

GAHC010239662025



2026:GAU-AS:10807-DB

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Death Sentence Ref./1/2025

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

VERSUS

RINTU SARMAH
N/A

Advocate for the Petitioner : PP, ASSAM, MR Z KAMAR, AMICUS CURIAE

Advocate for the Respondent : ,

Linked Case : CrI.A./429/2025

RINTU SARMAH
S/O LATE PURNANANDA SARMAH
R/O VILL. NO. 2 NAGAON
MORIDHAL
ASSAM
PIN 787057
P.O. MORIDHAL
P.S. DHEMAJI.

VERSUS

THE STATE OF ASSAM

REP BY THE PP. ASSAM

Advocate for : MR S BORTHAKUR
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE

HON'BLE THE CHIEF JUSTICE ASHUTOSH KUMAR

HON'BLE MR JUSTICE ARUN DEV CHOUDHURY

For the Appellant : Mr S. Borthakur, learned Senior Advocate assisted by:
Mr P. Khataniar, Advocate in CrI. A. No. 429/2025

For the Respondents : Mr R. R. Kaushik, Additional Public Prosecutor,
Assam.

Amicus Curiae : Mr Z. Kamar, learned Senior Advocate/Amicus Curiae
assisted by Mr S. J. Choudhury, learned Advocate, in
Death Sentence Ref. No. 01/2025

Date on which the Judgment is

Reserved : **22.07.2026.**

Date of the pronouncement of

Judgment : **05.08.2026**

Whether the pronouncement

is of the operative part of the

Judgement : NA.

Whether the full Judgment has

been pronounced : Yes.

JUDGMENT & ORDER (CAV)

(A.D.Choudhury, J)

1. The Death Sentence Ref. No. 01/2025 and Crl. Appeal No. 429/2025 have been heard together and are being disposed of by this common Judgment and Order.
2. We have heard Mr S. Borthakur, learned Senior Advocate assisted by Mr P. Khataniar, learned Advocate for the appellant in Crl. Appeal. No. 429/2025 and Mr R. R. Kaushik, learned Additional Public Prosecutor, Assam, for the State. We have also heard Mr Z. Kamar, learned Senior Advocate/Amicus Curiae assisted by Mr S. J. Choudhury, learned counsel in Death Sentence Reference No. 01/2025.
3. The prosecution case, in brief, is that on 21.08.2021, after the completion of the examination at Moridhol College, the deceased, Nandita Saikia, was returning towards Dhemaji along with PW-2 Kasmina Dutta, her friend, on the motorcycle driven by PW-1 Deba Dutta, the father of PW-2. The accused allegedly followed them on a red-coloured scooty and, on reaching near Drug House Pharmacy in the vicinity of ASTC bus stand, Dhemaji Town, attacked PW-1 with a Khamti Dao. When PW-2 intervened, she too was assaulted on her head. The accused thereafter turned towards Nandita Saikia and inflicted repeated Dao blows upon her, particularly on her head, causing grievous injuries. The accused then fled from the place, carrying the weapon, and was shortly thereafter apprehended at Pasoni Goli with the Dao in his possession. All three injured were initially taken for medical treatment and, owing to the serious nature of her injuries, Nandita Saikia was subsequently shifted to a higher medical centre at Dibrugarh, where she ultimately succumbed to the injuries.

4. An FIR was lodged before the Officer-in-Charge of Dhemaji Police Station. Accordingly, Dhemaji PS Case No. 397/2021, under Sections 341/326 IPC, was registered against the accused-appellant, Rintu Sarmah, and the usual investigation was commenced. Subsequently, Section 302 of IPC was added.
5. Upon completion of the investigation, police laid a charge sheet in the case under Sections 341/326/307/302 IPC against the accused/appellant.
6. After filing of the charge sheet, the learned Additional CJM, Dhemaji took cognisance of the offences and thereafter committed the case to the learned Court of Sessions Judge, Dhemaji. The learned Sessions Judge framed charges under Sections 341/302/324/307 IPC against the accused/appellant, Rintu Sarmah, and read them over to the accused, to which he pleaded not guilty; accordingly, the trial proceeded.
7. During the Trial, to bring home the charges, the prosecution examined as many as 41 witnesses and exhibited 27 documents and 11 material objects. The accused was examined under Section 313 Cr.P.C. The defence did not adduce any witnesses in his support.
8. Upon conclusion of the trial, the learned Session Judge, under its Judgment dated 20.08.2025, found the accused guilty of the offences punishable under Sections 302/307/324/341 of the IPC. For the offence under Section 302 IPC and treating such a criminal act under the category of “rarest of the rare case”, the learned Sessions Judge sentenced the accused to death and also to pay a fine of Rs. 10,000/-.

He was further sentenced to Rigorous Imprisonment for 10 years for the offence under Section 307 IPC, Rigorous Imprisonment for 3 years under Section 324 IPC, and Simple Imprisonment for 3 months under Section 341 IPC, apart from the fine/default stipulation imposed by the learned trial court.
9. Consequent upon the award of death sentence, the learned Session Judge has made the present Death Sentence Reference under Section 366 Cr.P.C. for confirmation of the

sentence, while the accused has preferred the connected Criminal Appeal assailing the judgment of conviction and sentences imposed upon him.

10. Mr S. Borthakur, learned Senior Counsel appearing for the appellant, while assailing the conviction as well as the sentence, argues that the learned trial court failed to appreciate the evidence in its proper perspective and accepted the prosecution version notwithstanding material omissions and inconsistencies in the testimony of the principal witnesses. Particular emphasis was placed upon the omission brought out in the previous statements of PW-1 and PW-2, and it was contended that their evidence being that of closely related and interested witnesses required greater circumspection before being made the foundation of the conviction.

It was further argued that the evidence of other witnesses does not furnish such independent corroboration as to cure the infirmities in the testimony of the principal witnesses as well as the witnesses of doctors in describing the nature of injuries at different stages.

11. The appellant also questioned the evidentiary value of the alleged recovery, the electronic evidence, and certain lapses in the investigation, and contended that the cumulative effect of these deficiencies entitled the accused to the benefit of the doubt.
12. In the alternative, on the question of sentence, learned Senior Counsel submitted that, even assuming the conviction under Section 302 IPC to be sustained, the case does not satisfy the stringent requirement of the “rarest of the rare” category warranting the imposition of the death penalty.
13. It was urged that the learned trial court placed predominant emphasis upon the brutality of the crime without undertaking the necessary individualised sentencing exercise concerning the offender. According to the appellant, the circumstances relating to his age and antecedence, possibility of reformation and rehabilitation and his overall socio-economic background were not weighed against the aggravating circumstances of the crime. The alternative of imprisonment for life, it was submitted, was not questionably

foreclosed.

14. Accordingly, it is urged that the appeal be allowed and the appellant be acquitted; in the alternative, if the conviction is sustained, decline confirmation of the death sentence, and commute the same to imprisonment for life.
15. Per contra, Mr R. R. Kaushik, learned Additional Public Prosecutor, while supporting the conviction and sentence, urged that the nature and manner of commission of the offence discloses exceptional brutality. The accused, armed with a sharp cutting weapon, followed the victims, first attacked PW-1, assaulted PW-2 and thereafter inflicted repeated blows upon the deceased, particularly on the vital region of her head. The attack was committed in broad daylight at a public place and continued despite the deceased being rendered defenceless. According to the learned Additional Public Prosecutor, the manner of assault, the weapon employed, the repeated blows upon the vital parts of the body and the resultant death cumulatively constitute aggravating circumstances of the highest order and therefore, the sentence imposed by the learned trial Court calls for confirmation.
16. Mr Z. Kamar, learned Senior Advocate appearing as Amicus Curiae in the Death Sentence Reference, submitted that confirmation of the death sentence requires a scrutiny qualitatively different from an ordinary appeal against conviction. Even when the prosecution has established the offence of murder beyond reasonable doubt, the court is required to independently determine whether the alternative of life imprisonment is unquestionably foreclosed. The aggravating circumstances relating to the crime must be balanced against all mitigating circumstances about the offender, including the possibility of reformation and rehabilitation, submitted Mr Kamar.
17. According to the learned Amicus, the brutality of the offence, though undoubtedly relevant, cannot by itself conclude the sentencing enquiry. The learned Amicus accordingly urged the Court to undertake an independent and individualised sentencing assessment before determining whether the case crosses the exceptionally high threshold prescribed for confirmation of capital punishment.

18. Having bestowed our anxious consideration upon the rival submissions and upon careful examination of the evidence available on record, we found that the prosecution seeks to establish the guilt of the accused, principally based on: (i) the testimony of the injured witness, (ii) the evidence of the independent witnesses, (iii) the medical evidence, (iv) the seizure of the weapon of offence and other incriminating articles. Each of these categories of evidence deserves independent examination.
19. Upon careful re-appreciation of the evidence on record, we find that the prosecution case substantially rests upon the testimony of PW-1 Deba Dutta and PW-2 Kasmina Dutta, both of whom are injured eyewitnesses to the occurrence. Their version receives substantial corroboration from the independent witnesses present at the place of occurrence, the medical evidence, the immediate recovery of the weapon of the offence after the incident, and the investigation conducted without undue delay.
20. PW-1, the informant and the injured witness, deposed that after Higher Secondary Examination of his daughter, he was returning from Moridhal College on his motorcycle with his daughter PW-2 and the deceased as pillion riders. After reaching Dhemaji town and stopping near the Drug House pharmacy, the accused, who had followed them on a red scooty, suddenly attacked him with a khamti dao, causing injuries on his chest and hand. When PW-2 intervened, she too was inflicted with dao blows, causing injuries. Thereafter, the accused repeatedly assaulted the deceased, particularly on her head, before fleeing from the place carrying the weapon in his hand. His testimony further establishes the immediate shifting of the injured to the hospital and prompt lodging of the F.I.R.
21. PW-2, who also sustained injuries in the same occurrence, has materially corroborated PW-1 on every material aspect. She consistently stated that the accused first assaulted PW-1, thereafter inflicted a blow on her when she attempted to rescue her father, and then repeatedly attacked the deceased with the dao. She also identified the seized article connected with the occurrence.

PW-2 also throws light on the motive and the events preceding the occurrence. She

stated that about four months prior to the death of Nandita Saikia, the latter had told her in the college hostel that the accused had proposed marriage to her, which she had declined as she wanted to pursue her studies. More significantly, PW-2 herself witnessed a subsequent incident when she and Nandita were proceeding from the college towards their hostel; the accused met them on the way and told Nandita that he would take her away by force and, if not, would kill her. Thus, the evidence regarding the proposal to the marriage and the subsequent threat made in her presence is within her direct knowledge. Her evidence on the later aspect remained intact in cross-examination, where she specifically denied the suggestion that the accused had never intimidated Nandita prior to her death.

22. Both PW-1 and PW-2 remained firm during lengthy cross-examination. Though certain omissions in their previous statements were duly proved through the Investigating Officer, they pertain only to peripheral details and do not relate to the identity of the accused, the place of occurrence, the weapon used, or the sequence of assault.
23. The evidence of PW-1 and PW-2 inspires complete confidence. Their presence at the place of occurrence is not merely probable. Still, it stands conclusively established by the injuries sustained by them, which are supported by contemporaneous medical evidence through PW-34, PW-35, and PW-39, which shall be discussed at the later part of the judgement.
24. Their testimonies are natural, mutually corroborative, and consistent regarding the genesis of the occurrence, the identity of the assailant, the weapon used, and the manner in which the assault was committed. The defence has failed to elicit any circumstance suggesting false implication or exaggeration.
25. It is well settled that the testimony of an injured witness occupies a special place in the law of evidence. Such a witness carries an inbuilt guarantee of his presence at the scene of the occurrence and would ordinarily spare the real offender while falsely implicating another. Unless compelling reasons exist to discard such testimony, it deserves greater evidentiary weight. Minor discrepancies and omissions, which are natural

consequences of a traumatic incident like the present one, do not affect the substratum of the prosecution case. Applying these settled principles, we find no reason to discard the testimony of PW-1 and PW-2, which forms a safe and reliable foundation for the prosecution case.

26. The ocular account furnished by PW-1 and PW-2 also receives substantial assurance from the independent witnesses examined by the prosecution.
27. PW-3, a shopkeeper situated opposite the place of occurrence, and PW-4, an auto rickshaw driver waiting for passengers near the ASTC bus stand, had consistently stated that they witnessed the accused repeatedly assaulting the victim with a Dao in broad daylight. PW-9 witnessed the immediate aftermath of the occurrence, chased the accused and found him shortly thereafter carrying the weapon before his apprehension.
28. Their presence at the scene was wholly natural, as the incident had occurred in one of the commercial areas of Dhemaji town. Nothing substantial emerged during their cross-examination to cast any doubt on their credibility or their presence at the place of occurrence.
29. Though these witnesses are not principal eyewitnesses, their evidence materially corroborates the injured witness regarding the identity of the accused, the place of occurrence, the weapon used, the repeated assault upon the deceased, and the conduct of the accused immediately after the occurrence. Their testimony thus furnishes independent assurance to the version narrated by PW-1 and PW-2.
30. The ocular version also finds complete support from the medical evidence.
31. PW-35, the first doctor who examined all the injured immediately after the occurrence, noticed sharp-cut injuries on PW-1 and PW-2, and multiple grievous sharp-cut injuries on the head and upper limb of the deceased. Considering the grievous nature of her injuries, the deceased was immediately referred to a higher medical centre.

PW-34, who treated the deceased at Dibrugarh, found multiple grievous sharp-cut

injuries over the skull, shoulder, and upper limb of the deceased consistent with assault by a sharp-cutting weapon.

PW-39, who conducted the post-mortem examination, found extensive anti-mortem head injuries with corresponding internal cranial damage and opined that the death occurred due to coma resulting from such injuries. He further ruled out the possibility of injuries being caused by road traffic accidents, as suggested by the defence, and categorically described the death as homicidal.

32. Medical evidence thus forms an unbroken chain, commencing from the first examination immediately after the occurrence, continuing through treatment, and culminating in post-mortem examination. The injuries noticed by the medical experts completely corresponded with the ocular version regarding the nature of the injuries, the nature of the weapon used, and the manner in which the assault was committed.

The defence has been unable to point out any inconsistency between the medical and ocular evidence. On the contrary, the medical evidence lends complete assurance to the testimony of the injured eyewitnesses.

33. It is by now well settled that where the ocular testimony is found to be reliable and trustworthy, the medical evidence is intended to lend assurance there. It is only when medical evidence completely rules out the prosecution version that the ocular account may require closer scrutiny. In the present case, the medical evidence not only supports but substantially fortifies the ocular testimony of the injured and independent witnesses.
34. The prosecution has further established that immediately after the occurrence, the accused fled the scene, carrying the weapon used in the offence, and was apprehended shortly thereafter while still in possession of it.

The evidence of the Seizure Witnesses, namely, PW-6, PW-7, PW-17, and the Investigating Officers, namely, PW-40 and PW-41, establishes the recovery of the

weapon and the red scooty used by the accused.

Though none of these witnesses had actually witnessed the assault, their testimonies furnish independent corroboration to the evidence of PW-9 regarding the accused fleeing from the place of occurrence with the weapon immediately after the assault. The PW-6 saw the accused sitting beneath a bamboo bush with the Khamti dao in his hand, attempting to inflict injuries upon himself with the same weapon. Similar is the testimony of PW-7.

35. Thus, the evidence of these witnesses establish an uninterrupted sequence beginning from assault in front of the Drug House Pharmacy in Dehmaji town and culminating in apprehension of the accused with the weapon of the offence in his possession nearby the place of occurrence under a bamboo grove and seizure of the Dao from the possession of the accused. Such continuity materially reduces the possibility of fabrication or false implication.
36. The overall appreciation of these witnesses conjointly with the testimony of PW-9, we are satisfied that the prosecution has established beyond reasonable doubt the post-occurrence conduct of the accused, i.e. his flight from the place of occurrence, his apprehension within a short time with Khamti dao still in his possession, the seizure of the weapon and the red scooty.

Though these circumstances by themselves may not establish the guilt of the accused, they furnish strong corroboration of the otherwise reliable ocular and medical evidence, a complete and important segment of the incriminating circumstances relied on by the prosecution.

The recovery of the weapon and the conduct of the accused immediately after the occurrence constitute additional corroborative circumstances under Section 8 of the Evidence Act.

37. Though the prosecution also relied upon electronic evidence depicting the immediate

aftermath, it does not rest on any alleged extrajudicial admission before the video journalist (PW-22) but rather on otherwise cogent ocular and medical evidence.

38. The PW-40, the IO, was subjected to an elaborate cross-examination, wherein several omissions in the statement of the prosecution witness recorded under Section 161 of the Cr.P.C. were brought on record.
39. We have carefully examined those omissions. Most of them relate to subsidiary details, such as the exact sequence of events, the positions of the witnesses, or other peripheral circumstances. None of these omissions relates to the identity of the accused, the place of occurrence, the weapon of assault or injuries sustained by the victim. The omissions, therefore, do not affect the core of the prosecution case. On the contrary, they merely indicate that statements recorded during investigations were not intended to be exhaustive narrations of minute details of the occurrence.
40. No materials have also been brought on record to suggest that any relevant witness was deliberately withheld, that any incriminating article was fabricated or planted or that any circumstance favourable to the defence was intentionally suppressed. The investigation appears to have been conducted with reasonable promptitude immediately after the occurrence.
41. Even otherwise, it is well settled that every omission or lapse on the part of the Investigating Officer does not necessarily render the prosecution case doubtful, unless the defects in investigation go to the root of the prosecution case and create a reasonable doubt regarding the truthfulness of the occurrence itself.
42. The court cannot disregard otherwise reliable evidence merely because the investigation could have been conducted more efficiently. Criminal trials are primarily concerned with the reliability of evidence produced before the court; the perfection of the investigation comes later.
43. On overall appreciation of the evidence, we find that the testimony of PW-1 and PW-2

is reliable and trustworthy and stands firmly corroborated by the independent witnesses, namely PW-3 and PW-4, the medical evidence of PW-34, PW-35 and PW-39, the recovery of the weapon immediately after the incident in the presence of PW-6, PW-7, PW-17 and PW-9 and by the surrounding circumstances. These pieces of evidence form a consistent and unbroken chain leaving no reasonable doubt regarding the identity of the accused or manner in which the occurrence took place.

44. The aforesaid evidence assumes significance when considered with the conduct of the accused on the date of occurrence. PW-2 saw the accused following their motorcycle on a red-coloured scooty after they had travelled about 1½ KMs from Moridhal College and thereafter, overtaking them before reaching Dhemaji town. Shortly thereafter, when they stopped in front of the Drug House Pharmacy, the accused appeared with Khamti Dao and launched the assault. The earlier threat spoken to by PW-2, the accused following the deceased on the date of occurrence and the subsequent armed attack cannot be viewed as disconnected circumstances. Read together, they furnish a discernible motive and also lend assurance to the prosecution case regarding the genesis of the occurrence.
45. We are therefore satisfied that the prosecution has proved the charges against the accused beyond any reasonable doubt. The standard of proof required in criminal law, in our opinion, in the backdrop of the discussions made hereinabove, stands satisfied.
46. In these circumstances, we do not find any infirmity in the conclusion reached by the learned Trial Court that the accused committed the murder of Nandita Saikia and attempted to murder of PW-1 Deba Dutta and PW-2, Kashmina Dutta and in the process they got serious injuries in their body. The conviction under Sections 302/307/324/341 IPC is accordingly affirmed.
47. Having affirmed the conviction of the appellant, the question now arises as to whether the sentence of death imposed by the learned Trial Court can be sustained in law.
48. The sentencing exercise in a capital punishment case is no longer unguided and is

structured by principles evolved by the Supreme Court beginning with **Bachchan Singh v. State of Punjab**, reported in **1982 3 SCC 24**, which mandated that death penalty may be imposed only in the “rarest of the rare case” where alternative of life imprisonment is unquestionably foreclosed.

49. Such framework has been further crystallised in **Machhi Singh and Ors –Vs- State of Punjab** reported in **1993 (3) SCC 470** and recently, in **Vasanta Sampat Dupare –Vs- Union of India and Others** reported in **2025 SCC Online SC 1823**, which mandates a threefold assessment -first, to evaluate the nature of the crime and attended aggravating circumstances; second, to consider the circumstance of the offender including the possibility of reform and rehabilitation; and third, to undertake a balancing act to determine whether life imprisonment would be inadequate and whether the accused is beyond reformation.
50. Thus, the sentencing must be both crime-centric and criminal-centric rather than merely a reaction to the brutality of the act.
51. In the present case, the learned Trial Court, after referring to the principles laid down in **Bachchan Singh** (supra) and **Machhi Singh** (supra), held that the case falls within the “rarest of the rare category”. It took into consideration the pre-meditated nature of the attack, the repeated blows inflicted upon the deceased in a public place and the age of the deceased.

It further held that except for the age of the appellant, who was 34 years of age, no mitigating circumstance was brought before the Court.

52. There can be little doubt that the crime was grave and the manner of its commission was brutal. The appellant followed the victim, was armed with a sharp cutting weapon, assaulted the PW-1 and PW-2, and thereafter, inflicted repeated blows upon the deceased, particularly on her head.

These are, without a iota of doubt, serious aggravating circumstances. However, it is

well settled that the brutality of the crime, by itself, cannot conclude the sentencing exercise.

The death sentence is an exception. Therefore, before imposing such extreme penalty, the Court must consider not only the circumstances of the crime, but also the circumstances of the criminal and determine whether the alternative of life imprisonment is unquestionably foreclosed.

53. We find that the sentencing exercise undertaken by the learned Trial Court is deficient in this regard.

After noting the appellant's age as the only mitigating circumstance, the learned Trial Court concluded that the aggravating circumstances far outweighed the mitigating circumstances.

It further inferred absence of remorse and absence of scope of reformation from the fact that the appellant denied the occurrence in his statement under Section 313 Cr.P.C.

In our opinion, such a denial is a part of the defence of the accused and therefore, by itself, cannot furnish a safe basis to conclude that he is incapable of reformation.

There are no other sufficient materials on record to conclude that there is no possibility of reformation or rehabilitation. The gravity of the offence cannot fill these evidentiary gaps.

Public outrage or the shocking nature of an offence may indeed raise serious societal concern. Still, the sentencing decision must rest on the judicially recognised principle governing capital punishment, as recorded hereinabove.

54. In the absence of any such finding and collection of assessment material, it would be contrary to the settled principle to extinguish the life of the accused when the law leans in favour of preserving it, more particularly when the prosecution has failed to discharge its burden to establish that the accused is incapable of reformation and that

life imprisonment would be wholly inadequate.

55. To conclude, while we find the aggravating circumstance to be substantial, we are unable to hold that the alternative of life imprisonment stands unquestionably foreclosed. In our opinion, the present case does not meet the high threshold required to confirm a death sentence.
56. Accordingly, while confirming the conviction of the appellant under Section 302 IPC, we decline to award the sentence of death and commute the same to imprisonment for life.
57. The death sentence reference is answered accordingly. The conviction under Sections 307/324/341 IPC also stands affirmed. The sentences are to run concurrently.
58. The TCR be returned to the learned Trial Court forthwith.

JUDGE

CHIEF JUSTICE

Comparing Assistant