

**HIGH COURT OF TRIPURA  
AGARTALA**

**Cri. A (J) 15/2021**

**Sri Chandan Adhikari**

**----Appellant**

**Versus**

**The State of Tripura**

**----Respondent**

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For Appellant(s) : Mr. A. Das, Advocate  
For Respondent(s) : Mr. Ratan Datta, PP  
Mr. S. Debnath, Addl. PP  
Date of hearing and delivery of  
Judgment & Order : **06.07.2022**  
Whether fit for reporting : **Yes / No**

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**HON'BLE MR. JUSTICE T. AMARNATH GOUD  
HON'BLE MR. JUSTICE ARINDAM LODH**

**JUDGMENT**

***(T.Amarnath Goud, J)***

Heard Mr. A. Das, learned counsel appearing for the appellant as well as Mr. Ratan Datta, learned PP assisted by Mr. S. Debnath, learned Additional PP appearing on behalf of the respondent.

2. This appeal arises out of the judgment and order of conviction and sentence dated 20.04.2021 passed in connection with case No. S.T.(T-1) 12 of 2016 by the learned Additional Sessions Judge, Sepahijala District, Bishalgarh, whereby and whereunder the learned Additional Sessions Judge had convicted the appellant for the offence punishable under Sections 447/326/307 IPC, and sentenced him to suffer R.I. for 10 (ten) years with default stipulation.

3. The case of the prosecution, in brief, is that, on 11.09.2014 at 16.30 hours the appellant entered into the house of the complainant and started shouting and abusing him, and at that time Goutam Adhikari, another nephew of the complainant arrived there on hearing the shouting of the accused and asked the reason of his shouting and then the accused got furious and attacked upon Gautam Adhikari taking out a dagger (sharp knife) due to which said Gautam Adhikari sustained grievous bleeding injury on his abdomen and the accused was so furious that after striking once he was in desperate mode to strike repeatedly as to kill the victim. It was also alleged that the complainant, his relatives and others intervened into the issue and freed the victim from the clutch of the accused and thereafter shifted him to Bishalgarh Hospital wherefrom he was referred to AGMC & GBP Hospital.

4. The said complaint was registered as Bishramganj PS case no. 70 of 2014 under Sections 326/307/506 of the IPC. The matter was investigated by the investigating officer, and after completion of investigation submitted charge-sheet against the convict appellant under Sections 447/326/307/506 of the IPC. At the commencement of trial, the learned Additional Sessions Judge had framed charges against the convict appellant to which he pleaded not guilty and claimed to be tried.

5. During trial, the prosecution to establish the charges had adduced 10 (ten) witnesses. After closure of recording evidences, the convict appellant was examined under Section 313 Cr.P.C. wherein he denied all the allegations

leveled against him by the prosecution witnesses but had adduced two witnesses on his behalf as DW-1 and DW-2. After hearing arguments and on examining the evidences and materials on record, the learned Additional Sessions Judge had convicted and sentenced the appellant for committing offence punishable under Section 447/326/307 IPC. Hence, this appeal before this court.

6. Mr. A. Das, learned counsel for the appellant has submitted that the prosecution has miserably failed to establish the charges leveled against the convict-appellant. Mr. Das, learned counsel without disputing the alleged incident had fairly submitted that there was a scuffling between the accused-appellant and the victim and in course of such scuffling, the accused-appellant had also sustained severe injuries on his person caused by the victim and his relatives. Mr. Das, had further argued that the appellant had been falsely implicated with the instant case because there was some disputes regarding land in between the accused and the family of the victim and more so, if there was any assault or attack, as alleged, the same occurred at the heat of the moment and there was no intention on the part of the accused-appellant to cause any such injury to the victim and finally, Mr. Das, learned counsel has argued that the prosecution witnesses are all the relatives of the victim, which version cannot be relied upon. Mr. Das, has urged this court to take a lenient view and reduce the period of sentence, as awarded by the learned trial court.

7. On the other hand, Mr. Ratan Datta, learned PP has supported the findings of the learned trial court while convicting the accused. Mr. Datta, has also submitted that if the evidences of prosecution witnesses are read conjointly it could safely be presumed that the convict appellant had committed the alleged offence. Hence, learned PP has submitted to maintain the findings of the learned trial court.

8. We have considered the submissions for learned counsel appearing for the parties. We have perused the evidences and materials on record and the judgment passed by the learned Sessions Judge. For purpose of appreciating the submissions of learned counsel, it would be pertinent for us to revisit the evidences let in by the prosecution witnesses.

PW 1 Sri Gautam Adhikari, the victim of this case deposed that on 11.09.2014 at about 4/4.30 p.m. he was putting vegetable in his bike near the pond adjacent to his house for selling the vegetable in the market and he heard the chaos from the house of his uncle Sukumar Adhikari and went to the house of his uncle and he inquired and asked the reason of chaos from the accused and the accused came before him and turned out one knife of about one hand long and pierced that knife in his stomach (abdomen) and again tried to assault him but he captured the knife and by that capturing his thumb was also got injured and his left and right hand got injured. PW 1 also deposed that due to injury his internal organs came out from his body and blood was also oozing out and the accused

tried to assault him several times and thereafter the accused entered into his house and concealed himself in the house. At the time of assault his uncle Sukumar Adhikari and his wife Sapna Adhikari along with his younger brother Sumanta Adhikari were also present and tried their best to save the victim from the assault and thereafter he became senseless.

PW-2, Sri Jiban Debnath deposed that on 11.09.2014 at about 4/4.30 p.m. he noticed Gautam Adhikari in injured condition and his stomach was wrapped by cloth and took the injured along with Swapan Debnath and Sumanta Adhikari and went to Bishalgarh hospital and PW 2 left all the persons at the Bishalgarh hospital and went to his next trip.

PW-3, Dr. Shyam Sundar Saha, is the Medical Officer who had examined the victim in the hospital and prepared the injury report.

PW-4, Taher Miah deposed that he heard from Sumanta Adhikari and Swapna Adhikari, the family members of Goutam Adhikari about the incident of 2014.

PW-5, Smt. Sipra Das being Sub-Inspector of Bishramganj PS had registered the Bishramganj PS case no. 70/14 and filled up the printed FIR form.

PW-6, Sri Sukumar Adhikari deposed that on the date of incident Chandan Adhikari came to his house and asked him why he was not having any pond while the witness asked him to make inquiry from his own mother and on hearing the chaos, Goutam Adhikari came to the spot

and asked Chandan Adhikari that why he was arguing there and then Chandan Adhikari turned out one dagger which he kept in his pant and stabbed Goutam Adhikari. PW 6 also stated that on hearing the chaos 2 other persons also came there and he along with them tried to save Goutam and when Chandan was again trying to assault Goutam they captured the dagger from the accused and thereafter accused went inside his house and locked the door from inside.

PW-7, Smt. Swapna Adhikari, wife of Goutam Adhikari deposed that the incident took place in the house of her uncle-in-law, namely, Sukumar Adhikari. She also stated that after hearing chaos, her husband went to the house of Sukumar Adhikari and inquired about the matter when her uncle-in-law told Goutam that Chandan has started quarrel for pond and her husband asked about this from Chandan Adhikari. PW 7 further stated that earlier also Chandan used to quarrel but on that day after hearing more chaos, she went inside the house of her uncle-in-law where she saw Chandan Adhikari had started fight with her husband and he took one dagger(Bhojali) and stabbed into the stomach(abdomen) of her husband. She also stated that she along with her uncle-in-law and Sumanta Adhikari and some other persons of the locality tried to save her husband Goutam from the attack of Chandan.

The deposition of PW-8, is replica to the deposition made by PW-7.

PW-9, Sri Swapan Debnath deposed that his house is adjacent to the house of Goutam Adhikri and the incident took place on 11.09.14 at about 4.30 p.m. and he went to the spot after hearing chaos and saw the quarrel between Goutam and Chandan Adhikari. PW 9 also deposed that he saw Chandan Adhikari stabbed with a dagger on Goutam Adhikari and thereafter he along with some others arranged a Maruti vehicle to shift Goutam Adhikari to Bishalgarh hospital and later Goutam Adhikari was referred to GB Hospital.

PW-10, Sanjib Debbarma is the I/O of the case who had submitted the charge sheet after completion of his investigation.

For better appreciation of the case, let us now revisit the evidences let in by the defence witnesses.

DW-1, Smt. Karuna Adhikari, wife of the accused-appellant deposed that on 11.09.2014 at about 4/4.30 a.m. her husband Chandan Adhikari has called in her uncle-in-law Sukumar Adhikari to their courtyard for having conversation on the issue relating to a land and that there are 2 uncles of her husband and both of them have borrowed Rs.4000/- from her father-in-law 20/25 years ago and she came to know about this from her mother-in-law and her husband. DW-1 also stated that 4 gandas of land were stated to have been sold to her father-in-law by her 2 uncles-in-law in consideration of that amount of Rs.4000/- and also stated that though possession of land was given but no deed of conveyance was made and her

husband demanded for execution of documents in respect of the said land but her uncle-in-law Sukumar had denied to give any document. DW 1 further deposed that in course of quarrel, her uncle-in-law Sukumar Adhikari gave a blow upon her husband with a wooden lathi from their courtyard and hearing the quarrel her brother- in- law Goutam Adhikari, came to their house with a knife and was rebuking her husband and also stated that a scuffling between Goutam Adhiikari and her husband Chandan started and in course of that, both of them sustained some injuries on their persons. DW 1 further deposed that several persons of the neighbourhood came to their house hearing the quarrel and later Police also came to their house on being informed by someone. DW 1 further deposed that her uncle -in -law Sukumar Adhikari then talked with Police personnel in a side but she cannot say what conversation taken place between them and Police then took away her husband stating that he would be examined by a Doctor. DW 1 further deposed that Sukumar Adhikari etc. had threatened her after her husband was taken away by the Police that their dwelling house will be burnt down by them and thereafter as the evening occurred, she along with her little son and her minor daughter went to her father's house and also stated that after 2/3 days when she returned to their house, she found that 2 huts of their house have been burnt down.



DW-2, Puja Adhikari, daughter of the accused-appellant deposed that on 11.09.2014 at about 4/4.30 p.m. when she came to their home from school she witnessed a quarrel was going on between her father and her one grandfather Sukumar Adhikari in respect of registration of some land but, her grandfather denied to execute any document. At that time her uncle Goutam Adhikari rushed to their house rebuking her father and stating that they would not give any paper for the land and he came to their house with a knife in his hand. Her grandfather also took up a lathi in their courtyard and he had given a blow to her father. On the other hand scuffling also took place between her father and Goutam Adhikari and in course of that Goutam Adhikari fell down on the earth and sustained some injuries from the knife due to such falling. Her father also sustained some injuries in the scuffling. People from the neighbourhood also came to their house hearing the hue and cry. Later Goutam Adhikari rushed to the hospital. Police also reached to their house. Sukumar Adhikari then talked alone with the police taking them to a side. Police then took away her father stating that he would be examined by a Doctor as he sustained injuries. Later her father was taken to a Doctor in Bishramganj Hospital. Later Police did not release her father and they did not pay any heed to their request. Later on Sukumar Adhikari and others were threatening them that they would not allow them to remain in their house and that their dwelling house will be burnt down. Thereafter they took shelter to her

maternal uncle's house. After 2/3 days when they returned to their house, they found that 2 huts of their house have been burnt down.

9. On scrutiny and scanning of prosecution evidence and other material as well as the defence evidences and facts and circumstances on record keeping them in juxtaposition, it transpires clearly that initially there was an altercation between the accused-appellant and the victim which ultimately turned down into scuffling between them and it is further evident from the cross-examination of PW-6 and PW-8 that there existed some land dispute between the accused-appellant and the victim prior to the incident. From the cross-examination of PW-8, it has been established that when the accused-appellant was in judicial custody, his wife and children went to the houses of the father-in-law of the accused-appellant, during that period the portion of kitchen room of the accused-appellant was set on fire. DW-1 and DW-2 also in their evidence has categorically stated that prior to the incident, there was some land dispute between the accused-appellant and the family of the victim and there was a scuffling between the accused-appellant and the victim. DW-1 and DW-2 also had deposed during their absence at their residence, a portion of their dwelling hut was set on fire. Thus, it can be presumed that since there exist some dispute between the accused and the family of the victim, an altercation took place between the accused and the victim in regard to the land dispute and the accused-appellant on the heat of anger had committed such offence punishable under penal code, which act of the appellant was not at all

intentional or that the appellant had no motive to kill or cause any grievous injury to the victim.

**10.** Having considered thus, we come to this conclusion that the trial court has rightly convicted the appellant based on material evidence produced by the prosecution and there is no infirmity in the impugned findings regarding conviction. From a perusal of the record and considering the facts in its entirety, it seems that the offence have occurred at the spur of the moment; the appellant had no intention or motive to kill the victim; the appellant does not have any criminal antecedent in his past life; he is not required in any other criminal case except the one in question. Accordingly, it is considered to be just and proper to alter/modify the sentence of the appellant from 10 years to that of 7 (seven) years.

**11.** Consequently and for the aforestated reasons, the instant appeal is partly allowed. The conviction and sentence passed by the learned trial court is modified to the extent as indicated above, and the appellant shall undergo rigorous imprisonment for a period of 7 (seven) years. It transpires that the appellant had been in custody during investigation and thereafter, since the date of the judgment. Thus, he has already suffered rigorous imprisonment for a considerable period.

**12.** Accordingly, the judgment and order of conviction dated 20.04.2021 passed by the learned Additional Sessions Judge, Sepahijala, Bishalgarh in

connection with case No. S.T. (T-1) 12 of 2016 is modified to the above terms.

Send down the LCRs.

Pending application(s), if any, also stands disposed.

**JUDGE**

**JUDGE**

HIGH COURT OF TRIPURA



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