

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-2(FTC) : TINSUKIA

Present: **Sri B. Sutradhar,**
 Additional Sessions Judge-2(FTC),
Tinsukia

Date of judgment:- 23.05.22

Sessions Case No. 125(T) 2015
U/s 302 of IPC

(Philobari Police Station Case No. 08/13)

COMPLAINANT :	STATE OF ASSAM
REPRESENTED BY	Sri R.C. Das, Learned Addl. P.P.
ACCUSED	Sri Sunu Bhumij, S/o. Late Birsa Bhumij, R/o. Padum Pather Gaon, P.S. Phillobari, District : Tinsukia(Assam).
REPRESENTED BY	Sri Munna Kumar Singh. Learned Advocate.

Date of Offence	13-01-13
Date of FIR	17-02-13
Date of Charge sheet	31-01-15
Date of Framing of Charges	20-04-16
Date of commencement of evidence	20-05-2016, 17-08-2016, 07-10-2016, 07-11-2016, 08-12-2016, 03-06-2017, 21-05-2018, 18.11.2019, 03.11.2021.
Date on which judgment is reserved	NA
Date of Judgment	23-05-22
Date of the Sentencing Order, if any	NA

Accused Details:

Rank of The Accused	Name of Accused	Date of Arrest	Date of Release On Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec. 428 Cr.P.C.
1	Sri Sunu Bhumij	18-02-13	15-05-13	Section 302 of IPC.	Acquitted	NA	2 months 26 days

JUDGMENT

- 1.** The gist of the prosecution case as disclosed in the ejahar is that on 13.01.2013 at Padumpathar, Lencha Bhumij, the son of deceased, Birsa Bhumij was assaulting his old mother with kick and fist and blows by pushing her on the ground and at that time seeing the incident, the younger son, Sri Sunu Bhumij came and assaulted Lensa Bhumij on his head three times with a bamboo stick and Lensa instantly died. Thereafter the dead body was cremated by Sunu Bhumij in presence of some villagers and the bamboo stick was also burnt by the accused. Hence, this case.
- 2.** On the basis of the said ejahar Philobari P.S. case No 08/13 u/s 302 of IPC was registered. On completion of investigation the Officer In charge of Philobari P.S. filed charge sheet against accused Sunu Bhumij u/s 302/201 of IPC.
- 3.** On appearance of the accused copies of relevant documents were furnished to him as per requirement of law. After hearing learned counsels of both sides and on perusal of relevant documents on record my learned predecessor in office framed formal charge against the accused Under section 302 of IPC. The charge was read over and explained to the accused and to which he pleaded not guilty and claimed to be tried.
- 4.** Prosecution side adduced the evidence of fourteen (14) witnesses and exhibited seven documents. The statement of the accused recorded under section 313 Cr.P.C. is of total denial. The accused declined to adduce evidence in defence. I have heard the arguments of both sides and perused the evidence on record.

5. The point for determination in this case is as follows:

- (i) Whether the accused on 13.01.13 at Padum Pathar Gaon under Philobari PS in the District of Tinsukia had committed murder intentionally (or knowingly) by causing the death of Lansa Bhumij by assaulting him on his head with a piece of bamboo and thereby committed an offence punishable **U/s. 302 IPC?**

DISCUSSION, DECISION & REASONS THEREOF:

6. P.W.1, Sri Hemanta Borsaikia has deposed that he knows the accused Chunu Bhumij. He also knew the deceased Lansa Bhumij. The incident took place about 3 years back. He heard that Lansa Bhumij died. Later he came to know from one person, namely Loknath Gohain that the accused caused death of Lansa Bhumij. Later on, he alongwith Pita Tanti, member of AATSA, and Tarun Kumar met the accused person at the PS and on being asked he stated before them that on the day of occurrence, when the deceased assaulted his mother with kick, then the accused assaulted the deceased with a lathi on head as a result he died and after his death he cremated his dead body near his house and the weapon (lathi) which was used in commission of the crime was also burnt with the dead body. He then lodged an ejahar at the PS. Ext. 1 is the ejahar, Ext. 1(1) is his signature. Police recorded his statement.

7. In cross-examination the PW.1 has stated that as asked by police he lodged the ejahar. He cannot say how, why and when the incident took place. The distance between his house and Padum Pathar Gaon is about 2½ Km. When the ejhar was lodged he cannot say. He also cannot say when the incident took place. The delay of one month in lodging the Ejahar is not explained. He cannot recollect whether he was present or not at the time of enquiring Pita Tanti, and Tarun Kumar. He did not know Chunu Bhumij and Lansa Tanti before filing the ejahar. He met Chunu Bhumij at the PS only.

8. He denies the suggestion that he heard that Lansa Bhumij died. He denies the suggestion that he is testifying falsely. He denies the suggestion that he cannot recollect that whether Chunu Bhumij stated before him that he caused death of his brother.

9. P.W. 2, Sri Pitar Tanti has deposed that he knows the accused Sunu Bhumij. He also knew the deceased. Incident took place in the year 2013. At the time of incident he was the President of AATSA. On the day of occurrence a person informed over cell phone that the brother of the accused Lemsa Bhumij had expired. Then he alongwith Tarun Kumar and other members of AATSA went to the house of the accused. The neighbours of the accused told them that the deceased expired due to high pressure. They met the accused in his residence.

At this point, the Prosecution declared this witness as hostile with due permission of the Court.

10. He denies the suggestion that he stated before the police that the accused confessed before them that on 13.01.13, the accused caused death of his elder brother, Lemsa Bhumij assaulting with a bamboo stick.

11. In Cross-examination the PW.2 has deposed that whatever he deposed before the Court today all are true and Lemsa Bhumij died of high pressure.

12. P.W. 3, Sri Tarun Kumar has deposed that he knows the accused Sunu Bhumij. He also knew the deceased. Incident took place in the year 2013. At the time of incident, he was the member of the AATSA. Some persons reported at their office about the death of the deceased. Police visited the spot. Pitar Tanti was also present with him when he visited the P.O. Police examined them and recorded their statements.

At this point, the Prosecution declared this witness as hostile with due permission of the Court.

13. It is a fact that the Gaonbura Hemanta Borsaikia was also present when police recorded his statement. He denies the suggestion that he has stated before the police that the accused confessed before them that he caused death of his brother by assaulting him with a bamboo stick and after committing the murder he burnt the dead body of Lemsu Bhumij alongwith the bamboo stick which was used in committing the offence.

14. In cross-examination, the PW.3 has stated that Lemsu Bhumij died of high pressure. Whatever he deposed before the Court today all are true.

15. PW.4, Smti. Rina Bhumij has deposed that the accused is her husband. Deceased Lemsu Bhumij was her elder brother who died three years back. The incident took place at night at about 9 P.M. At the time of incident, she alongwith her husband were present at their house. She knows the informant, Kema Kanta Borsaikia. He lodged the written FIR to the police station. Police visited the place of occurrence and arrested her husband for causing the death of Lengta. After the incident she was produced before the Judicial Magistrate to record her statement U/s. 164 of the Cr.P.C. Magistrate recorded her statement. Gangamoni Bhumij is her mother in law.

At this stage, this witness was declared hostile by Prosecution.

16. This witness stated before the police that on the day of occurrence, the deceased made hue and cry in their house after consuming alcohol and assaulted Gangamoni. She denies the suggestion that she stated before police that at the time of incident she alongwith the husband were in the house of Paulush Kharia and on hearing hue and cry, she alongwith her husband

came to their house and saw Lengta assaulting his mother Gangamoni with kick and then on seeing it the accused assaulted Lengta with a lathi on his head, as a result he died. At that time she was near to them and saw the whole incident. Thereafter the dead body of Lengta was cremated by the accused with the help of Sambaru Bhumij, Ghashi, Anil, Arup Bhumij and they were asked not to disclose the matter. The wife of deceased, Birumoni also witnessed the whole incident and the accused threw the lathi to the fire which was used in committing the offence. She denies the suggestion that the accused is her husband and so she deposed falsely in order to save him from the offence.

17. In cross-examination the PW.4 has deposed that she does not know how Lengta died. Whatever she deposed today is true. Whatever she deposed before the Magistrate U/s. 164 of the Cr.P.C was given by pressure of police. Statement before police was not given by her as recorded by the police U/s. 161 Cr.P.C. Police threatened her that if she would not depose as per their instruction, she might be arrested by police.

18. PW.5, Sri Ram Kumar Sonar has deposed that he knows accused. He also knew the deceased Lemsu Bhumij. He died 3-4 years back. He came to know from co-villagers that Lengta died due to pressure stroke. After his death, his body was cremated, he was also present at that time. Later, he came to know that the accused were arrested by police for causing death of the deceased. Police recorded his statement. Once, he was produced before the court to record his statement. He stated before the Magistrate whatever he knew about the incident. He puts his thumb impression in the statement recorded U/s. 164 Cr.P.C. Ext. 2 is the said statement.

19. In cross-examination, the PW.5 has stated that whatever he stated before the Magistrate it was tutored by Police. Police told him that if he would not say as stated by police they will arrest him. So, he stated before the Court as tutored by police. He cannot say how Lengta died, but he heard that he died due to pressure stroke. Accused did not threatened him. Accused did not murder the deceased. Whatever he deposed before this court is true.

20. PW.6, Smt. Mina Sonar has deposed that she knows the accused person. She also knew the deceased Lemsu Bhumij. He died 3-4 years back. On the day of occurrence the daughter of the accused came to his home and informed that Lengta was expired. Then she immediately went to their house and saw the dead body of Lengta therein. She did not see any injury caused to him. She came to learn that he died due to pressure stroke . Next day police visited the place of occurrence and took her statement. Later police arrested the accused for causing death of Lengta Bhumij.

21. In cross-examination the PW.6 has stated that Lengta Bhumij died due to pressure stroke. Police arrested him falsely.

22. P.W.7, Sri Arun Bhumij has deposed that he knows the accused. He also knew the Lemsu Bhumij. He died three years back. On the day of occurrence his wife told him that Lemsu died due to illness. Then he went to the house of Lemsu. On being asked the relatives of the deceased informed him that he died due to illness. The deceased was the elder brother of the accused. He was produced before the Hon'ble Court to record his statement U/s. 164 of the Cr.P.C. and accordingly his statement was recorded by the Hon'ble Court. Ext. 2 is his statement recorded U/s. 164 of the Cr.P.C. and Ext. 2(1) is his signature. Police also recorded his statement U/s.

161 of the Cr.P.C. Ext. 4 is the seizure-list, Ext. 4(1) is his signature.

23. In Cross-examination the PW.7 has stated that Lemsa Bhumij expired due to blood pressure. The accused did not threaten him to disclose about the case. Whatever he deposed today is true. He could not say why he puts his signature, Ext. 4(1) on Ext. 4. He did not see any seized material.

24. P.W.8, Sri Anil Tanti has deposed that he knows the accused. He also knew the Lemsa Bhumij who was the brother of the accused. He died three years back. On the day of occurrence, the wife of accused, Rina Bhumij reported him that Lemsa Bhumij died due to illness. Then he immediately went to the house of Lemsa Bhumij. Police forwarded him to the Court. Ext. 3 is his statement recorded U/s. 164 of the Cr.P.C. and Ext. 3(1) is his signature. He heard that police arrested the accused person for causing murder of Lemsa Bhumij. Police also recorded his statement U/s. 161 of the Cr.P.C. Ext. 4 is the seizure-list, Ext. 4(2) is his signature.

At this point the Prosecution has declared this witness as hostile with due permission of the Court.

25. It is a fact that he stated before the police that deceased Lemsa did not die due to pressure stroke but he was murdered by the accused. Due to fear he did not disclose the same before anyone.

26. In Cross-examination the PW.7 has deposed that Lemsa Bhumij expired due to pressure stroke. He did not hear from anybody that the accused had caused death to the deceased. He did not see the dead body of Lemsa. He has no knowledge how the incident took place and why the accused was arrested. He could not say why he puts his signature, Ext. 4(2) on Ext. 4. He did not see any seized material.

27. PW.9, Sri Binod Tanti has deposed that he knows the accused person. He also knew the deceased Lemsu Bhumij. He died about 3/4 years ago. One Oklu Bhumij told him that Lemsu died due to pressure stroke. Although he went to the house of deceased, but did not see his dead body. Thereafter he returned to his house. Later he heard that police came and apprehended the accused in connection with this incident. Police interrogated him in respect of this incident. He was produced before the Court. For recording his statement U/s. 164 of the Cr.P.C. and accordingly, his statement was recorded. He stated before Magistrate, whatsoever he knew about the incident. Ext. 5 is his statement recorded U/s. 161 of the Cr.P.C. and Ext. 5(1) is his signature thereon.

28. In cross-examination the PW.9 has stated that he does not know anything else, except the above facts. The accused never threatened him.

29. PW.10, Sri Puran Bhumij has deposed that he knows the accused person. He also knows the deceased Lemsu. He died about three years ago. One Oklu Bhumij told him that Lemsu had expired. Thereafter, he went to the residence of deceased, but did not see his dead body. He does not know whether police came at the place of occurrence or not. Later, he came to know that Lemsu died due to pressure stroke.

30. In cross-examination the PW.10 has stated that he does not know anything else, except the above facts.

31. PW.11 Sri Birsa Bhumij has deposed that he knows the accused person. He also knows the deceased Lemsu. He died about four years ago. One Oklu Bhumij came to his house and told him that Lemsu died due to pressure stroke. Thereafter, he

went to the residence of deceased, and saw his dead body. He was produced before the Court for recording his statement U/s. 164 of the Cr.P.C and he stated before Magistrate whatever he knew in respect of the incident.

32. In cross-examination, the PW.11 has stated that he does not know anything else, except the above facts in respect of the incident. The accused never threatened him.

33. P.W.12, Atul Hazarika(SI) has deposed that on 06.05.14, he was working as OC at Philobari P.S. On that day his previous I.O SI, Mintu Handique handed over the charge of investigation to him. Accordingly, he carried out investigation. On perusal of the Case Diary, it was seen that almost all the investigation was completed except collecting FSL Report and filing of Charge-sheet, he collected the FSL Report, Ext. 6 is the Forwarding of the FSL from the Addl. SP(HQ). Ext. 7 is the FSL Report. He submitted the charge-sheet against the accused, Sunu Bhumij U/s. 302/201 IPC. Ext. 8 is the Charge-sheet, Ext. 8(1) is his signature.

34. In Cross-Examination the PW.12 has stated that he did not visit the place of occurrence and he did not record the statements of any witnesses. He cannot say anything about Ext. 6 & Ext. 7. He denies the suggestion that without having proper knowledge of the Case, he has filed charge-sheet against the accused.

35. PW.13, Sri Mintu Handique has deposed that on 17-02-2019 he was posted at O.C. Phillobari P.S. On that day Hemanta Bor Saikia lodged an ejahar before the P.S. Accordingly same was registered. Philobari P.S. Case No. 8/13 u/s 302/ 201 I.P.C. Ext. 1 is the said ejahar, Ext. 1 (1) is the signature of Hemanta Bor Saikia. Ext. 1 (2) is his signature.

36. He took his self charge of the investigation of this case. On the same day complainant Hemanta Bor Saikia was examined and recorded his statement at the P.S and also recorded witnesses namely, Petar Tanti and Sri Tarun Kumar and recorded their statement. On the next day he visited P.O, he drew up two sketch map of the P.O. Ext.9 and 10 are sketch map. Ext. 9(1) and 10(1) are his signature on the sketch maps.

37. On that day he examined witnesses namely Smti. Birmoni Bhumiz, Smti. Gangamoni Bhumiz, Smti. Rina Bhumiz, Smti Mina Bhumiz and Smti. Renuka Bhumiz. On the same day the accused was apprehended from his house and the accused was brought to the police station and he was examined and recorded his statement. Later the accused was arrested. On 19-02-2013 the accused was forwarded to the Ld. Court. On the same day he again visited P.O. and examined witnesses Sri Anil Tanti, Sri Arun Bhumiz, Puran Bhumiz, samru Bhumiz and Birsha Bhumiz and thereafter seized three nos. of small size bone and assess and prepared one seizure list. Ext. 4 is the said seizure list. Ext. 4 (1) is his signature. On the same day he further examined witnesses Ram Kumar sona, Binod Tanti, Pukul Bhumiz and Ratan Tanti and recorded their statement u/s 161 Cr.P.C. Witnesses, Sri Anil Tanti, Rina Bhumiz, Birmoni Bhumiz, Binod Tanti, Ram Kumar sonar, Birsa Bhumiz, Arun Bhumiz were forwarded to the Ld. Court to record their statement u/s 164 Cr.P.C. Thereafter the seized articles viz bone, blood stain of Pukul Bhumiz (brother of deceased, Birsa Bhumiz) and ashes were sent to the FSL through the S.P., Tinsukia. The deceased Birsa Bhumiz was already cremated. On 13-12-2013, he got transferred order from Phillobari to Lekhapani P.S. accordingly he handed over the case to the next O.C.

38. During investigation P.W. 2, Pitar Tanti had stated before police that the accused confessed before them that on 13-01-2013 the accused caused death of his elder brother Lemsu Bhumiz by a bamboo

stick. P.W. 8, Anil Tanti had stated before police that Limsa Bhumiz did not die due to pressure stroke but he was murdered by the accused. Ext. 11 is the said statement before the I.O.

39. In Cross-examination the PW.13 has deposed that on 17-02-13 he started the investigation of the aforesaid case and completed the investigation on 13-12-2013. It is not mentioned in case diary why the ejahar was not lodged in time. Ejahar was lodged at the police station after one month of the incident. In this case the dead body of the deceased could not be recovered. In the house of the accused there resided the wife of the accused and wife of deceased and mother of them. The houses of Rina Bhumiz, Mina Sonar, Renuka Bhumiz, Anil Tanti, Arun Bhumiz, Puran Bhumiz, Samaru Bhumiz and Birsa Bhumiz are situated near the house of the accused person. After the incident Birmoni Bhumiz, Ganga Moni Bhumiz, Rina Bhumiz saw the dead body of the deceased person. The distance from the house to the place where the dead body was cremated was not mentioned in his case diary. The name of the owner of the place where the dead body was cremated was not mentioned in his case diary. The place where the dead body was cremated was surrounded by tea gardens of Dilip Barua, Ratan Tanti and Sunu Bhumiz. The time of the incident is not mentioned in his case diary. He did not prepare seizure list regarding the seized of blood stain of deceased from the place of occurrence. He has not mentioned in the seizure list the numbers of bone and ashes belongs to the deceased, Birsa Bhumiz. Birmoni Bhumiz, Gangmoni Bhumiz, Rina Bhumiz are the eye witnesses of this case. At the time of incident apart from the family members of the accused no any other persons were present at the place of occurrence. On the day of occurrence the deceased was having quarrel with his wife Smti. Birmoni Bhumiz and his mother Ganga Moni Bhumiz. He did not investigate whether the deceased was suffering from any kind of ailments.

40. He denies the suggestion that the witnesses Rina Bhumiz, Birmoni

Bhumiz, Binod Tanti, Ram Kumar sonar, Birsa Bhumiz, Arun Bhumiz and Anil Tanti gave their 164 Cr.P.C statement as tutor by police. He denies the suggestion that he did not investigate the case. He denies the suggestion that Pitar Tanti had stated before police that accused confess before them that on 13-01-2013 accused caused death of his elder brother Lemsu Bhumiz by a bamboo stick. Ext. 10 is the said statement of Pitar Tanti.

41. During investigation P.W. 3, Tarun Kumar had stated before police that accused confess before them that accused caused death of his elder brother Lemsu Bhumiz by a bamboo stick and after committing the murder of Lemsu Bhumiz and he burn the dead body alongwith bamboo stick. Ext. 11 is the said statement of Tarun Kumari. During investigation P.W. 8, Anil Tanti had stated before police that Limsu Bhumiz did not died due to pressure stroke but he was murdered by the accused. Ext. 11 is the said statement before the I.O. The confessional statement of the accused was not recorded. The name of the police personnel staff were not mentioned in case diary and they were not examined as witness in this case.

42. P.W. 14 (On Video Conference) Sri Narayan Kuri has deposed that on 28/02/2013, he was working as Judicial Magistrate First Class, Tinsukia and on that day as per order of the Ld. C.J.M, Tinsukia, he has recorded the statements U/s. 164 Cr.P.C of the following persons :-

- 1) Sri Anil Tanti, S/o. Late Bahadur Tanti,
- 2) Sri Arun Bhumij, S/o. Late Nayan Singh Bhumij,
- 3) Sri Binod Tanti, S/o. Sri Gopal Tanti,
- 4) Sri Ram Kumar Sonar, S/o. Sri Bhim Sonar,
- 5) Sri Birsha Bhumij, S/o. Sri Rajen Bhumij.

43. After recording the statements of the above noted witnesses U/s. 164 Cr.P.C, record was sent back to the Ld. C.J.M, Tinsukia. Ext. 3(2) is his signature with seal of the witness, Sri Anil Tanti,

Ext. 2(2) is his signature with seal of the witness, Sri Arun Bhumij. Ext. 5(2) is his signature with seal of the witness, Sri Binod Tanti. Ext. 4(1) is his signature with seal of the witness, Sri Ram Kumar Sonar. Ext. 12 is the Statement of the witness Sri Bircha Bhumij and Ext. 12(1) is his signature with seal.

44. After recording the statements of all the witnesses the same were read over and explained to the witnesses and their signatures were taken except the witness Ram Kumar Sonar & Sri Bircha Bhumij who put their thumb impressions in place of signatures.

45. In cross-examination the PW.14 has stated that at the time of recording the statements of the above noted witnesses, the I.O was personally absent. The witnesses were duly escorted by police. As per statements all the witnesses are not eye witnesses of the incident. After recording the statements, he has read over and explained the statements before them. He has not asked the witnesses whether they were tutored by police or by the informant.

46. Now on going through the above evidence on record, it appears that PW.1 in his evidence stated that he heard that Lansa Bhumij died and came to know that accused caused death of Lansa Bhumij. He went to the police station and met the accused. On being asked accused stated that deceased was assaulting his mother and then he assaulted the deceased on his head and as a result he died. In cross-examination said witness stated that he cannot say how, why and when the incident took place. Said witness is the informant of this case but he also stated that he cannot recollect whether accused Sunu Bhumij stated before him that he caused death of his brother or not. P.W. 2, stated that the neighbours of the accused told that the deceased expired due to high pressure though said witness was declared hostile. P.W. 3 stated that

Police visited the place of occurrence and Police recorded his statement. This witness was declared hostile and in cross-examination, he stated that Lemsu Bhumij died of high pressure. PW.4 stated that Lemsu Bhumij was the elder brother of the accused who died three years back and she alongwith her husband were present. Her statement was recorded U/s. 164 of the Cr.P.C. Said witness was declared hostile. by Prosecution. She denied that her husband assaulted Lengta with a lathi. In cross-examination she stated that she did not know how Lengta died. She deposed before Magistrate on being pressurized by police. Police threatened her to arrest if she would not depose as per their instruction. PW.5 stated that he came to know that the accused was arrested for causing death of the deceased. Whatever she stated before Magistrate it was tutored by police. Accused did not murder the deceased which is true.

47. PW.6 stated that she went to the house of the deceased and saw the dead body. She did not see any injury. In cross-examination she stated that Lengta Bhumij died due to pressure stroke and Police arrested him falsely. P.W.7 stated that on being asked to the relatives of the deceased he was informed that deceased died due to illness. In Cross-examination he also stated that Lemsu Bhumij expired due to blood pressure. P.W.8 deposed that immediately he went to the house of Lemsu Bhumij being the wife of accused, Rina Bhumij reported him that Lemsu Bhumij died due to illness. This witness was also declared hostile, but in Cross-examination he deposed that Lemsu Bhumij died due to pressure stroke. He has not heard from anybody that accused caused death to the deceased. PW.9 stated that he went to the house of deceased, but he did not see the dead body. He was produced before the Court for recording statement U/s. 164 of the Cr.P.C. He did not know anything else. PW.10 deposed that Lemsu died due to pressure stroke. PW.11 is one of the witness who deposed

that one Oklu Bhumij came to his house and told that Lemsu died due to pressure stroke. In cross-examination, he stated that he did not know anything more.

48. P.W.12 deposed that he carried out the investigation of this case, collected the FSL Report, submitted charge-sheet. In Cross-Examination he stated that he did not visit the place of occurrence and he has not recorded the statements of any witnesses. PW.13 is also another Investigating Officer who examined the witnesses and exhibited some documents. In Cross-examination said witness stated that he does not mentioned in his case diary why the ejahar was not lodged in time. P.W. 14 is the Judicial Officer who recorded the statements of the five witnesses U/s. 164 Cr.P.C and in cross-examination, clearly stated that the witnesses were duly escorted by police and as per statements of the witnesses they are not the eye witnesses of the incident.

49. It appears from the record, the bone and ashes were collected by I.O for Forensic Lab Test and vide Ext. 5 and Ext. 7, the report of Forensic Lab Test was collected by I.O and the Forensic report was that "*1. Exhibit No. DNA/671/13 was subjected for DNA analysis but the DNA yield from the exhibit was not of a good quality. 2. Since DNA could not be extracted from the exhibit no. DNA 671/13, therefore its comparison with Exhibit No. DNA 672/13 does not arise*". So, it does leads to the conclusion that the bone and ashes which were collected by the I.O is the body parts of the deceased. Though the prosecution declared hostile many witnesses of the case, but most of the witnesses stated that the deceased died due to pressure stroke. It is also evident from the record that the dead body was already cremated and some witnesses also stated that deceased died due to illness and pressure stroke and in that situation more discussion is not found necessary to decide the matter in hand. Though the

statements U/s. 164 Cr.P.C of some witnesses are exhibited and after perusal of the same it appears that those statements and evidence before court during trial are contradictory. In an offence of like nature, prosecution shall have to prove that the accused has committed the murder. In absence of such satisfactory evidence this court cannot hold that the accused has committed the murder.

50. Keeping in view the entire evidence on record, this court have no alternative but to hold that the Prosecution has failed to prove the case against the accused. Hence, I am of the opinion that the Prosecution has failed to prove the material ingredients of Sec. 302 of IPC against the accused person. Accordingly, the accused Sri Sunu Bhumij is acquitted from the charge U/s. 302 of IPC and set him at liberty forthwith.

51. The bail-bond of the accused is extended as per Section 437(A) of Cr.P.C.

52. Seized articles be destroyed in due course.

53. The case is disposed of on contest.

Given under my hand and seal of this Court on the 23rd day of May, 2022.

Dictated and corrected by me.

(B. Sutradhar)
Addl. Sessions Judge-2(FTC),
Tinsukia.

(B. Sutradhar)
Addl. Sessions Judge-2(FTC),
Tinsukia.

APPENDIX**LIST OF PROSECUTION/DEFENCE/COURT
WITNESSES****A. Prosecution:**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Sri Hemanta Borsaikia	Informant
PW2	Sri Pitar Tanti	
PW 3	Sri Tarun Kumar	
PW 4	Smti Rina Bhumij	
PW 5	Sri Ram Kumar Sonar	
PW 6	Smt. Mina Sonar	
PW 7	Sri Arun Bhumij	
PW 8	Sri Anil Tanti	
PW 9	Sri Binod Tanti	
PW 10	Sri Puran Bhumij	
PW11	Sri Birsa Bhumij	
PW12	Sri Atul Hazarika (SI)	I.O
PW13	Sri Mintu Handique	Another I.O
PW14	Sri Narayan Kuri	Court Witness

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1	NA	NA

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW1	Sri Narayan Kuri	Other witness

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**Prosecution:**

Sr. No.	Exhibit Number	Description
1	Exhibit -1	Ejahaar
2	Exhibit -2	Statement of witness Sri Arun Bhumij, U/s. 164 Cr.P.C
3.	Exhibit -2(A)	Statement of witness Sri Ram Kumar Sonar,U/s. 164 Cr.P.C
4.	Exhibit -3	Statement of witness Sri Anil Tanti, U/s. 164 Cr.P.C
5.	Exhibit -4	Seizure-list
6.	Exhibit -5	Statement of witness Sri Binod Tanti, U/s. 164 Cr.P.C
7.	Exhibit -6	Forwarding of the FSL from the Addl. SP(HQ).
8.	Exhibit -7	FSL Report
9.	Exhibit -8	Charge-sheet.
10.	Exhibit -9	sketch map.
11	Exhibit -10	sketch map.
12.	Exhibit -10(A)	Statement of witness Sri Pitar Tanti, U/s. 164 Cr.P.C
13.	Exhibit -11	Statement of witness Sri, Anil Tanti U/s. 161 Cr.P.C
14.	Exhibit -11(A)	Statement of witness Sri, Tarun Kumar U/s. 161 Cr.P.C
15	Exhibit -12	Statement of witness Sri, Birsa Bhumij U/s. 164 Cr.P.C

Defence :

Sr. No.	Exhibit Number	Description
1.	Nil	Nil

Court Exhibits:

Sr. No.	Exhibit Number	Description
1	Nil	Nil

Material Objects:

Sr. No.	Exhibit Number	Description
1	MO1	Bambo stick

(B. Sutradhar)
Addl. Sessions Judge-2(FTC),
Tinsukia.