

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

PRESENT : Sri A. Borthakur
Sessions Judge, Sonitpur
Tezpur

JUDGMENT IN SESSIONS CASE NO. 199 OF 2006

Under Section 302 of the Indian Penal Code
(Arising out of G. R. Case No. 1136 of 2000)

State of Assam

–Versus–

Sri Neol Boro

Son of Late Gedai Boro
Resident of Puthimari, Borogaon
Police Station – Tezpur
District – Sonitpur, Assam

[Committed by Sri A. K. Baruah, Judicial Magistrate, 1st Class,
Tezpur]

A P P E A R A N C E

For the State	:	Sri D. C. Borah Public Prosecutor Sonitpur District
For the Accused	:	Sri Biraj Nath State Defence Counsel
Date of framing charge	:	23– 10–2006
Date of prosecution evidence	:	19–03–2007, 07–07–2008, 26–05–2009, 18–11–2009 03–02–2010 & 17–03–2010
Date of Argument	:	08– 05–2012 & 22– 05–2012
Date of Judgment	:	01– 06–2012

J U D G M E N T

In this case, on 03-10-2000, late evening, the accused inflicted fatal 'dao' blow, on the neck of the unarmed deceased, without any provocation from the latter's end, in presence of PW-2, PW-3 and PW-5 who were in a normal assembly, in the courtyard of PW-2. Thereafter, the accused, forthwith, fled away and remained absconding till he was produced in court under arrest, on 19-08-2006. PWs 1,2,3 and 5 have firmly withstood the tests of cross-examination.

PROSECUTION CASE :

The prosecution case, in brief, is that one Babuli Boro, son of Late Dhaneswar Boro, resident of Puthimari Borogaon, under Tezpur Police Station, had lodged an ejahar, on 04-10-2000, before the in-charge of Bihaguri Police Out Post, alleging that, on 03-10-2000, at about 8-30 p.m., while Turen Boro, Bhogeswari Boro and Kinaram Boro, were sitting together at the courtyard of Turen Boro, aforementioned, the accused, namely, Neol Boro, being armed with a sharp 'dao' (machete), inflicted single blow on the neck of Lakhi Boro, who was standing nearby and as a result, sustaining grievous injury, he fell down at the courtyard. Neol Boro fled away from the place of occurrence with the 'dao'. Later on, Lakhi Boro succumbed to the injury, during treatment at Kanaklata Civil Hospital, Tezpur.

INVESTIGATION :

Based on the above FIR, Bihaguri Out Post, GD Entry No. 48, dated 04-10-2000, was made at 9 a.m., and on being forwarded registered as Tezpur P.S. Case No. 557/2000 and meanwhile, the in-charge SI Nandeswar Das, the in-charge of Bihaguri O.P, himself took up the investigation into the case.

In course of investigation, SI Nandeswar Das, the IO visited the place of occurrence, recorded statements of the witnesses, prepared a Sketch Map of the place of occurrence, seized one plastic chappal, caused holding of inquest over the dead body of Lakhi Boro, who, died, in the meantime, while shifting to the hospital, through ASI Pradip Kr. Saikia, caused Post Mortem examination of the dead body and on completion of investigation, laid a charge sheet against the accused Neol Boro, u/s 302 of IPC, showing him as absconder.

TRIAL :

Since the charge-sheeted offence, u/s 302 IPC, is exclusively triable by the Court of Sessions, the Learned Judicial Magistrate, 1st Class, at Tezpur, vide order, dated 25-09-2006, passed, in GR Case No.1136/2000, committed the case u/s 209 CrPC to this Court of Sessions for trial.

Upon perusal of the materials on records and hearing the learned counsel for both the sides, a formal charge u/s 302 of IPC was framed, vide order, dated 23-10-2006. The charge, aforementioned, was read over and explained to the accused Neol Boro, to which he pleaded not guilty.

In order to prove the above charge, the prosecution has examined as many as twelve witnesses, while the defence cross-examined them at length.

On closing the case for the prosecution side, my learned predecessor, recorded the statement of the accused u/s 313 CrPC, vide order, dated 21-01-2012. The accused pleaded not guilty and declined to adduce any evidence in defence. The statement of the accused, u/s 313 CrPC, is again recorded today (01-06-2012) on the point of

incriminating evidence of his alleged absconding for a long period after the occurrence.

I have heard the argument advanced by Sri D.C. Borah, the learned Public Prosecutor and Sri Biraj Nath, the learned State defence counsel. I have gone through the entire evidence proffered by the prosecution and the statements of the accused, recorded u/s 313 CrPC.

POINT FOR DETERMINATION :

On going through the evidence on record and hearing the learned counsel of both the sides, the following point emerged for consideration in this case :

Whether the accused Neol Boro, on 03-10-2000, at about 8-30 p.m., at Puthimari Bodogaon, under Tezpur Police Station, committed murder by intentionally causing the death of Lakhi Boro, son of Late Dhaneswar Boro, in the courtyard of Turen Boro, of the same village ?

THE DECISION AND THE REASONS THEREOF

(A) WHETHER ‘CULPABLE HOMICIDE’ ?

‘ 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 IPC postulate the existence of positive mental attitude and this mental condition is the special mens rea necessary for the offence.

In the instant case, there is no dispute from the defence side that Lakhi Boro met with a homicidal death. On the other hand, it is the consistent case of the prosecution that Lakhi Boro died due to fatal blow inflicted on the neck by sharp cutting 'dao' like weapon. PW-12 ASI Pradip Kr. Saikia, who held inquest on the corpse of the deceased found cut wound on the left side of the neck, apparently caused by sharp weapon, vide inquest report, Ext.3, prepared u/s 174 CrPC. In the opinion of PW-4, Dr. Mahesh Chetri, the autopsy surgeon, the cause of death of the deceased was due to shock and haemorrhage, as a result of bleeding per cut left carotid artery, which was caused by sharp weapon and ante-mortem in nature, sufficient to cause death of a person in the ordinary course of nature, vide Post Mortem examination report, Ext.1. The defence has not been able to destroy or weaken the findings and opinion of the autopsy surgeon, aforementioned, rather reinforced the same by eliciting, in cross-examination, that the injury sustained by the deceased was such that it may cause death of a person within five minutes. The contents of ejahar, Ext.2, and the ocular testimony of the remaining prosecution witnesses (PWs 1,2,3 & 5 in particular) have also vividly described the dastardly nature of act committed by the assailant on the deceased person. As a whole, I find no difficulty to hold that the death of Lakhi Boro was apparently an act of 'culpable homicide', defined in section 299 of the IPC.

(B) WHETHER 'MURDER' ?:

The offence of 'murder' has been defined in Section 300 of the IPC. The basic difference between the 'culpable homicide' and 'murder' lies in the degree of the gravity of the offence. In order to bring home the offence within the parameter of Section 300 IPC, the prosecution has to establish that the assailant had the definite intention to cause death of the deceased or that the offender had the knowledge that the wound 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 IPC so as to reduce the offence of murder to one of 'culpable homicide' not amounting to murder is on the accused.

(C) NATURE AND SITUS OF THE WOUND :

PW-4 Dr. Mahesh Chetri, the doctor, conducted autopsy of the deceased Lakhi Boro, aged about 35 years, on 04-10-2000, at about 1 p.m., at Kanaklata Civil Hospital, Tezpur, on police requisition. During the Post Mortem examination, the doctor found the following injury :

“ Injury - Cut wound on the left side of neck. Sharp cut. Size 4 inches x 2 ½ inches. Skin, muscles and left carotid artery cut . Other organs are found normal. The injury was ante mortem in nature caused by sharp weapon.”

Opinion :

In the opinion of PW-4, the doctor, the cause of death was due to shock and haemorrhage as a result of bleeding from cut of carotid artery. He has recognised Ext.1, the Post Mortem examination Report, where Ext.1(1) is his signature. The doctor (PW-4) has, further, stated that the injury was sufficient to cause the death of a person in the ordinary course of nature.

In cross-examination, the doctor has deposed that the injury was such that it may cause death of a person within five minutes. He has further deposed that Ext.1 is a carbon copy which was prepared in the same mechanical process along with the original. Thus, defence appears to have not disputed the injury which the doctor found on the vital part of the corpse of Lakhi Boro and the severity and magnitude of the injury sustained by the deceased is elicited from the doctor who opined that such injury, if received, may cause death to a person within five minutes. Therefore, in absence of any evidence to the contrary, the evidence of the doctor (PW-4), so far the nature and situs of the wound, is concerned, invariably leads to the only conclusion that the assailant had a definite culpable mental state to cause death of the deceased by means of a dangerous sharp weapon, like a 'dao'.

(D) TIME & PLACE OF OCCURRENCE :

The written ejahar, Ext.2, dated 04-10-2000, lodged by the younger brother of the deceased Babuli Boro (PW-1) reveals that the occurrence took place, on 03-10-2000, at about 8-30 p.m., in the courtyard of Turen Boro (PW-2), while he (PW-1 Babuli), PW-2 Turen Boro, PW-3 Kinaram Boro and PW-5 Bhogeswari Boro, wife of PW-2, were sitting together and the deceased Lakhi Boro was standing nearby, the accused Neol Boro, all of a sudden, came and inflicted 'dao' blow on the neck of the deceased Lakhi, causing grievous cut wound, and thereafter, the accused abruptly fled away with the weapon of offence 'dao'.

PW-11, SI Nandeswar Das, the IO, has, inter-alia, deposed that the said ejahar, Ext.2, was received, on 04-10-2000, and prior to it, he received a verbal information, on 03-10-2000, from the village Headman Ghinai Boro (since dead) that Lakhi Boro was inflicted cut injury by the accused Neol by a 'dao' and thereupon, he

made GD Entry No.39, dated 03-10-2000, of Bihaguri O.P., under Tezpur PS, vide Ext.4(1), the relevant Entry in Ext.4, the General Diary. On perusal of the Ext. 4(1), the relevant GD Entry, it appears that the aforementioned information was reduced to writing by PW-11, the IO, on 03-10-2000, at 9 p.m., u/s 154 CrPC, and as it further appears from his evidence (PW-11) coupled with the contents of the relevant GD Entry, Ext.4(1), that upon receipt of the said information to commission of cognizable offence, proceeded forthwith to the place of occurrence, that is, Puthimari Borogaon and launched the investigation by shifting the deceased Lakhi Boro, who was found in injured condition, to Kanaklata Civil Hospital, Tezpur, for treatment and further, he (PW-11) drew up a sketch map of the place of occurrence vide Ext.5. Ext.5, the sketch map, shows that the place of occurrence was the courtyard of Turen Boro (PW-2) of Puthimari Borogaon, vide marked 'A' in Ext.5, made by PW-11, the IO. In cross-examination, the defence has not disputed these material facts, on record. On the other hand, the evidence of PW-1, Babuli Boro, PW-2 Turen Boro, PW-3 Kinaram Boro, PW-5 Bhogeswari Boro (wife of PW-2), have clearly supported this fact relating to the identity of the place of occurrence and the defence has not disputed it. Though the prosecution could not examine Ghinai Boro, the Gaonburah of Puthimari Borogaon, on whose information, PW-11, the IO, recorded the information in Ext.4(1), the relevant entry in the General Diary of Bihaguri Police Out Post, Ext.4, his non-examination, on account of death vide report marked 'X', in my humble opinion, the prosecution case cannot fail, in view of abundance of unshaken direct testimony of PW-2 Turen Boro, PW-3 Kinaram Boro and PW-5 Bhogeswari Boro, to the occurrence and what PW-11 the IO, found during his visit to the place of occurrence.

According to PW-8 Bhumidhar Boro, on hearing hue and cry, in his village Puthimari Borogaon, at about 9 p.m., he went to the place of occurrence and saw the dead body of Lakhi Boro in the

courtyard of one Sukha @ Sumuk Boro. On the other hand, PW-10 Poneswar Boro has deposed that on hearing hue and cry, in his village Puthimari Borogaon, he went to the place of occurrence and saw the dead body of Lakhi Boro was lying on the road in front of the house of one Sumkhu Boro. What it appears from their evidence, is that, both have failed to specify the identity of the place of occurrence as to the courtyard of whose house either Sukha @ Sumuk Boro or Sumkhu Boro, they allegedly found the dead body of deceased Lakhi Boro lying, whereas the evidence is abundant to show that Lakhi Boro was found lying in injured condition in the courtyard of PW-2 till arrival of police (PW-11), and he was even in a position to speak, as it has come specifically in the evidence of PW-11, the IO.

Thus, the totality of evidence, oral and documentary, as a whole, lead to the only inference, beyond any shadow of doubt, that the occurrence took place in the courtyard of the house of Turen Boro (PW-2), aforementioned, in the late evening, on 03-10-2000, approximately between 7 p.m. to 8-30 p.m.

(E) OCCURRENCE IN PRESENCE OF PWS 2, 3, AND 5 :

Reiterated, the occurrence took place, on 03-10-2000, at about 8-30 p.m., in the courtyard of PW-2 Turen Boro, while PW-2 Turen Boro, PW-5 Bhogeswari Boro, PW-3 and Kinaram Boro were sitting together and the deceased Lakhi Boro was standing nearby, the accused Neol Boro, all of a sudden, appeared there and inflicted 'dao' blow on the neck of the said deceased Lakhi, causing grievous cut injury, and thereafter, abruptly the accused fled away with the 'dao'. According to PW-1, Babuli Boro, the younger brother of the deceased, he, hearing commotion, at about 8/9 p.m., in the house of PW-2 Turen Boro, he rushed to his house and found his brother Lakhi Boro lying in an injured condition and Turen Boro (PW-2) told him that Neol Boro caused the injury and fled away. Lakhi died on his shifting to the

hospital. He lodged the written ejahar, which is recognized by PW-11 SI Nandeswar Das, the IO, stating that the same was received, on 04-10-2000, at about 9 a.m., that is, on the following day, vide his note with signature Ext.2(1) in Ext.2, the written ejahar, aforementioned. From the evidence of PW-2 Turen Boro, it appears that, at about 7 p.m., the deceased Lakhi came and wanted tobacco. When he was just serving tobacco to the deceased Lakhi, accused Neol came with a 'dao' in hand and inflicted 'dao' blow on his neck, whereupon, the deceased Lakhi raised alarm saying "cut ! cut " and at the same time, he (PW-2) also raised hue and cry. From cross-examination, it transpires that the place of occurrence, that is, the courtyard of PW-2 is situated adjacent to the road and at the relevant time, PW-3 Kinaram and the deceased Lakhi, were already present at the place of occurrence, before arrival of accused Neol. The accused assaulted Lakhi, who was standing nearby to them at the place, with a 'dao'. On appreciation of his (PW-2) evidence, as a whole, no element of provocation has surfaced which might have prompted the accused to inflict the fatal blow on the deceased Lakhi by a 'dao', rather, his cross-examination, reinforced the presence of PW-3 Kinaram Boro and PW-5 Bhogeswari Boro, the wife of PW-2. PW-3 Kinaram Boro, who is an eye witness from the same locality, has, inter-alia, deposed that when he was talking with PW-2 Turen, the accused Neol also arrived there and joined them in a discussion about the market price of garlic and after about five minutes, of Neol's arrival, the deceased Lakhi arrived. Lakhi was talking in regard to catching of fish and arranging a picnic party, to which the accused sharply reacted and inflicted 'dao' blow on him. The evidence of PW-5 Bhogeswari Boro, the wife of PW-2 Turen Boro, is more specific in this regard. According to her (PW-5), at about 7 p.m., when she and her husband (PW-2) were talking in the courtyard of their (PWs 2 and 5) house, deceased Lakhi Boro came and when he was standing adjacently, the accused Neol Boro came and gave a 'dao' blow on his neck and then fled away swiftly. She (PW-5) saw the accused Neol very closely

when he inflicted the 'dao' blow and seeing the horror stricken occurrence, she fell unconscious. In cross-examination, she (PW-5) has deposed that while she was talking with her husband (PW-2), the accused Neol came and she asked him to sit and accordingly, he set in a 'pira' (wooden stool). The evidence of PW-2 Turen Boro and PW-5 Bhogeswari Boro can be relied on, despite being husband and wife, in view of both were being eye witnesses, who have successfully withstood the test of cross-examination of the defence and further, the apparent consistency of their evidence with the impartial medical evidence of PW-4 (doctor) and PW-12, the inquest officer. The evidence of the remaining witnesses, namely, PW-6 Mikun Ch. Boro, the writer of Ext.2, the ejahar, PW-7 Mahidhar Boro, a witness to preparation of Ext.3, the inquest report, and further, the evidence of PW-8 Bhumidhar Boro, PW-9 Cheniram Boro, PW-10 Poneswar Boro, allegedly went to the place of occurrence hearing hue and cry, and this apparently suggests that they did not witness the occurrence while taken place, but reached the place immediately after the occurrence. Thus, on close scrutiny of the evidence of the prosecution witnesses, I find and hold that the occurrence took place, in the courtyard of PW-2 Turen Boro, in presence of PW-2 Turen Boro, PW-3 Kinaram Boro and PW-5 Bhogeswari Boro, aforementioned, beyond doubt.

(F) WEAPON OF OFFENCE :

In the instant case, the alleged weapon of offence, a 'dao', was not recovered and seized during investigation. The evidence of PWs 1,2,3 and 5, suggest that, at once, after committing the offence, the accused fled away with the weapon of offence. The evidence of PW-11 SI Nandeswar Das, the IO, reveals that he remained absconding till completion of the investigation with the filing of the charge-sheet, Ext.7. Therefore, PW-11, the investigating Officer obviously could not seize the weapon of offence. However, in view of

evidence of the eye witness, namely, PW-2, PW-3 and PW-5, as to the use of 'dao', plus the nature and situs of the wound, the deceased sustained, as it appears from the evidence of PW-4 Dr. Mahesh Chetri, the doctor and PW-12 ASI Pradip Kr. Saikia, the Inquest Officer, lead to the only conclusion, beyond reasonable doubt, that it was only a 'dao', which is a sharp cutting weapon, used by the assailant to cause the death of the deceased Lakhi. Therefore, in view of abundance of consistency in evidence right from the contents of the written ejahar, Ext.2, the evidence of the autopsy surgeon (PW-4), the finding of PW-12, the inquest officer and the eye account of the witnesses, aforementioned, the inability on the part of the investigating officer (PW-11), obviously due to absconding of the accused, to seize the weapon of offence, the 'dao', in my humble opinion, is insignificant to hold the assailant guilty of the charge of murder.

(G) INFERENCE :

On close scrutiny of the above direct testimony of PW-2 Turen Boro, PW-3 Kinaram Boro and PW-5 Bhogeswari Boro, supported by the cogent circumstantial evidence of PW-1 Babuli Boro, and further, the evidence of PW-4 Dr. Mahesh Chetry, the doctor and PW-12 ASI Pradip Kr. Saikia, the Inquest Officer, who prepared the inquest report, Ext.3, I find that the occurrence took place, when the deceased was unarmed and the accused assailant was armed with a 'dao' intentionally gave Lakhi a 'dao' blow on his vital part of the body, that is, neck, which was sufficient to cause death of him, in the ordinary course of nature, even within five minutes and in consequence, Lakhi died on way to the hospital. The evidence, on record, however, does not reveal the motive behind the commission of the offence by the accused Neol Boro, but it is apparent that he intended the immediate effect of death of Lakhi as a result of his act of inflicting the fatal blow, on his neck, by sharp cutting weapon, a

‘dao’. Hence, I find and hold that the death of Lakhi Boro was an act of ‘murder’ within the meaning of Section 300 IPC.

COMPLICITY OF THE ACCUSED TO THE CRIME :

(a) Eye witness to murder :

The testimony of eye-witnesses, namely, PW-2 Turen Boro, PW-3 Kinaram Boro and PW-5 Bhogeswari Boro, have remained unshaken, in cross-examination to the point that the accused Neol Boro inflicted the fatal ‘dao’ blow on the neck of the deceased Lakhi Boro, in their presence, at the courtyard of PW-2, aforementioned. Though the night of occurrence was dark, the identity of the accused, as the assailant, has been established, beyond doubt, and when PW-5, aforementioned, has in unequivocal words deposed *“I saw accused Neol very closely when he inflicted blow. Hulla was raised when many villagers came. Neol fled away. Seeing blood, I became faint.”* This quoted sentence of deposition of PW-5 has not been contested by the defence in her cross-examination. Similar evidence has come in the evidence of the other eye witnesses, namely, PW-2 Turen Boro, PW-3 Kinaram Boro. The apparent identity of the accused has been further established by the premeditated disposition of presence of the accused with a ‘dao’ in hand at the place of occurrence preceding the commission of the offence of murder of Lakhi Boro, an unarmed person who was standing nearby to their assembly. Therefore, the fact of darkness of the night, in my considered view, cannot stand on the way to hold the accused guilty of commission of murder of Lakhi Boro by inflicting fatal ‘dao’ blow on the neck of Lakhi Boro.

(b) Accused absconded :**(Additional incriminating post crime conduct) :**

In the instant case, the evidence of PW-1 Babuli Boro was recorded, on 19-03-2007. In his evidence, PW-1 has, inter-alia, deposed that “ *He (Neol) was absconding thereafter and only before six months, he came.*” From the evidence of PW-2 Turen Boro, it appears that the accused Neol Boro fled away after committing the offence along with the weapon of offence – a ‘dao’. Likewise, PW-3 Kinaram Boro has also deposed that Neol fled away after committing murder of Lakhi Boro. Witnessing the occurrence, horror stricken PW-5 Bhogeswari Boro has also deposed that the accused Neol fled away after inflicting ‘dao’ blow on the neck of Lakhi. PW-11, SI Nandeswar Das, the IO, has deposed that, on 03-10-2000, at about 9 p.m., he proceeded to the place of occurrence, situated about ½ Km away from his Bihaguri O.P. and could not arrest the accused Neol Boro, as he had already fled away. It further appears from his (PW-11) evidence that till submission of the charge-sheet, Ext.7, in the case, the accused could not be arrested and as such, he was shown ‘absconder’ therein.

With regard to the above circumstantial incriminating evidence appearing against the accused, his additional statement in this regard was specifically obtained, u/s 313 CrPC, on 01-06-2012. He has stated as follows :

“ True. But I did not abscond. I had been away in the State of Meghalaya to work in coal mines and when I returned home, after about 6 (six) years, my sister Nafai called the police and handed over me to the police.”

The accused, however, declined to adduce any evidence in support of his above plea. Therefore, in the absence of

any evidence adduced by the defence, in support of the above plea of the accused, it can be held that during the intervening period of about 6 (six) years from the time of the occurrence till he was arrested and produced, on 19-08-2006, before the committal court, on the strength of the warrant of arrest issued by it, is certainly an **additional incriminating circumstance**, lending weight to the positive evidence of the prosecution witnesses, that he definitely remained absconding during the period with intent only to escape the legal consequences of commission of the heinous crime of murder of Lakhi Boro and this, in my humble opinion, points to the guilt of the accused, beyond reasonable doubt.

CONCLUSION

For the reasons, set forth above, I am constrained to hold that the prosecution has proved the charge of murder of the deceased Lakhi Boro against the accused, namely, Neol Boro, beyond all reasonable doubt. Accordingly, accused Neol Boro is held guilty of the charge u/s 302 IPC and convicted.

SENTENCE

After pronouncement of the judgment, the convicted accused Neol Boro is heard on the quantum of punishment to be awarded. I have also heard Mr. D. C. Borah, the learned Public Prosecutor and Mr. Biraj Nath, the learned State Defence Counsel.

The convicted accused Neol Boro has reiterated his plea of innocence. He has submitted that he is a cultivator by profession and has a family consisting of his wife without any issue. The wife stays at Hojai. His present age is about 40 (forty) years. He has submitted that considering his personal circumstances in life, he may

be awarded the punishment of imprisonment only, so that he can pass his rest of life working somewhere.

The learned Public Prosecutor has submitted that considering the gravity of the offence proved to have been committed by the accused, rigorous imprisonment for life and fine will be the appropriate punishment for him.

The learned State Defence counsel, on the other hand, has fairly submitted that considering the personal circumstances in life of the accused, punishment of imprisonment for life, instead of capital punishment, would meet the ends of justice.

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, I am of the humble opinion that sentence of imprisonment for life and fine, would meet the ends of justice.

In view of the fact that cruelty of murder was committed on an unarmed innocent person, in my humble opinion, the accused person does not deserve any compassionate treatment.

Accordingly, the accused is sentenced to suffer Rigorous Imprisonment for life and to pay a fine of Rs.10,000/- (rupees ten thousand) only, in default, to undergo Rigorous Imprisonment for 6 (six) months u/s 302 IPC.

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.

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 1st day of June, 2012 under the Hand and Seal of this Court.

Let a copy of the judgment and order, as above, shall be furnished to the convicted accused, free of cost, immediately.

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

Dictation taken and typed by me :

(J.K. Muru, Steno)

* * * * *

ANNEXURE

LIST OF PROSECUTION WITNESSES

PW-1	:	Sri Babuli Boro
PW-2	:	Sri Turen Boro
PW-3	:	Sri Kinaram Boro
PW-4	:	Dr. Mahesh Chetri
PW-5	:	Smt. Bhogeswari Boro
PW-6	:	Sri Mikun Ch. Boro
PW-7	:	Sri Mahidhar Boro
PW-8	:	Sri Bhumidhar Boro
PW-9	:	Sri Cheniram Boro
PW-10	:	Sri Poneswar Boro
PW-11	:	SI Nandeswar Das
PW-12	:	ASI Pradip Kr. Saikia

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	:	Ejhar
Exhibit -3	:	Inquest Report
Exhibit -4	:	G.D. Entry Book
Exhibit -5	:	Sketch Map
Exhibit -6	:	Seizure List
Exhibit -7	:	Charge Sheet
Exhibit -8	:	Dead Body Challan

MATERIAL EXHIBIT

Mat. Exhibit -1 : Plastic Chappal

DEFENCE EXHIBIT

N I L

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