

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

**PRESENT** : **Sri S. Das**  
Additional Sessions Judge  
Sonitpur, Tezpur

**JUDGMENT IN SESSIONS CASE NO. 134 OF 2009**  
**( Arising out of G.R. Case No. 03 of 2008 )**

State of Assam

**– Versus –**

1. Sri Gangadhar Nath.  
S/O- Late Khoruram Nath  
Vill- Bam Beseria  
P.S- Tezpur  
Dist- Sonitpur, Assam.
2. Sri Khargeswar Nath.  
S/O- Late Betharam Nath.  
Dist- Sonitpur, Assam
3. Sri Bhaity Rai  
S/O- Late Moneswar Nath  
Vill- Kochari Gaon.  
P.S- Rangapara.  
Dist- Sonitpur, Assam.

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

For the State : Smt. R. Chakravarty  
Addl. Public Prosecutor  
Sonitpur District

For the Accused : Sri Pulin Biswas, Advocate.

*f*  
105/15/15  
Addl. Sessions Judge  
Sonitpur, Tezpur

Date of Evidence : 05-10-2009, 19-02-2010,  
20-04-2011, 16-09-2011,  
16-09-2011, 17-12-2012,  
22-07-2013, 12-09-2013,  
28-01-2014, 08-04-2014,  
24-12-2014.

**Date of Argument : 20-04-2015**

**Date of Judgment : 05-05-2015**

### JUDGEMENT

**Breif facts :**

Prosecution case is brief is that on 02-01-2008, complainant Gulon Das lodged an ejarah with Tezpur Police station alleging that on 29-12-2007 his daughter Miss. Rekhalipi Das a student of class VII of Bihaguri Higher Secondary School had gone to school to bring results but did not return home. On the next day her dead body was found lying on the bank of Mora Dipota River. It is also alleged that his daughter had been raped and killed by some persons.

On receipt of complaint Tezpur Police registered a case being Tezpur PS case no 3 /08 u/s 302 IPC and started investigation. On completion of investigation police submitted charge sheet against accused persons Sri Gangadhar Nath, Sri Khargeswar Nath and Sri Bhaity Rai to stand trial u/s 302 IPC.

The corresponding G.R case no. 03/08 came up before Ld. C.J.M Sonitpur. Accordingly process was issued and on appearance of the accused the Ld. C.J.M furnished necessary copies to the accused and committed the case to the court of Hon'ble Sessions Judge and then the case was transferred to this court for trial.

On receipt of the case record and on appearance of the accused persons this court considered the materials on record and upon hearing both the

05/5/15  
ADDL SESSIONS JUDGE  
SONITPUR, TEZPUR

sides framed charge u/s 302/34 IPC and read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

Prosecution in order to bring home the charge against the accused persons examined eleven witnesses in all. On conclusion of prosecution evidence the accused persons were examined u/s 313 Cr.P.C. The circumstances appearing in the evidence against the accused were put to accused and necessary questions were also put to him. The accused totally denied the allegations against him. However, defence adduced no evidence.

**POINT FOR DETERMINATION:**

That you, on 29-12-2007 in furtherance of your common intention committed murder by intentionally causing the death of Rekha Lipi Das and thereby committed an offence punishable U/S 302/34 IPC of the Indian Penal Code.

I have gone through the evidence on record and heard argument of both sides.

**DECISION AND REASONS THEREOF:**

**PW 1** is Dr Pradip Kr. Kalita. His evidence is that on 02-01-08 when he was at Kanaklata civil Hospital as Sr. M & H O. On that day he performed post mortem examination on the dead body of Rekhali Das, 12 years, female on being identified by USC/1313 Tankeshwar Hazarika in connection with Babezia Out Post GDE No. 557 dated 30-12-07 and he found as follows :

A dead body of a girl of average built, fair complexion, eyes closed, black hair about one and half inches long.

1. No external injury detected.
2. Brain and spinal cord congested – brain with intracranial haemorrhage.
3. Membrane congested with sub-dural haemorrhage.

Thorax, abdomen are healthy. Stomach contains small amount of digestive food matters.

More detail description of injury :- Cutting the skull vault. Membrane are found to be congested. There is sub-dural haemorrhage. Brain becomes congested.

The injury is ante mortem.

In his opinion :- cause of death is due to shock and intra cranial haemorrhage.

105/5/15  
Addl. Sessions Judge  
Sonepur, Jaspur

**Ext 1** his post mortem report, **Ext 1(1)** is his signature and **Ext 1(2)** is the signature of the Joint Director of Health services.

**PW 2** is Bulen Das. He identified accused persons Gangaram Nath, Khargeswar Nath and Bhaiti Roy in the dock. He has deposed that deceased Rekha Lipi Das was his daughter. On 29-12-2007, Saturday, Rekha Lipi Das went to her school but did not come back. He along with other made vigorous search but we could not trace out his daughter; however on 30-12-2007 they filed an FIR with the Bebejia Out Post narrating entire facts. Police asked them to make further search.

On 31-12-2007 he found one chappal of his daughter in the river Moradiputa. Then he could know from accused Sunil Orang and accused Bhaiti Roy that on 29-12-2007 at about 4 p.m. they saw a girl and she went to their watch house (Tang ghar). Then they came back and informed the police accordingly. Then police brought Sunil and accused Bhaiti Roy to the police out post and interrogated them.

When he searched for his daughter he was accompanied by Anil Das, Ilen Borah, Krishna Kamal Sharma, Mintu Borah, Bhaiti Borah, Munai Borah, Rupam Borah, Babu Borah and Kandoi Borah.

After interrogating Sunil and accused Bhaiti Roy police asked him again to search for the girl. Then he along with the above named persons again searched for the girl. Then finally found her dead body floating in the river Moradipota. The dead body was recovered on 01-01-2009 at about 2.50 p.m. They found blood stain on her face and biting injuries on her breast. Seeing her condition he got fainted. After the recovery of the deceased accused Gangaram Nath threatened him. Therefore, he suspected that the accused persons committed murder of his daughter. Sunil and Bhaiti worked as servants under Gangaram Nath Roheswar Nath. After the girl being recovered he lodged FIR with the Tezpur P.S. **Ext- 2** is the FIR and **Ext- 2 (1)** is his signature.

**PW 3** is Bonti Das, Mother of deceased Rekhali Das. She has deposed that on 29-12-2007, her daughter Rekhali had gone to school to bring results but she did not return home. They searched for her daughter but did not find her. On the next day a 'sandel' of her daughter was found in the Dipota River. On further searched her daughters dead body was found near the buffalo

105/15/115  
Joint Sessions Judge  
Tezpur

post of accused Gangadhar and Khargeswar. Accused Bhaity Roy the 'Goala' of Kukheswar Nath told this witness and others that accused Gangadhar and Khargeswar kept Rekhaliipi (deceased) at the place of their Buffalo Post. The dead body was recovered by the villagers from Dipota River. She has also deposed that accused Gangadhar Nath chased away the villagers with a dagger in his hand. She suspected that accused persons did bad act on her daughter and also killed her.

**PW 4** Munindra Borah. He has also deposed that on 29-12-2007, Rekhaliipi did not returned home from school. Her family members and the villagewrs searched for her. They found one 'chappal' used by Rekhaliipi in Dipota River. He advised the villagers to inform the matter to police. They again searched for her and found that dead body of Rekhaliipi was floating on the Dipota River. He also deposed that the accused persons had their buffalo/cow near the place from where dead body was recovered. On being asked accused Gangadhar and Kukheswar threatened them with dagger in their hand.

**PW 5** is Anil Ch. Das has also given same evidence as **PW 4**.

**PW 6** is Sri Rupam Borah. His evidence is that he did not knew the accused persons in the dock. He know the deceased Rekhaliipi.

The incident took place about 5 years back. The deceased was reading Bihaguri School and from the school she went missing after she had gone to bring result of her examination. After three days, he came to know that her dead body was found. How she died, he cannot say.

**PW 7** is Tankeswar Borah. He has deposed that about 10 years back Rekhaliipi Das was missing from her house and died.

**PW 8** is Sri Krishna Kamal Sharmah. His evidence is that he did not know the accused persons in the dock. He knew the deceased Rekhaliipi.

The incident took place in the year 2008. He saw the dead body of the deceased in the Moradipota river. When he went there, many persons gathered. Police had come conducted inquest on the dead body. On the inquest

805/15/115  
Addl. Sessions Judge  
Soniapur, Jorhat

report, he was asked to put his signature. **Ext 3** Inquest Report, **Ext 3(1)** is his signature.

He did not know anything about the reason of death of the deceased.

**PW 9** is Sri Ranjan Kr. Gogoi. His evidence is that on 02-01-2008, he was posted at Bebejia Out Post under Tezpur Police station as In-Charge. On that day, he received an ejahar from the complainant one Sri Bulen Das. On receipt of the said ejahar, he sent the ejahar to the Tezpur Police Station for registering a case and took up investigation of the case, on being entrusted by the O.C. of the Tezpur Police Station. **Ext- 2** is the said ejahar. **Ext- 2(2)** is the signature of the then O.C., Sri Bipin Rajkhowa, which he know from the official correspondences.

He proceeded towards the place of occurrence, i.e. Dipota. Prior to his taking up the investigation, MCD was maintained on a missing entry where G.D. Entry was made by one S.I. Rma Knta Bora. The said Rama Kanta Bora had also conducted the inquest on the body of the deceased.

During investigation, he prepared a sketch map of the place of occurrence on 01-01-2008. **Ext- 4** is the said sketch map of the place of occurrence, where **Ext- 4(1)** is his signature.

During investigation, he recorded the statement of witnesses and also sent one witness, namely, Ranjan Tanti for recording statement U/S 164 Cr.P.C. During investigation he also arrested thye accused Bhaity Rai, Sunil Orang, Gangadhar and Khargeswar Nath and forwarded them to judicial custody.

Earlier the dead body of the deceased was sent for Post Mortem examination. He collected the post Mortem report and finding sufficient materials against the accused Bhaity Roy, Sunil Orang, Gangadhar and Khargeswar Nath u/s 302 / 34 IPC, he submitted charge sheet against them. Accused Sunil Orang being a juvenile in conflict with law was sent to Juvenile court. **Ext- 5** is the charge sheet and **Ext- 5(1)** is his signature.

**PW 10** is Reba Kanta Borah. His evidence is that on 30-12-2007 , he was the In filed by one Banti Das of Depota stating that on 29-12-2007his daughter Smt. Rekhalipi Das did not return after going to collect her result from HSSLC Girls School. On receipt of that ejahar, he made G.D. Entry No. 557 dated

fos/15/115  
Addl. Sessions Judge  
Smtipur, Tezpur

30-12-2007 (missing entry) and also made a W.T. message to all over Assam and also took up investigation of the case.

On the next day, on 31-12-2007, he went to the house of the complainant for investigation. He came to know one Sailen Bora of Depota that a pair of sandals of missing girl were found on the bank of Mara Depota River and the father of the missing girl brought the pair of sandals to his house.

He took the statement of Bulen Das, father of the missing girl and he came to know that Bhaity Roy and Sunil Bora knew about the occurrence. Accordingly, he went to their house and brought them for interrogation. They did not disclose themselves to be involved in the offence.

Thereafter, on 01-01-2008, at about 2.50 p.m. one Sailen Bora of Depota informed that the dead body of the deceased was found in the Mara Depota River. Accordingly he went and recovered the dead body and conducted the inquest. **Ext- 3(2)** is his signature and **Ext- 3**, inquest report. After recovery of dead body, the public was excited and assaulted himself and his staff for which he had to be hospitalized and thereafter, the investigation was conducted by another investigating Officer.

**Ext - 6** is the ejahar given by Banti Das on missing of the victim for which missing G.D. Entry was made by him. The handwritings in the **Ext- 5** have been made in his handwritings sent to all police station and also that the G.D. Entry No. 557 dated 30-12-2007 had already been made.

Further he has deposed that he received written ejahar at Bebejia Out Post on 30-12-2007 and he made G.D Entry vide No. 557 date 30-12-2007. **Ext 7** is the certified copy of said G.D Entry. He also prepared inquest report. **Ext- 3** is inquest report.

**PW 11** Dulu Borah turned hostile. However, even his evidence is not direct as revealed from cross by the prosecution.

### CROSS EXAMINATION :

**PW 2** in his cross examination stated that he asked Rekhali's friends Moni Borah, Kobita Bora and Sumi Borah, whether Rekhali had gone to school with them. Her friends replied that they saw her daughter in school but they did not see when she returned home. He also stated that accused Sunil and Bhaity Roy reported that they saw his daughter alone towards Mora Dipota River. They also reported that they kept her daughter in their 'Tangi Ghar'. He also

805/5/15  
Addl. Sessions Judge  
Sonitpur, Tezpur

stated that there were several buffalo/cow post near the place of occurrence. He also stated that accused Sunil and Bhaity told him that accused Khargeswar and Gangadhar kept them in their 'Hut'/ Buffalo Post.

He has denied defence suggestion that he has named/ implicated the accused persons without any basis.

**PW 3** in her cross denied that Bhity Rai and Sunil Orang did not did not state before police that accused Gangaram and Khargeswar kep his daughter at their Buffalo post/ Hut. She has also deposed that her husband has brought false allegation against the accused persons and then lodged FIR.

**PW 4** in his cross denied defence suggestion that accused Gangadhar and Kuseswar did not chase them away with dagger in their hand. He also stated that he along with Babu Bora, Anil Borah, Bishnu Borah and Gobin Borah searched for Rekhali. Further he stated that at the P.O. there were about 5/6 numbers of buffalo post. He also stated that he suspected that Rekhali had been killed.

**PW 5** in his cross stated that the buffalo post of the accused persons were about 100 meters away from the river. He also stated that they searched for Rekhali for two days. Further he stated that on the bank of the river Dipota accused Kuseswar's buffalo post situated. At the time of when they visited the buffalo post near the P.O. they found accused Bhaity Roy, Gangadhar and Sunil Orang were present. Accused Bhaity Roy and Sunil Orang worked in the buffalo post of Ruheswar, He has denied defence suggestion that he did not state that the three accused persons did not threatened them.

**PW 9** in his cross sated that he recorded statement of eleven witnesses. He has not written how many persons resided at the place of occurrence with Buffalo post. There were about ten buffalo post near the P.O. He also stated that **PW 3** Smti. Bonti Das did not state before him that Bhaity and Sunil had confessed before her about taking the deceased and killing her.

**PW 10** in his cross stated that he recorded the statement of complainant Bulen Das. Said Gangadhar Das did not state before him that the

05/5/15  
Addl. Sessions Judge  
Sonitpur, Assam

accused had threatened him. He also stated that Bulen Das did not state before him that Sunil and Bhaity Roy were working under Gangadhar Nath and he suspected them as being involved in the killing of Rekhaliipi.

### **APPRECIATION OF EVIDENCE**

From the discussion of the evidence on record it appears that on 29-12-2007, deceased Rekhaliipi Das had gone to school to bring result and she did not return home. Further, it appears from the evidence of PWs that the dead body of Rekhaliipi was recovered from Moradipota river about two days after the occurrence. The Post Mortem examination was done on 02-01-2008 by Dr. Pradip Kr Kalita at Kanaklata Civil Hospital. On examination the doctor did not find any external injury but it was found that brain and spinal cord congested/ brain with intracranial haemorrhage. The doctor, PW 1 also found cutting the skull vault. The injuries were antemortem, and the opinion of the doctor is that the cause of death was due to shock and intracranial haemorrhage.

In the case in hand prosecution has relies upon the evidence of **PW 2, PW 3, PW 4, and PW 5**. It appears that **PW 2** and **3** are father and mother of the victim girl respectively. Other PWs are the village persons who also went in search of deceased Rekhaliipi Das. Admittedly none of the witnesses had seen the as to who had committed murder of Rekhaliipi Das. However, these witnesses in their examination in chief stated that the accused persons got their buffalo post near river Dipota and after recovery of the deceased from river Dipota they met the accused persons and on being asked about the incident they threatened PWs with 'dao' in their hand.

**PW 3** Bonti Das has deposed that accused Bhaity Roy a gawal working under accused Kuseswar told her that accused Gangadhar Nath and Kuseswar Nath had kept her daughter in their 'Hut' in the night on the day when Rekhaliipi Das went missing from her school.

Let me examine this piece of evidence of **PW 2**. I have examine the statement of **PW 2** u/s 161 Cr.P.C. I have also examined the statement of accused persons recorded by police. **PW 2** in her statement u/s 161 Cr.P.C. before police stated that she came to know from the villages that on the night of

605/5/15  
Addl Sessions Judge  
Sambalpur

29-12-2007 accused Bhaity Roy and Sunil Orang met his daughter near/at their buffalo post, and as such she and her villagers suspected that these two accused persons and accused Gangadhar Nath who had buffalo post near the place of occurrence. I have already examined the Medical Report. I would also like to examine the contents of inquest report. As per the inquest report on examination of the dead boy, it was found that the **victim was wearing white frock one chemise; eyes were closed; mouth half open; a slight bleeding from nose; hands and feet pale. The dead body was also examined by removing the clothes and it was found that the veins on the breasts were prominent and were dark, on examination of vagina it was found that there was slight white spot, the eyes were red in colour.**

Looking at the statements of accused persons I find that they stated before police that the victim had gone to their buffalo post and approached them to stay during night but they did not allow her to stay with them. It is to be noted that in this case there is no eye witness account to the effect that the victim was seen last with the accused persons. What transpires from evidence of the PWs is that the accused persons Bhaity Roy and Sunil Orang told them that they met the victim. When examined u/s 313 Cr.P.C. and the circumstances/materials appearing in the evidence of PWs put to the accused persons, they totally denied the prosecution allegation.

We also find from the evidence on record that at the place of occurrence there were several buffalo post belonging to deferent persons.

Before I come to any conclusion it would be proper to look at the settled position of law in regard to last seen theory.

Hon'ble Supreme Court in **ARVIND @ CHHOTU Vs. STATE** had discussed the legal position in regard to last seen theory as follows :

*"(i) Last-seen is a specie of circumstantial evidence and the principles of law applicable to circumstantial evidence are fully applicable while deciding the guilt or otherwise of an accused where the last-seen theory has to be applied.*

for 05/15/15  
Add: Secretary, Judge  
Santipur, ...

(ii) It is not necessary that in each and every case corroboration by further evidence is required.

(iii) The single circumstance of last-seen, if of a kind, where a rational mind is persuaded to reach an irresistible conclusion that either the accused should explain, how and in what circumstances the deceased suffered death, it would be permissible to sustain a conviction on the solitary circumstance of last-seen.

(iv) Proximity of time between the deceased being last seen in the company of the accused and the death of the deceased is important and if the time gap is so small that the possibility of a third person being the offender is reasonably ruled out, on the solitary circumstance of last-seen, a conviction can be sustained.

(v) Proximity of place i.e. the place where the deceased and the accused were last seen alive with the place where the dead body of the deceased was found is an important circumstance and even where the proximity of time of the deceased being last seen with the accused and the dead body being found is broken, depending upon the attendant circumstances, it would be permissible to sustain a conviction on said evidence.

(vi) Circumstances relating to the time and the place have to be kept in mind and play a very important role in evaluation of the weightage to be given to the circumstance of proximity of time and proximity of place while applying the last-seen theory.

(vii) The relationship of the accused and the deceased, the place where they were last seen together and the time when they were last seen together are also important circumstances to be kept in mind while applying the last seen theory. For example, the relationship is that of husband and wife and the place of the crime is the matrimonial house and the time the husband and wife were last seen was the early hours of the night would require said three factors to be kept in mind while applying the last-seen theory."

As discussed above there is no direct evidence that the accused persons were last seen together with the deceased.

The assertion made by the PWs that the accused Bhaity and Sunil told them that deceased Rekhali met them at their buffalo post is here say, that, too denied by the accused.

Hon'ble Gauhati High Court in **MUSTT. MANOWARA BEGUM Vs. STATE OF ASSAM (2015) 1 G.L.R. 448** has thoroughly referred to various

for  
05/15/15  
Addl. Sessions Judge  
Sonia...

decisions rendered by Hon'ble Supreme Court in regard to circumstantial evidence as well as observation of Hon'ble Supreme Court regarding Sec. 313 Cr.P.C.(in para 26 and 30) as follows :

*"26. Circumstances on which the prosecution relies must be capable of giving rise to an inference which is inconsistent with any other hypothesis except guilt of the accused. To secure a conviction on circumstantial evidence, the prosecution must prove its case by cogent, reliable and admissible evidence. Circumstances must be proved like any other fact and upon a composite riding thereof. It must lead to high degree of probability that it is only the accused and none other who has committed the alleged offence. As has been held by the Apex Court in Sujit Biswas v. State of Assam, (2013) 12 SCC 406, adverse inference can be drawn against the accused only and only if incriminating materials stands fully established and the accused is not able to furnish any explanation for the same."*

*30. Dealing with the purpose of examining the accused person under section 313 Cr.P.C. the Apex Court in Sujit Biswas (supra) observed, thus :*

*" It is a settled legal prosecution that in a criminal trial, the purpose of examining the accused person under section 313 Cr.P.C. is to meet the requirement of the principles of natural justice, i.e., audi alteram partem. This means that the accused may be asked to furnish some explanation as regards the incriminating circumstances associated with him, and the court must take note of such explanation. In a case of circumstantial evidence, the same is essential to decide whether or not the chain of circumstances is complete. No matter how weak the evidence of the prosecution may be, it is the duty of the court to examine the accused, and to seek his explanation as regards the incriminating material that has surfaced against him. The circumstances which are not put to the accused in his examination under section 313 Cr.P.C., cannot be used against him and must be excluded from consideration. The said statement cannot be treated as evidence within the meaning of section 3 of the Evidence Act, as the accused cannot be cross- examined with reference to such statement."*

I have very carefully scrutinised the evidence on record. I have also considered the circumstances relied upon by the prosecution.

In the case in hand I find that on the relevant date the victim had gone to school to bring result and she could not get through the exam and hence she was upset and decided not to go home. Be that as it may, it is not the case that the victim was force by somebody to go with her. As regards the only circumstances of the accused being seen with the victim there is no reliable

05/15/15  
Addl. Sessions Judge  
Santipur, West Bengal

evidence on record. The evidence of the PWs in regard to this circumstances is hear say. Even if we assume that the victim was last seen with the two accused persons it is to the point of the victim approaching the accuse persons to stay at their place during night. There is nothing on record that she stayed with the accused persons during night. Further, we find that there is nothing on record that the accused persons had made any attempt to commit any offence against the victim. The Medical evidence and the inquest report do not support the prosecution case regarding assault on the victim. Though the doctor's evidence would show that there was Sub-Dural haemorrhage, it is also in his evidence there was no external injury. Nothing has been recovered from the place where the accused persons resided. Even the 'chappal' was found in Moradipota river. Further it is noticed that the victim was wearing her complete dress including underwear. There is also no external injury found on her body.

So, in my considered opinion the circumstances brought on record are quite insufficient rope the accused persons in the alleged offence.

In view what has been discussed above I find that the prosecution has failed to establish complete chain of circumstances leading to definite conclusion pointing towards the guilt of the accused.

It is the cardinal principle of criminal jurispondence that prosecution is to prove its case to the hilt; if any doubt arises as to prosecution case the benefit must go the accused persons.

In **MUSTT. MANOWARA BEGUM** (supra) Hon'ble Gauhati High Court has held as follows :

*"27. Suspicion, however grave it may be, cannot take the place of proof, and there is a large difference between something that "may be" proved, and something that "will be proved". As has been held in Sujit Biswas (supra), in a criminal trial, suspicion no matter how strong, cannot and must not be permitted to take place of proof. This is for the reason that the mental distance between "may be" and "must be" is quite large, and divides vague conjectures from sure conclusions. In a criminal case, the court has a duty to ensure that mere conjectures or suspicion do not take the place of legal proof. The large distance between "may be" true and "must be" true, must be covered by way of clear, cogent and unimpeachable evidence produced by the prosecution, before an accused is condemned as a convict, and the basic and golden rule must be applied. In such cases, while keeping in mind the distance between "may be" true and "must be" true, the court must maintain the vital distance between mere conjectures and sure conclusions to be arrived at, on the touchtone of dispassionate judicial scrutiny, based*

805/15/115  
Addl. Sessions Judge  
Sonitpur, Assam

*upon a complete and comprehensive appreciation of all features of the case, as well as the quality and credibility of the evidence brought on record. The court must ensure, that miscarriage of justice is avoided, and if the facts and circumstances of a case so demand, then the benefit of doubt must be given to the accused, keeping in mind that a reasonable doubt is not an imaginary, trivial or a merely probable doubt, but a fair doubt that is based upon reason and common sense."*

In view of what has been discussed above I find that prosecution has failed to prove the charge u/s 302/34 IPC against the accused persons beyond all reasonable doubt.

**ORDER**

In the result I find the accused persons Sri Gangadhar Nath, Sri Khargeswar Nath and Sri Bhaity Rai are not guilty u/s 302/34 IPC. Accordingly they are acquitted. Set them at liberty forth with.

Given under my hand and seal of this court on this 5<sup>th</sup> day of May 2015.

( S. DAS )

05/5/15  
Additional District & Sessions Judge,  
Sonitpur, Tezpur