

**IN THE COURT OF THE SESSIONS JUDGE, SONITPUR  
AT TEZPUR**

**PRESENT :**     **Sri A. Borthakur**  
                    Sessions Judge, Sonitpur  
                    Tezpur

**JUDGMENT IN SESSIONS CASE NO. 6 OF 2013**

Under Section 302 of the Indian Penal Code  
(Arising out of G. R. Case No. 2688 of 2012)

**State of Assam**

**–Versus–**

**Sri Anil Mahili**  
Son of Late Ganesh Mahili  
Resident of Nepalibasti ( Junglebasti)  
Police Station – Dhekiajuli  
District – Sonitpur, Assam

[Committed by Smt. B. Kshetry, Addl. Chief Judicial Magistrate,  
Sonitpur, Tezpur ]

**A P P E A R A N C E**

For the State	:	Sri H. P. Sedai Public Prosecutor Sonitpur District
For the Accused	:	Sri R. R. Kalita Advocate State Defence Counsel
Date of framing charge	:	19-01-2013
Date of prosecution evidence	:	05-03-2013, 11-06-2013 09-07-2013, 03-09-2013 07-01-2014 & 24-02-2014
<b>Date of Argument</b>	<b>:</b>	<b>04-04-2014</b>
<b>Date of Judgment</b>	<b>:</b>	<b>05-05-2014</b> ( Reason cited)

## **J U D G M E N T**

The deceased was the mother of the accused. Mother asked her son-the accused to work instead of sitting idle at home. The son killed mother with a 'dao' amidst altercation, in presence of his wife, and fled away, but the villagers apprehended and handed him over to the police. The defence pleaded insanity. There is neither evidence of medical insanity nor convincing evidence of legal insanity. Plea of legal insanity not proved.

### **PROSECUTION CASE :**

2. The prosecution case, as unfolded in the ejahar, may be stated as follows :

One Sri Jiban Mahili, son of Late Mangla Mahili, a resident of Jungalbasti (Nepali Basti), under Dhekiajuli Police Station, lodged an FIR, on 07-11-2012, before the Officer-in-charge of Dhekiajuli PS, alleging that at about 6 p.m., the accused Sri Anil Mahili inflicted 'dao' blows on his elder sister Sukur Moni causing grievous injuries and though, they admitted her at the local hospital, she succumbed to her injuries.

### **INVESTIGATION :**

3. Based on the above FIR, Dhekiajuli PS Case No. 433/2012 u/s 302 IPC was registered and the Officer-in-charge, SI Ananta Das endorsed the case to SI Sudarshan Roy for investigation. However, it may be mentioned here that before receipt of the aforesaid ejahar lodged by Sri Jiban Mahili, SI Sudarsan Roy received a telephonic message from one Joseph Topno informing about the occurrence and thereupon, he entered the said information in Dhekiajuli PS GD Entry No. 216, at 6-10 p.m., dated 07-11-2012. This GD Entry No. 216, dated 07-11-2012, is treated as the FIR in the instant case.

4. In course of investigation, the IO visited the place of occurrence, arrested the accused, who was detained by the villagers, prepared the inquest report on the dead body of the deceased at Dhekiajuli PS, sent the dead body to Kanaklata Civil Hospital, Tezpur for post mortem examination, subjected the accused to medical examination and on completion of investigation, submitted charge-sheet u/s 302 IPC against the accused.

**TRIAL :**

5. Since the charge-sheeted offence, u/s 302 IPC, is exclusively triable by the Court of Sessions, the Learned Additional Chief Judicial Magistrate, Sonitpur, vide order, dated 24-12-2012, passed, in GR Case No.2688/2012, committed the case, after observing the procedure laid down in Section 209 CrPC, to this Court of Sessions for trial.

6. Upon perusal of the materials on record and hearing the learned counsel for both the sides, a formal charge u/s 302 of IPC was framed, vide order, dated 19-01-2013. The charge was read over and explained to the accused, to which he pleaded not guilty and claimed to be tried.

7. In order to prove the above charge, the prosecution has examined 9 (nine) witnesses including the autopsy surgeon and the Investigating Officer, while the defence cross-examined them.

8. On closing the case for the prosecution side, the statement of the accused was recorded u/s 313 CrPC, vide order, dated 21-03-2014. The accused pleaded not guilty, and declined to examine any witness in defence.

9. I have heard the argument advanced by Sri H. P. Sedai, the learned Public Prosecutor, and Sri R. R. Kalita, learned State defence counsel. I have gone through the entire evidence proffered by the prosecution and also the statement of the accused, recorded u/s 313 CrPC.

**POINT FOR DETERMINATION :**

10. From the evidence on record, and on the basis of oral submission of the learned counsel of the both sides, the following point emerged for determination :

Whether the accused, on 07-11-2012, at about 6 p.m., at Jangalbasti ( Nepalibasti), under Dhekiajuli PS, intentionally caused death of his mother Sukur Moni Mahili ?

**THE DECISION AND THE REASONS THEREFOR**

**Point No.1 : WHETHER MURDER :**

**Legal position :**

11. 'Homicide means the killing of human being by a human being. A person commits culpable homicide, if the act by which death is caused is done with the - (a) intention of causing death, or (b) intention of causing such bodily injury as is likely to cause death, or (c) knowledge that the act is likely to cause death. 'Intent' and 'knowledge' in the ingredients of Section 299 of IPC postulate the existence of positive mental attitude and this mental condition is the special mens rea necessary for the offence.

12. The offence of 'murder' has been defined in Section 300 of IPC. The basic difference between the 'culpable homicide' and 'murder' lies in the degree of gravity of the offence. In order to bring home the offence within the parameter of Section 300 of IPC, the prosecution must establish that the assailant had the definite intention to cause death of the deceased or that the offender had the knowledge that the wounds which he was inflicting would be sufficient to cause the death or that the same will be dangerous, to human life. Therefore, the essential ingredients of the offence have to be deduced and inferred from a series of facts, like weapon used in the crime, nature of the wound, situs of the wound and other attending circumstances. The burden lies on the prosecution to establish that the act alleged to constitute the offence of 'murder' was really the act of a person other than the deceased and at the same time, the onus of proving exceptions to Section 300 of IPC so as to reduce the offence of murder to one of 'culpable homicide not amounting to murder' lies on the accused.

**ANALYSIS OF EVIDENCE ON RECORD :**

(i) **CULPABLE HOMICIDE :**

13. There is no dispute from the defence side that the accused's mother Sukur Moni Mahili met with a homicidal death. On the other hand, it is the consistent case of the prosecution that Sukur Moni Mahili died due to

multiple incised stab wounds. PW-9 SI Sudarsan Roy, the IO, who prepared the inquest report u/s 174 CrPC, on the body of the deceased, vide Ext.3, found multiple cut wounds caused by sharp weapon. PW-3 Dr. Basanta Kandali, the doctor, who performed the post mortem examination on the corpse of the deceased, on 08-11-2012, found multiple stab and incised injuries, which were ante-mortem in nature, caused approximately within 24 hours. In the opinion of the doctor (PW-3), the cause of death was haemorrhage and shock, as a result of the injuries sustained, caused by sharp cutting weapon and further opined that such injuries are sufficient to cause death of a person, vide Ext.1, the Post Mortem report. The testimony of the remaining prosecution witnesses has also described the dastardly nature of the crime committed on the deceased. As a whole, I find no difficulty to hold that the death of the deceased, namely, Sukur Moni Mahili was undoubtedly an act of 'culpable homicide' defined in section 299 of the IPC.

(ii) WEAPON USED :

( A long 'dao', known as 'suchni')

14. As per Dhekiajuli PS, GD Entry No. 216, dated 07-11-2012, at 6-10 p.m., vide Ext.4, entered on the basis of the telephonic message of one Joseph Topno, who is not examined in the case, cut injury was caused on the person of the deceased by her son, the accused. As stated earlier, this Ext.4, the GD Entry is treated as the FIR in this case.

15. The written FIR, Ext.2, which was lodged by the deceased's brother, PW-8 Sri Jiban Mahili, reveals that 'dao' was used in inflicting injuries on the person of the deceased. PW-1 Smt. Ranu Mahili, the wife of the accused and an eye witness to the occurrence, has deposed that her husband dealt long 'dao' (suchni) blows, which he used in cutting grass in the garden, on neck and back of her mother-in-law ( the deceased) at home and then fled away. PW-2 Smt. Rupanjali Mahili, the wife of the brother of the accused, has deposed that after committing the crime while the accused ran away towards a nearby river bank and crossed the river carrying one 'khurpi' ( an iron instrument for digging earth) and further, that Ganesh Khodal (PW-6) handed over the said 'khurpi' of the accused to the police, after snatching from his hand. However, PW-6 Sri Ganesh Khodal, in his evidence, has not stated this material fact, stated by PW-2 and on the other hand, PW-9 SI Sudarsan Ray, the IO, denying seizure of the weapon of offence, 'dao', has stated that despite vigorous search being made, the weapon of offence could not be recovered.

16. PW-3 Dr. Basanta Kandali is the autopsy surgeon, who performed the post mortem examination on the dead body of Sukur Moni Mahili. He has deposed that on 08-11-2012, he was working as M&HO-I at Kanaklata Civil Hospital, Tezpur. On that day, on police requisition, vide Dhekiajuli PS Case No. 433/12, u/s 302 IPC, he held Post Mortem Examination, on the body of Sukurmoni Mahili, aged 50 years, female, under Dhekiajuli PS, on being identified and escorted by Constable /05 Tulsi Das, Jibon Mahili, Jugal Mahili and Dhan Moni Das, and found as follows :

**“External appearance :**

Dead body of a 50 years old female person was examined. Rigor mortise was present.

**Wounds :**

- (i) Incised looking wound, size 5 cm x 3 cm x 2 cm, over right side of the neck with rant in the right carotid A.
- (ii) 2 stab injuries in the right posterior chest wall, size 2.5 cm x 1 cm x 6 cm, piercing the pleura and right lung
- (iii) Stab injury, size 2.5 cm x 1 cm x 4 cm, over anterior aspect of right shoulder.
- (iv) Incised looking wound, size 5 cm x 1/2 cm x 1 cm, over right scapular area.

In the Thorax - As injuries already described.

Pleurae - 2.5 cm two rant on right lower aspect of the pleurae posteriors. There was blood in the pleural cavity.

There was stab injury, 2 in number over right lung in the posterior aspect of lower zone.

Left lung, Pericardium- Healthy.

Heart was Healthy and empty.

Other organs were found healthy.

All the injuries described are ante-mortem in nature.

Time since death, approximately 24 hours.

**Opinion :**

In his opinion, the cause of death is due to haemorrhage and shock as a result of the injuries sustained, caused by sharp cutting weapon. Such injuries are sufficient to cause instantaneous death of a person.

He has recognized Ext. 1, the Post Mortem Examination Report, where Ext.1(1) is his signature and Ext.1(2) is the signature of the then Joint Director of Health Services, Sonitpur, Tezpur, which is recognized through correspondence.

17. In cross-examination, he has deposed that out of the four injuries sustained by the deceased, two were penetrating in nature and the remaining two were incised wounds. The penetrating wounds might have been caused by spear or dagger like point weapons.

18. PW-3 has found ante-mortem incised injuries including two stab injuries and opined that those injuries were caused by sharp cutting weapon, vide Ext.1, the Post Mortem Report. In cross-examination, he has stated that out of the four injuries sustained by the deceased, two were penetrating in nature and the remaining two injuries were incised wounds. He has further stated that the penetrating wounds might have been caused by spear or dagger like weapon.

19. On close scrutiny of the above evidence, it is apparent that the eye witness testimony of PW-1, the accused's wife, is corroborated by the contents of the FIR, Ext.4, the relevant GD Entry, where it is mentioned that cut injury was inflicted on the deceased and also the doctor (PW-3), opined that the injuries found on the deceased, during post mortem examination, were caused by sharp cutting weapon, and further, in the absence of any evidence that spear or dagger like weapon was used in the commission of the injuries on the deceased, the non-recovery of the 'dao', cannot certainly detract from the eye witness account of the incident, more particularly when the defence has not disputed it in the cross-examination of the said PW-1. PW-1, the wife of the accused, has more vividly described the nature of weapon used, as the incident occurred in her presence, while PW-2, a neighbour,

recognized the nature of weapon, as a 'khurpi' when the accused was running away, from his house carrying in his hand, at an awesome moment, that too, during dusk. The recognition of the weapon of offence, a long 'dao', locally known as 'Suchni', which the accused's wife (PW-1) deposed used by her husband-the accused in cutting of grass in the garden, can be believed, beyond doubt. Hence, the description of the nature of weapon used, a long 'dao', locally known as 'suchni', given by the accused's wife (PW-1), the eye witness in the instant case, is accepted, though it could not be recovered, despite vigorous search being made by PW-9, SI Sudarsan Ray, the IO.

(iii) CIRCUMSTANCES & COMPLICITY OF ACCUSED :

( killed in the fit of anger, for asking to work, instead of sitting idle)

RELEVANT EVIDENCE :

20. In the instant case, the prosecution has examined PW-1 Smt. Ranu Mahili, the wife of the accused, who witnessed the occurrence. According to her, the incident took place on a day, at about 7-30 p.m., about a year ago, at their home ( accused's house) and at that time, there were she, her father-in-law and mother-in-law ( the deceased) and the accused, as he did not work. In the meantime, she (PW-1) left for kitchen and when returned from the kitchen, she (PW-1) did not hear voice of the accused's mother ( the deceased) and further, her husband ( the accused) also fled away after committing the occurrence. PW-1 has stated that her husband ( the accused) after inflicting cut injuries, on neck and back of his mother ( the deceased), by means of a long 'dao', locally known as 'suchni', which he used in cutting grass in the garden and fled away from the scene. She (PW-1) has further stated that the neighbours apprehended her husband along with the 'dao', which he used in commission of the occurrence, in the garden, within 10 (ten) minutes of the occurrence and brought back to their home and then handed over to the police. In cross-examination, the defence appears to have not disputed the incident, aforementioned.

21. PW-2 Smt. Rupanjali Mahili, the wife of the accused's brother Sri Sunil Mahili (PW-7), who resides at a nearby place, deposed that the occurrence took place, on a day at about 6 p.m., about 6 (six) months ago, at the house of the accused. According to her (PW-2), after killing the mother, the accused shouted "killed ! killed" and hearing his shoutings, when she along with her children ran out of her house, the accused, who was armed with a

'khourpi' ( an iron instrument for digging earth) chased them after and then ran away towards the nearby river bank. All of them raised hue and cry and thereupon, the nearby people rushed to the place of occurrence, that is, the house of the accused, Sri Ganesh Khodal (PW-6) snatched away the 'khourpi' from the accused's hand. In cross-examination, she (PW-2) expressed ignorance, as to why the accused killed his mother.

22. PW-4 Smt. Baishakhi Khodal's evidence is hearsay as she learnt about the incident, on the following day morning of the night of occurrence and did not even visit the place of occurrence. She could not say from whom she came to know about the occurrence. Therefore, her evidence appears to be not admissible. The evidence of PW-5 Smt. Debali Mahili, a resident at a distance of about 200 feet away from the accused's house, deposed to have visited the house of the accused, on the following day, morning, of the night of occurrence, on hearing about it from her youngest son, and saw a pool of blood in the kitchen of his house. PW-6 Sri Ganesh Khodal, an independent witness from the same village, has stated that hearing about the occurrence, in the same evening of the occurrence, when he rushed to the house of the accused, he found the villagers assembled and the accused tied with rope and the deceased lying dead, though he did not observe the dead body. In cross-examination, he has stated "I do not know anything about the facts and circumstances in which the deceased was assaulted to death and by whom killed". The evidence of PW-7, Sri Sunil Mahili, the brother of the accused, has deposed to have not seen the occurrence, but as reported by his wife Rupanjali (PW-2), in the relevant evening, the accused killed their mother and then fled away. However, the villagers, after a chase, apprehended him and they handed over him to the police. PW-8 Sri Jiban Mahili has deposed that on receipt of the information about the occurrence, over mobile phone, from PW-7, Sunil Mahili to the effect that the accused killed his mother, he rushed to their house and after arranging one 108 Ambulance, removed the deceased-sister to Dhekiajuli 30 bedded hospital, where the attending doctor said that she was brought dead. Thereafter, he lodged the ejahar, Ext.2, at Dhekiajuli PS and remained present during preparation of the inquest report, Ext.3, by the police. He has further deposed that he noticed cut injuries on the left side on the middle lower portion of the neck and on the right side of the chest of the deceased and further, that the dead body was profusely bleeding. According to him (PW-8), the accused attempted to flee away, but the villagers apprehended him.

ANALYSIS IN BRIEF :

23. From the above testimony of PW-1 Smt. Ranu Mahili, the wife of the accused and in whose presence, the incident took place, in unequivocal words implicated her husband- the accused with the offence of killing of his mother Sukur Moni, by means of a long 'dao', known as 'suchni', in the midst of altercation with her ( the mother), as he ( the accused) was sitting idle. At that moment of the initial incident, at home, there were only she (PW-1), the deceased Sukur Moni and her husband- the accused. Therefore, though at that particular moment of assaulting the deceased, PW-1 stated to have left for the kitchen, there leaves no reason to doubt the commission of the offence by the accused only, because there was no outsider inside their home and she left the place of occurrence for a moment only, when the altercation was going on between the accused and his mother Sukur Moni, and further, when the neighbour- her sister-in-law PW-2 Smt. Rupanjali Mahili along with her children came out of house, hearing utterances of the accused 'killed' ! 'killed' ! and encountered him, who was armed with a 'khurpi'. Therefore, PW-2 Rupanjali appears to have circumstantially corroborated the evidence of PW-1, Ranu, the wife of the accused and in their humble background of rural society and further, both (PWs 1 and 2) are being house wife with close relationship to the accused, their evidence cannot be disbelieved inasmuch as when no evidence is led to show existence of animosity between them and the accused, who is the husband of PW-1. On the other hand, the evidence of PW-5 Smt. Debali Mahili, PW-6 Sri Ganesh Khodal, PW-7 Sri Sunil Mahili and PW-8 Sri Jiban Mahili, though they did not witness the occurrence, have tendered their evidence, as a whole, in support of the fact of nabbing of the accused, immediately after the occurrence, and finding of brutally injured deceased Sukur Moni, in a pool of blood at her home. The undisputed sketch map, Ext.5, prepared by PW-9 SI Sudarsan Ray also clearly shows that the place of occurrence was the kitchen of the accused's house, which is marked 'A' and further, the small house consisted of two rooms situated adjacently with one veranda.

24. The defence appears to have not disputed the incident, where the accused killed his mother Sukur Moni by a sharp cutting weapon inside their common house, in the fit of anger only, not in the midst of a quarrel and in the heat of passion. Therefore, the overwhelming consistent and convincing testimony of the prosecution witnesses, as discussed above, lead to the only

inference that it was only the accused and no other person, who intentionally caused death of Sukur Moni Mahili, his mother, beyond all reasonable doubt.

- (iv) PLEA OF INSANITY  
( No medical & legal insanity)

RELEVANT EVIDENCE :

25. PW-1 Smt. Ranu Mahili, the wife of the accused, in her examination-in-chief, inter-alia, deposed that at the relevant time of the occurrence, the accused stayed at home, as he was suffering from mental illness and she collected money in the village for his medical treatment and further, though it was planned to take him to Tezpur Mental Hospital, for treatment, on Thursday, the incident of this case occurred on Wednesday. He was not given medical treatment before. In cross-examination, she (PW-1) has deposed that her husband ( the accused) was suffering from mental illness for about 2/3 months before the occurrence. He used to dancing and left for here and there. The neighbours knew that he was suffering from mental illness and the villagers collected money for his treatment.

26. Corroborating the evidence of PW-1, PW-2 Smt. Rupanjali Mahili, in cross-examination, has deposed that a few days before the incident, the accused was seen dancing like a mentally ill person and they performed 'puja' for his recovery. She has further stated that they collected money from the villagers for his treatment and contemplated to remove him to a hospital for treatment, on the following day. The accused did not work as a carpenter for a few days before the incident, when he suffered from mental imbalance. Likewise, PW-6 Sri Ganesh Khodal, in cross-examination, has stated that so far he knows, the mother of the accused ( the deceased) collected money from the villagers for treatment of the accused, who was suffering from mental illness. PW-7 Sri Sunil Mahili, the brother of the accused, has stated in cross-examination to the effect that " The accused was suffering from mental illness for about 7/8 years before the commission of the occurrence. We contemplated to take the accused to hospital for treatment of his mental illness, but before that he committed the murder of our mother". PW-8 Sri Jiban Mahili, the uncle of the accused, has also stated in cross-examination that the accused developed mental illness and committed the crime and that they made preparation to take him to the Mental Hospital, Tezpur and for that purpose, they collected money.

27. PW-9 SI Sudarsan Ray, the IO, has stated that before forwarded to the Court, the accused was subjected to medical examination at Dhekiajuli 30 bedded CHC and Ext.7 is the medical report. In cross-examination, PW-9 has admitted that he did not request the doctor to test the mental condition of the accused.

The accused in his statement, recorded u/s 313 CrPC, pleaded as follows :

**“ I am innocent.**

**At the time of the occurrence, I was suffering from mental illness. Hence, I did not know what I was doing”.**

28. **Section 84** of the IPC reads as follows :

**“84. Act of a person of unsound mind** - Nothing is an offence which is done by a person, who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.”

ANALYSIS IN BRIEF :

Legal position

29. The accused claiming benefit of Section 84 of IPC has to discharge the burden of proving clearly that at the time of the commission of the crime, he, by reason of unsoundness of mind, was incapable of either knowing the nature of the acts or that the acts were either wrong or contrary to law. The unsoundness of mind must be of such an extreme degree that he was incapable of knowing the nature of the act or that what he was doing was either wrong or contrary to law. Section 84 IPC being an exception, u/s 105 of the Evidence Act, the burden lies on the defence to prove the existence of such circumstances bringing the case within the said exception and Court is to presume absence of such circumstances. A Court is concerned with legal insanity and not with medical insanity. In **Siddapal Kamala Yadav -Vs- State of Maharashtra ( AIR 2009 SC 97)**, the Supreme Court held that the onus, however, has to be discharged by producing evidence as to the conduct of the accused shortly prior to the occurrence and his conduct at the time or immediately afterwards, also by evidence of his mental condition and other

relevant factors. Every person is presumed to know the natural consequences of his act. Similarly, every person is also presumed to know the law. The same view has been emphatically laid by the Hon'ble Gauhati High Court in **Gudulu Orang -Vs- State of Assam [ (2013) 6 GLR 864 ]** and further held that “ What is legally required is that when the accused has failed to prove his medical insanity, he has to prove his case of insanity by adducing legal evidence which can be called legal insanity”.

ANALYSIS OF EVIDENCE :

30. On scrutiny of the above relevant evidence of the PWs, it is apparent that on 07-11-2012, at about 6 / 7-30 p.m., an altercation took place between the deceased- mother Sukurmoni and the accused at their home, in presence of PW-1, the accused's wife, as the accused did not work. It is further revealed from their evidence that the accused was suffering from some kind of mental disorder like, unusual dancing as PW-2 has specifically characterized it, for which 'puja' was also performed for his recovery. The evidence of the PWs also reveal that the accused's family contemplated to remove the accused to a hospital at Tezpur on the following day for his medical treatment for which they even collected money in the village, but he committed the crime on the previous day, evening. The evidence of PW-2 shows that the accused is a carpenter by profession and he did not work for a few days before the incident due to 'mental imbalance'. From the evidence of PW-7, the brother of the accused, it appears that the accused was suffering from mental illness for about 7/8 years.

31. However, the evidence of PWs is consistent and convincing that immediately after committing the offence, the accused realizing his act of killing his mother, being contrary to law and morality fled away from the place of occurrence, with intent to save himself from legal punishment, but the villagers apprehended him and handed over to the police.

31. There is no evidence that the accused was in a fit of insanity or mental disorder or unsoundness of mind just before or at the time of striking repeated blows by a sharp cutting weapon like 'dao' causing grievous injuries on the person of his mother- the deceased Sukur Moni. The accused apparently struck the blows in the fit of anger only, for his mother asked him to do work instead of sitting idle at home. Therefore, applying the principle laid down in Gudulu Orang case ( supra), this Court is of the opinion that the law does not

protect any person u/s 84 of IPC if offence is committed in the fit of anger, and when he knew well that what he was doing was wrong or that it was contrary to law.

33. The evidence of PW-9, the IO, shows that the accused was subjected to medical examination, after his arrest and Ext.7 is his medical report. Ext.7 does not indicate that the accused behaved abnormally to accept the version that he was suffering from unsoundness of mind. Further, in course of trial of the case, this Court caused medical examination to test the mental condition of the accused and the LGB Regional Institute of Mental Health, Tezpur reported, vide order, dated 22-04-2013, as follows :

“Medical Report

Mr. Anil Mahili is brought to our OPD today by Police Escort. He is examined and found to have relevant speech, intact comprehension and satisfactory judgment and reasoning. At present, he does not have any delusion or hallucination. He is well oriented to time, place and person.

He is found fit to stand trial at present.”

Thus, there is no evidence of medical insanity of the accused during the period of his detention in jail.

34. There is no explanation on record, as to why the fact of suspected mental unsoundness or illness of the accused was not reported during his medical examination, caused by PW-9, the IO. Ext.7, the medical report of the accused does not show that he even behaved abnormally, during examination by doctor. There is also no explanation on evidence as to why the accused was not rendered medical treatment or reported to authority under the provision of the Mental Health Act, when he allegedly continued to behave like an insane person for 7/8 years.

35. Situated thus, this Court is of the opinion that the accused voluntarily caused bodily injuries, as PW-3, the doctor, found during post mortem examination, on the person of his unarmed mother Sukur Moni Mahili and the bodily injuries intended to be inflicted were sufficient, in the ordinary course of nature to cause her instantaneous death. The mere evidence that the deceased mother asked his son-the accused, who was sitting idle at home to

work, which gave rise to some sort of altercations between them, cannot be treated as a provocation grave and sudden, initiated by the deceased. Therefore, the plea of innocence of the accused, recorded, u/s 313 CrPC, cannot be accepted. Hence, in the considered opinion of this Court, the case squarely falls within the definition of 'murder' laid in Section 300 of IPC and as such, the accused is punishable u/s 302 of IPC, beyond all reasonable doubt.

### C O N C L U S I O N

36. For the reasons, set forth above, this Court is constrained to hold that the prosecution has established the charge of murdering his deceased mother Sukur Moni Mahili against the accused, Sri Anil Mahili, beyond all reasonable doubt.

37. Accordingly, the accused Sri Anil Mahili is held guilty of the charge u/s 302 IPC and convicted.

### S E N T E N C E

38. After pronouncement of the judgment, the convicted accused Sri Anil Mahili, is heard on the quantum of punishment to be awarded. I have also heard Mr. H. P. Sedai, the learned Public Prosecutor and Mr. R. R. Kalita, the learned State Defence Counsel.

39. The convicted accused Sri Anil Mahili, has reiterated his plea of innocence. He has submitted that he is aged about 26 ( twenty six) years, and a carpenter by profession. He has a family consisting of his wife and two children. The age of his eldest son is 7 years and the second son is aged 4 years. His wife works as a labour in Radhanagar Tea Estate, Dhekiajuli. He has submitted to impose a minimum punishment.

40. Heard learned counsel for both sides.

41. On a careful consideration of the facts and circumstances, appearing in the case in regard to the personal, social, economic and domestic circumstances of the accused, this Court is of the considered opinion that sentence of **rigorous imprisonment for life** and fine, would meet the ends of justice.

42. In view of the fact that cruelty of murder was committed on an unarmed helpless woman by her son, the accused person does not deserve any compassionate treatment.

43. Accordingly, the accused Sri Anil Mahili is sentenced to suffer Rigorous Imprisonment for life and to pay a fine of Rs.1,000/- ( rupees one thousand) only, in default, to undergo Rigorous Imprisonment for 3 (three) months u/s 302 of the Indian Penal Code.

44. The convicted accused person is told that he has the right to prefer appeal to the Hon'ble High Court against this judgment **either through the Jail authority or independently, on his own**. He is further informed that he is entitled to **free legal aid** to prefer appeal before the Hon'ble High Court and further, in this connection, he is advised to contact the **Legal Aid Clinic** established within the Central Jail premises, Tezpur.

45. The judgment and order, as above, is pronounced in the open Court, in presence of the accused person and the learned counsel for both the sides, on this the 05th day of May, 2014, under the hand and seal of this Court.

46. Let a copy of this judgment and order be furnished to the convicted accused, free of cost, immediately.

47. Send a copy of the judgment and order to the Superintendent, Central Jail, Tezpur.

Accordingly, the case is disposed of.

**( A. BORTHAKUR )**  
**SESSIONS JUDGE**  
**SONITPUR :: TEZPUR**

Typed to my dictation and corrected by me, bearing my signatures on each page :

**(A. BORTHAKUR)**  
**SESSIONS JUDGE,**  
**SONITPUR :: TEZPUR**

typed by me,  
on dictation :

(J.K. Muru, Steno )

**SESSIONS CASE NO. 6 OF 2013**

**ANNEXURE**

**LIST OF PROSECUTION WITNESSES**

PW-1	:	Smt. Ranu Mahili,
PW-2	:	Smt. Rupanjali Mahili
PW-3	:	Dr. Basanta Kondoli, the MO
PW-4	:	Smt. Baisakhi Khodal
PW-5	:	Smt. Debali Mahili
PW-6	:	Sri Ganesh Khodal
PW-7	:	Sri Sunil Mahili,
PW-8	:	Sri Jiban Mahili, the informant
PW-9	:	Sri Sudarshan Roy, the IO

**LIST OF DEFENCE WITNESSES**

N I L

**LIST OF COURT WITNESSES**

N I L

**LIST OF DOCUMENTS EXHIBITED BY PROSECUTION**

Exhibit -1	:	Post Mortem Report
Exhibit -2	:	Ejahaar
Exhibit -3	:	Inquest Report
Exhibit -4	:	certified copy of GD Entry
Exhibit -5	:	Sketch Map
Exhibit -6	:	Dead Body Challan
Exhibit -7	:	Medical report of the accused

**MATERIAL EXHIBIT**

N I L

**DEFENCE EXHIBIT**

N I L

**(A. BORTHAKUR)**  
SESSIONS JUDGE,  
SONITPUR :: TEZPUR