

**IN THE COURT OF SESSIONS JUDGE :::::::::::::::::::: BAKSA AT MUSHALPUR**

Present : Shri C. Das,  
Sessions Judge,  
Baksa, Mushalpur



( Committed on 17/8/15 by learned Chief Judicial  
Magistrate, Nalbari in GR Case No.476/2014 )

**JUDGMENT IN SESSIONS CASE NO.204/2018**

u/s 302 IPC.

State

versus-

Sri Babul Das

.... Accused

Appearance : for the State : Mr.R. Chetry, Public Prosecutor,Baksa, Mushalpur  
: for the accused : Mr. S.Kalita, Ms.P.Baishya, S. Begum, Advocates

Dates of evidence : 19/2/16, 28/6/16, 1/7/16, 23/8/16, 31/7/17

Date of argument : 20/4/18, 2/5/18

Date of judgment : 15/5/18

**JUDGMENT**

1. The case of the prosecution briefly, is that on 17/11/14,the informant Sri Bipin Das lodged a FIR before the Officer-in-charge of Tamulpur police station, alleging inter-alias that on 11/11/14 at about 7 pm., his elder brother Gobinda Das since deceased, was physically assaulted by the accused person in connection with some domestic brawl. As a result, his said brother sustained injury. The injured was immediately, shifted to Rangia Civil Hospital by the local public through 108 ambulance. Since the injury of his brother was serious, his injured brother was again, sent to Gauhati Medical College & Hospital. But during the medical treatment on the same day, at about 10-50 pm., the doctor declared Gobinda Das as dead.

2. The police accordingly, registered the Tamulpur PS. Case No.

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190/14 and started the process of the investigation. During the investigation, the I/O of the case, visited the place of occurrence and prepared its sketch map and recorded the statement of the witnesses. The I/O recovered a piece of wood from the place occurrence and seized the same. The accused was arrested and was sent to judicial custody. Further the I/O collected the post-mortem examination report of the deceased. At the end of the investigation, the I/O submitted the charge-sheet against the accused, sending him to stand trial in the court.

3. The accused appeared after received of process of the court. He was immediately, furnished with the copy of the case as required u/s 207 of CrPC. Since the offence is triable exclusively by the court of sessions, learned Chief Judicial magistrate, Nalbari, committed the case to the Sessions Court for trial of the accused. Accordingly, a separate sessions was registered to proceed with its trial.

4. After hearing of both the parties and on perusal of material on record, the charge u/s 302 IPC., framed against the accused. The charge so framed, was readover and explained to the accused who pleaded not guilty and claimed to tried.

5. The prosecution, during the trial, examined as many as, eight(8) witnesses including the I/O and M/O to lend support its case. The accused in his statement recorded u/s 313 CrPC., denied all accusations appeared in the evidence on record against him. The accused however, declined to adduce any evidence in his defence. The argument of the parties was heard.

**POINT FOR DETERMINATION :**

6. Whether on 11/11/14 at about 7 pm., at village : Dholkuchi, the accused committed murder by intentionally causing death of Gobinda Das;

**DECISION AND REASON THEREFORE :**

7. At the out set of the argument, learned Public Prosecutor submitted that if the evidence of the prosecution witnesses with the support

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of medical evidence, is carefully perused, it would make clear that the accused was the person who caused the death of the victim on the fateful day. He submitted further that on the basis of evidence on record, it is manifested that the prosecution has able to prove the case against the accused beyond all shadow of doubt. Hence the accused is liable to be punished as per law.

8. Per contra, learned counsel for the accused opposed the above submissions of learned Public Prosecutor and submitted that there is not a single witness of the prosecution who could narrate the occurrence of the prosecution case. He submitted that no witnesses of the prosecution could implicate the accused in the occurrence. Hence it cannot be held that the accused committed the offence of murder against his own father. Since there is lacking reliable evidence on record, learned counsel for the accused urged to acquit the accused. Further, he pointed out that the occurrence was taken place on 11/11/14 while the FIR was admitted lodged on 17/11/14 which was after six days of delay. But the said delay was not explained by the prosecution, leading to create doubt over the prosecution story.

9. Learned counsel for the accused relied on the decision reported in **1972 STPL 699 SC; Thulia Kali vs. State of T.N.**, where it was held that *the first information report in a criminal case is an extremely vital and valuable piece of evidence for the purpose of corroborating the oral evidence adduced at the trial. The object of insisting upon prompt lodging of the report to the police in respect of commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as, the names of eye witnesses present at the scene of occurrence. Delay in lodging the first information report quite often results in embellishment which is a creature of after thought. It is therefore, essential that delay in lodging the report should be satisfactorily explained.*

10. After hearing the above rival contentions of the parties, it is now necessary to go through the evidence on record. Although there is no dispute over death of the victim Gibinda Das, the prosecution examined the medical officer who conducted post-mortem examination on the dead body of the victim to confirm the nature of his death.

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