, PW4 Jogeswar Narzary PW5 Dipali Brahma, PW6 Anjumani Brahma , PW8 Tapeswar Boro are from Sontala village. They have deposed that they know the accused persons as well as deceased Dimbeswar Brahma. They have deposed almost in verbatim to the fact that the occurrence had taken place during the night about 17/18 years back. Dimbeswar had gone out on the fateful night on being called by unknown person. But he did not return home. After two days dead body of Dimbswar Brahma bearing injury mark on several parts of the body was found on the field situated on the backside of his house. They have categorically stated that they do not know who had killed Dimbeswar Brahma. Police arrested the accused persons. Defense side declined to cross examination the said witnesses.

17. Medical evidence of PW7 and Ext.3 the postmortem report has clearly established that Dimbeswar died due to asphyxia caused by homicidal strangulation.

18. The defense side has admitted the homicidal death of deceased Dimbeswar Brahma.

19. The defense side, as it appears from the forgoing evidence of witnesses, has failed to bring any incriminating evidence showing the complicity of the accused persons in the murder of victim Dimbeswar Brahma.

20. Therefore the prosecution having being miserably failed to prove that the accused persons were involved in the murder of Dimbeswar Barhma, they are entitled to acquitted.

21. Accordingly, the accused persons are acquitted from the charge u/s 302/34 IPC.

22. However, in terms of section 437 (A) CrPC, the bail bonds are hereby extended for a period of 6 months from this date.

23. Judgment prepared and declared in the open court under my hand and seal on this **25th** day of **April 2022**.

Sessions Case No.22/19

Dictated and Corrected by me:

Mr. A. Rahman,
Sessions Judge,
Baksa, Mushalpur

Sessions Judge,
Baksa, Mushalpur

APPENDIX:
LIST OF PROSECUTION / DEFENCE / COURT
WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE
PW1	Smt. Drupadi Brahma	Complainant
PW2	Sri Harapati Daimary	Reported witness
PW3	Jogen Basumatary	Reported witness
PW4	Jogeswar Narzary	Reported witness
PW5	Dipali Brahma	Reported witness
PW6	Anjima Brahma	Reported witness
PW7	Dr. Ramendra Nath Sarma	Medical witness
PW8	Tapeswar Boro	Reported witness

B. Defence witnesses:

NIL

C. Court witnesses:

NIL

LIST OF PROSECUTION/ DEFENCE/ COURT
EXHIBITS

A. Prosecution Exhibits:

Sl. No.	Exhibit Number	Description
1.	Exbt.1	Ejehar
2.	Exbt.2	Seizure list
3.	Exbt.3	Post mortem report
4.	Exbt.4	Inquest report
5.	Exbt.5	Dead body challan

B. Defence Exhibits:

NIL

C. Court Exhibits:

NIL

D. Material Objects:

NIL

(Mr. A. Rahman)
Sessions Judge,
Baksa, Mushalpur