

**HIGH COURT OF TRIPURA
AGARTALA
DEATH SENTENCE REFERENCE NO.2 OF 2022**

The Sessions Judge, Khowai District, Tripura
.....Appellant(s)

Versus

1. **The State of Tripura,**
2. **Sri Pradip Debroy**

.....Respondent(s)

For the Petitioner(s) : None.

For the Respondent(s) : Mr. Raju Datta, Public Prosecutor.

CRL.A(J) NO.40 OF 2022

Sri Pradip Debroy@Kutti.

.....Appellant(s)

Versus

1. **The State of Tripura,**

.....Respondent(s)

For the Appellant(s) : Mr. H.K. Bhowmik, Advocate.
Mr. N.G. Debnath, Advocate.
Mr. A. Acharjee, Advocate.

For the Respondent(s) : Mr. Raju Datta, Public Prosecutor.

Date of hearing : 31.01.2024.

Date of delivery of
Judgment & Order : 12/02/2024

Whether fit for reporting : YES.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT
J U D G M E N T & O R D E R**

T. AMARNATH GOUD(J)

The appeal under Section 374 of Cr.P.C. and reference under Section 366 of Cr.P.C. arise out of common Judgment and Order of conviction and sentence dated 23.11.2022 passed in connection with ST(T-1)09 of 2022 by the learned Sessions Judge, Khowai, Tripura whereby the learned Court below convicted the appellant for the commission of offence under Section 307 of IPC and sentenced him to suffer R.I. for 10 years and to pay a fine of Rs.10,000/-, i.e. to suffer S.I. for 2 months and convicted under Section 302 of IPC and sentenced to death as per law. Learned Court below also passed an order to pay compensation of Rs.5,000/- each to the victims namely Smt. Mina Paul(Debroy) wife of the Convict and Karnabir Das. The conviction and sentence are challenged by the accused. In view of capital punishment, a reference for confirmation of the death penalty is also placed for our consideration.

2. The brief fact of this case is that on 26.11.2021 at about 11.00 p.m. the brother of the informant namely, Sri Pradip Debroy went to sleep after dinner. After that all of a sudden, the informant and other inmates of the house including his elder brother Amalesh Debroy heard a cry coming from the room of Pradip Debroy. Immediately they rushed to the room of Sri Pradip Debroy and told him to open the door but he did not. Then they broke the door of the veranda and went near the door of the room. When they peeped through an opening of the door, they saw the dead body of Aditi, the younger daughter of Pradip lying on the ground. They also noticed that Pradip was attacking his elder daughter and his wife with a big crowbar. After a while, he opened the door and chased the informant and others to kill. The informant Raju Debroy and his mother and others could manage to save themselves but the elder brother of the informant namely, Amalesh could not run away. Amalesh was killed by Pradip with a crowbar in front of the room of Amrit Debroy who was the uncle of the informant. When their uncle tried to resist, he was also attacked. After that, on hearing the sound of a vehicle he became naked and started running with the crowbar along the Bir Chowmohoni road. At that time, the vehicle of police came and when it stopped in front of the house of the Pradhan, Pradip attacked one police with a crowbar and also

attacked the vehicle of the police. He also chased police and went along Bir Chowmmoni road. He attacked one Autorickshaw and also attacked one Krishna Das and his son Karnabir Das. Subsequently, the informant learned that the injured police officer succumbed to his injuries at GBP hospital. It is also learned by the informant that the injured Krishna Das was declared brought dead at Khowai Hospital. Karnabir Das, the son of Krishna Das and Smt. Mina Paul (Debroy), the wife of Pradip Debroy suffered serious injuries and were shifted to GBP Hospital. It is further alleged that Pradip killed his elder daughter Mandira. The informant came to know that the name of the police officer who died was Inspector Satyajit Mallik. Hence the FIR was lodged by Raju Debroy against his brother Pradip Debroy.

3. On 27.11.2021 at 06.31 hours on receipt of the ejahar from Raju Debroy, the brother of accused Pradip Debroy, a case was registered being KHW PS case No.108/2021, u/s. 302/307/326/333/353/427 of IPC.

4. The case was endorsed to S.I. Lalzuithara Darlong for investigation. During the investigation, he visited the place of occurrence(*in short 'PO'*), prepared four separate hand sketch maps with separate indexes, seized the concerned alamats by preparing seizure lists, collected SFSL reports, collected the

medical examination reports and injury reports, also collected the PM examination reports, recorded the statements of the witnesses under Section 161 of CrPC. Thereafter, the case was re-endorsed to SDPO, Rajib Sutradhar for further investigation of this case. During the investigation, he recorded the statements of some witnesses under Section 161 of Cr.P.C., and also seized the mobile phone, three-wheeler vehicle and other alat. On completion of the charge sheet, a *prima facie* case having appeared he submitted a charge sheet being No. 13/2022 under Section 302/307/326/333/353/427 of IPC, dated 19.02.2022 against Pradib Debroy to stand trial in the open court of law.

5. Charge was framed against the accused person i.e., the appellant herein under Sections 302 and 307 of IPC, to which he pleaded not guilty and claimed to be tried. A total 31 (thirty-one) witnesses were examined and cross-examined. The appellant herein was examined under Section 313 (1) (b) of CrPC, he denied evidence on his behalf.

6. In order to decide the fate of the case the following points are taken up for decision before the Court below:-

POINTS FOR DECISION

(I) Whether the accused Pradip Deb Roy on 26.11.2022 night at any time in between 2300 to 2400 hours attacked and murdered his younger daughter namely, Aditi Deb Roy, elder daughter Mandira Deb Roy, elder brother Amalesh Deb Roy, another person Krishna Das and Inspector Satyajit Mallik and that thereby committed an offence punishable under Section 302 of IPC ?

(II) Whether the accused on or about the aforesaid date and time did an act to wit assault with such intention (or knowledge) and under such circumstances that if by that act he had caused the death of his wife Mina Paul and Karnabir Das he had been guilty of murder and also caused hurt to Smt Mina Paul and Karnabir Das and thereby, committed an offence punishable under Section 307 of IPC ?

7. Thereafter, the arguments of both sides were heard on 22.11.2022, and on the very next day, the impugned Judgment was delivered on 23.11.2022 whereby the appellant was convicted as stated here-in-above.

8. Being aggrieved and dissatisfied with the impugned Judgement and order of conviction dated 23.11.2022, the present convict-appellant has preferred an appeal before this Court seeking the following reliefs:-

- "a. Admit the appeal;
- b. Issue Notice upon the respondent;
- c. Call for the lower Court records i.e.ST(t-1)09/2022 from the Ld. Session Judge, Khowai Tripura.
- d. Suspend the impugned Judgment & Order of conviction & sentence dated 23.11.2022 passed by the learned Trial Court & also release the present appellant to go on bail till disposal of the present appeal.

AND

After hearing both sides, the impugned judgment & order of conviction & sentence dated 23.11.2022 passed by the

learned Trial Court may kindly be set aside and appellant may acquitted & discharged from the charges."

9. Heard Mr. H.K. Bhowmik, learned counsel assisted by Mr. N.G. Debnath, learned counsel, and Mr. A. Acharjee, learned counsel appearing for the convict appellant as well as Mr. R. Datta, learned counsel appearing for the State-respondent.

10. Mr. H.K. Bhowmik, learned counsel appearing for the convict appellant submits that a normal human being without any motive, pre-plan and intention would not commit such type of crime of killing 5(five) persons one after another and injuring 2(two) other. The convict appellant after murdering his two minor daughters was moving in a naked condition on the road and thereafter, he committed further murder. The learned Trial Court did not consider the sequence of commission of offence as a sound mind person would not be in a position to do so. The convict appellant somehow became abnormal and he could not say what the consequence of his activities was. The convict appellant has no previous enmity with the victims. So, no prior plan or motive of the convict appellant is established. Learned counsel further submitted that prior to the incident, the convict appellant was known to be a good and loving person in the locality which is evident from the evidence of various witnesses.

To support his argument, learned counsel quoted the evidence on *P.W.-1*, Sri Raju Debroy, who is the informant and the brother of the convict-appellant, *P.W.2*, Sri Kamal Dhar who is co-villager of the convict-appellant, *P.W.-3*, Sri Sanjit Dasgupta, who is the upa-pradhan of the village of the convict-appellant, *P.W-4*, Smt. Mukul Debroy who is the mother of the convict-appellant, *P.W.-5*, Sri Karnabir Das is the son of the deceased Krishna Das, *P.W.-5* in his cross-examination submitted that the convict-appellant was known as a good man in their locality. He and his father had no enmity with the convict-appellant and he saw him in a naked condition in the public place. *P.W.-6*, Smt. Rekha Ghosh who is the sister of the deceased Krishna Das submitted that the person who attacked her brother was naked. *P.W.-7*, Sri Ripal Das, *P.W.8*, Constable Malindra Debbarma, was on a night patrol duty with Inspector Sattajit Mallik(deceased). *P.W.-8* stated that he saw a naked person give a blow to Inspector Sattyajit Mallik with a crowbar. *P.W.-9*, Constable Rajsahi Debbarma, stated that he was on night patrol duty with Inspector Sattajit Mallik (deceased). He also stated that he saw one naked person come and murder Inspector Sattyajit Malik with one iron rod. *P.W.-10*, Sri Nepal Paul, he is the father-in-law of the convict appellant, he stated that his son-in-law is a sane man, *P.W.-11*, Smt. Minu Paul, is the wife of the convict-

appellant, she stated that her husband used to love her daughters and he used to maintain her and her children. On the day of the incident, her husband was quite normal and there was no dispute. *P.W.-12*, Lipika Modok, *P.W.-14*, Constable Gobinda Debnath, *P.W.-15*, Inspector Archana Debbarma, *P.W.-16*, Sri Sudhir Singha (Nayak, TSR, said witness stated that he saw the person who attacked Inspector Mallik in naked condition. *P.W.-17*, SI Suman Deb, stated that he also saw the convict-appellant in naked condition shouting like anything. The convict-appellant also came for them, but he and staff were able to detain him. *P.W.-18*, Sri Anukesh Das, *P.W.-24*, Inspector Lalzuithra Darlong, *P.W.-25*, constable Dibakar Debbarma, *P.W.-27*, Sri Amrit Debroy, stated that the convict-appellant was a good person. He had very good relations with all the family members but at the time of the incident, he was acting like a madman. Convict-Pradip used to love his children very much. He also used to love his family members. *P.W.-28*, Sri Bishnu Das, *P.W.-29*, Smt. Rupali Majumder, Scientific Officer-cum-Assistant Chemical Examiner to the Govt. of Tripura at TSFSL, Narsinghar, Agartala. *P.W.-30*, Sri Monoranjan Debbarma.

11. On the point of mental and emotional disturbance and its implication on punishment, Mr. Bhomwik, learned counsel referred to Para-107 of the Division Bench Judgment of this Court

reported in **(2022) 2 TLR 643** titled as **Special Judge, Gomati Judicial District Vs. State of Tripura and ors.**, dated **14.09.2022**. The same is reproduced here-in-below:-

"[107] This Court after noticing the above stated principle that the Court should ordinarily impose a lesser punishment and not the extreme punishment of death which should be reserved for exceptional cases only. The Court, while considering the cumulative effect of all the factors such as the offences not committed under the influence of extreme mental or emotional disturbance and the fact that the accused were young and the possibility of their reformation and rehabilitation could not be ruled out, converted death sentence into life imprisonment.

[108] Most of the heinous crimes under IPC are punishable by death penalty or life imprisonment, that by itself does not suggest that in all such offences, penalty of death alone should be awarded. We must notice, even at the cost of repetition, that in such cases awarding of life imprisonment would be a rule, while death would be the exception. The term rarest of rare case which is the consistent determinative rule declared by this Court, itself suggests that it has to be an exceptional case.

[109] The life of a particular individual cannot be taken away except according to the procedure established by law and that is the constitutional mandate. The law contemplates recording of special reasons and therefore, Special reasons in contradistinction to reasons, simpliciter conveys the legislative mandate of putting a restriction on exercise of judicial discretion by placing the requirement of special reasons. Since the later judgments have been added to the principles in Bachan Singh and Machhi Singh, it will be useful to restate the stated principles while also bringing them in consonance, with the recent judgments.

[110] It will be appropriate for the Court to come to a final conclusion upon balancing the exercise that would help to administer the criminal justice system better and provide an effective and meaningful reasoning by the Court as contemplated under Section-354(3) Cr.P.C.

[111] While determining the questions relateable to sentencing policy, the Court has to follow certain principles and those principles are the loadstar besides the above considerations in imposition or otherwise of the death sentence. (1) The Court has to apply the test to determine, if it was the "rarest of rare" case for imposition of a death sentence. (2) In the opinion of the Court, imposition of any other punishment, i.e., life imprisonment would be completely inadequate and would not meet the ends of justice. (3) Life imprisonment is the rule and death sentence is an exception. (4) The option to impose sentence of imprisonment for life cannot be cautiously exercised having regard to the nature and circumstances of the crime and all relevant considerations. (5) The method (planned or otherwise) and the manner (extent of brutality and inhumanity,

etc.) in which the crime was committed and the circumstances leading to commission of such heinous crime.”

12. In regard to the point of remission of the death sentence, Mr. Bhowmik, learned counsel referred to **para-55** of the Division Bench Judgment of this Court reported in **(2020) 1 TLR 277** titled as **Special Judge(POCSO), North Tripura, Dharmanagar Vs. The State of Tripura and ors.**, dated **25.02.2020**, which is reproduced here-in-under:-

"[55] This formula of substituting a death sentence with a fixed term sentence without remission has been applied by Supreme Court on numerous occasions thereafter. In case of Ravishankar alias Baba Vishwakarma Vs. State of Madhya Pradesh reported in (2019) 9 SCC 689, where the accused was convicted for the offences of rape and murder, the Supreme Court applied formula of Swami Shraddhananda case as approved in Sriharan case. The death sentence was substituted with imprisonment for life with a direction that no remission shall be granted to the appellant and he shall remain in prison for rest of his life. In case of Sudam alias Rahul Kaniram Jadhav Vs. State of Maharashtra reported in (2019) 9 SCC 388, where the accused was convicted for murder of 4 children and wife, the Supreme Court substituted death sentence with life imprisonment without remission. In case of Sachin Kumar Singhrraha Vs. State of Madhya Pradesh reported in (2019) 8 SCC 371, where the accused was convicted for rape and murder of a young child taking into account aggravating and mitigating circumstances, death sentence was commuted to sentence of life imprisonment with a minimum 25 years of imprisonment without remission. In case of Parsuram Vs. State of Madhya Pradesh reported in (2019) 8 SCC 382, where the accused was convicted for rape and murder of a child by her tutor, taking into account mitigating and aggravating circumstances death sentence was commuted to imprisonment of 30 years without remission."

13. Mr.H.K. Bhowmik, learned counsel urged this Court to take a lenient view keeping in mind the fact that convict-appellant had no prior bad record and no motive while committing the crime. Stating thus, learned counsel advocated to

convert the death sentence of the convict-appellant into life imprisonment in the light of the cases as cited above.

14 On the other hand, Mr. Raju Datta, learned counsel submits that the Judgment and order of conviction as passed by the Court below is just and proper and needs no further interference. Learned P.P., also stated that the question of the sanity and motive of the convict-appellant was never raised before the Court below. Stating thus, learned P.P. urged this Court to confirm the impugned judgment by confirming the death sentence and not to take any lenient view.

15. On the point motive, learned P.P., relied upon **para-14** of the Hon'ble Supreme Court Judgment reported in **(1973) 4 SCC 79** titled as **Sheralli Wali Mohammed Vs. The State of Maharashtra** dated **August 9, 1972**, which is reproduced here-in-under:-

"14. We think that not only is there no evidence to show that the accused was insane at the time of the commission of the acts attributed to him, but that there is nothing to indicate that he had not the necessary mens rea when he committed the offence. The law presumes that every person of the age of discretion to be sane unless the contrary is proved. It would be most dangerous to admit the defence of insanity upon arguments derived merely from the character of the crime, The mere fact that no motive Has been proved why the accused murdered his wife and child or, the fact that he made no attempt to run away when the door was broke open, would not indicate that he was insane or, that he did not have the necessary mens rea for the commission of the offence. We see no reason to interfere with the concurrent findings on this point either."

16. On the point of insanity and abnormal behaviour, learned P.P., relied upon the **Para-69** of the Hon'ble Apex Court Judgment reported in **(2023) 3 SCC 372** titled as **Prem Singh Vs. State(NCT of Delhi)** dated **January 2, 2023**, which is reproduced here-in-below:-

"69. It is also noticed that the plea of unsoundness of mind and, therefore, the benefit of Section 84 IPC, was never taken in the trial nor any evidence was led in this regard. Significantly, not even a remote suggestion was made to any witness examined for the prosecution about the alleged mental incapacity of the appellant. In his examination under Section 313 CrPC, the response of the appellant to the questions relating to his admission to the rehabilitation centre and the related facts had been that those aspects were 'a matter of record'. In the given set of facts and circumstances, we are unable to find anything on record for which the benefit of Section 84 IPC could even be remotely extended to the appellant."

17. On the point of intention, learned P.P., relied upon **para-16** of the Hon'ble Supreme Court Judgment reported in **(2010) 9 SCC 799**, titled as **Singapagu Anjaiah vs. State of Andra Pradesh** dated **July 6, 2010** which is reproduced hereunder:-

"16. In our opinion, as nobody can enter into the mind of the accused, its intention has to be gathered from the weapon used, the part of the body chosen for the assault and the nature of the injuries caused. Here, the appellant had chosen a crow bar as the weapon of offence. He has further chosen a vital part of the body i.e. head for causing the injury which had caused multiple fractures of skull. This clearly shows the force with which the appellant had used the weapon. The cumulative effect of all these factors irresistibly lead to one and the only conclusion that the appellant intended to cause death of the deceased.

18. Further on the point of motive, learned counsel relied upon **Para-38** of the Hon'ble Supreme Court Judgment reported in **(2019) 12 SCC 560** titled as **Jafel Biswas and ors.**

Vs. State of West Bengal dated **September 12, 2018**, which is reproduced here-in-under:-

"38. The learned counsel for the appellant has also contended that prosecution failed to prove any motive of committing the murder. The trial court has elaborately dealt with this submission. Relying on the judgment of this Court reported in [State of Haryana vs. Sher Singh and Others](#), , it was held that absence of motive does not disperse a prosecution case if the prosecution succeed in proving the same. The motive is always in the mind of person authoring the incident. Motive not being apparent or not being proved only requires deeper scrutiny of the evidence by the courts while coming to a conclusion. When there are definite evidence proving an incident and eye-witness account prove the role of accused, absence in proving of the motive by prosecution does not affect the prosecution case. In paragraph 10 of [State of Haryana](#) case (supra) following was laid down:

"10. The prosecution is not bound to prove motive of any offence in a criminal case, inasmuch as motive is known only to the perpetrator of the crime and may not be known to others. If the motive is proved by prosecution, the court has to consider it and see whether it is adequate. In the instant case the motive proved was apparently inadequate, although it might be possible."

19. On the point of grievous circumstance, learned P.P., relied upon the **paras-81, 83, 96.1, 117, 121 & 164** of the Hon'ble Supreme Court Judgment reported in **(2022) 9 SCC 81** titled as **Manoj Pratap Singh Vs. State of Rajasthan** dated **June 24, 2022**, which is produced here-in-under:-

" 81. Another relevant decision to be noticed is that in the case of [Swamy Shraddananda \(2\)](#). The said decision was rendered by a 3-Judge Bench of this Court in the backdrop that though a 2-Judge Bench of this Court upheld the conviction of the appellant of offences under [Sections 302 and 201 IPC](#) but, one of the learned Judges felt that in the facts and circumstances of the case, punishment of imprisonment till the end of the natural life of the convict would serve the ends of justice, whereas the other learned Judge was of the view that the appellant was liable to the punishment of death. In keeping with the ever-progressing canons of penology, the 3-Judge Bench carved out a different course, being of not awarding death penalty but, of conditioning the sentence of imprisonment for life with a rider that the convict shall not be released from the prison for the rest of his life.

83. We need not elongate this discussion by assembling various other decisions rendered in variegated circumstances and factual

matrices but deem it appropriate to refer to the decision in the case of [Shankar Kisanrao Khade v. State of Maharashtra](#), wherein this Court surveyed a large number of cases on either side that is, where death sentence was upheld/awarded or where it was commuted; and pointed out the requirement of applying 'crime test', 'criminal test' and 'rarest of rare test'. This Court recounted, with reference to previous decisions, the aggravating circumstances (crime test) and the mitigating circumstances (criminal test) as follows: -(SCC pp.574-75, para-49)

Xxxxxxxxxxxxxxxxxxxxxxxxxxxxx

(10) When the victim is innocent, helpless or a person relies upon the trust of relationship and social norms, like a child, helpless woman, a daughter or a niece staying with a father/uncle and is inflicted with the crime by such a trusted person.

(11) When murder is committed for a motive which evidences total depravity and meanness.

(12) When there is a cold-blooded murder without provocation.

(13) The crime is committed so brutally that it pricks or shocks not only the judicial conscience but even the conscience of the society. Mitigating circumstances – (Criminal test)

Xxxxxxxxxxxxxxxxxxxxxxxxxxxxx

96.1. [Kamta Tiwari](#) was a case of rape followed by murder of a 7-year-old girl by a person who was close to the family of the victim and the victim used to call him "Tiwari uncle". The girl was kidnapped by the accused; was subjected to rape; was strangled to death; and then, the dead body was thrown into the well. The enormity of crime coupled with the misuse of trust weighed with this Court in confirming the death sentence.

117. We may also observe that even though rarest of rare doctrine and its accompanying principles, as enunciated and explained in [Bachan Singh and Machhi Singh](#) (supra), have been almost uniformly applied by Courts in the country while dealing with the question of sentencing when the statute provides for death penalty; and over the time, even the proposition of larger/longer term of actual imprisonment with no remission or curtailed remission has also evolved but, it has never been the effort of the Courts to somehow make this punishment (sentence of death) redundant and non-existent for all practical purposes. The quest for justice in such cases, with death sentence being awarded and maintained only in extreme cases, does not mean that the matter would be approached and examined in the manner that death sentence has to be avoided, even if the matter indeed calls for such a punishment. The judicial process, in our view, would be compromising on its objectivity if the approach is to nullify the statutory provision carrying death sentence as an alternative punishment for major offences (like that of [Section 302 IPC](#)), even after it has passed muster of judicial scrutiny and has been held not unconstitutional. The pursuit in collecting mitigating circumstances could also not be taken up with any notion or idea that somehow, some factor be found; or if not found, be deduced anyhow so that the sentence of death be forsaken. Such an approach would be unrealistic, unwarranted and rather not upholding the rule of law.

121. In the present case, where all the elements surrounding the offence as also all the elements surrounding the offender cut across the balance sheet of aggravating and mitigating circumstances, we are clearly of the view that there is absolutely no reason to commute the sentence of

death to any other sentence of lesser degree. Even the alternative of awarding the sentence of imprisonment for whole of the natural life with no remission does not appear justified in view of the nature of crimes committed by the appellant and looking to his incorrigible conduct."

20. Stating thus, learned P.P., urged this Court to allow the order of conviction as given by the Court below as the same is just and proper and needs no further interference.

21. Heard both sides and perused the evidence on record.

22. Now before coming to the conclusion of the case, for the proper appreciation and understanding of the evidence, let was examine some of the important witnesses:-

23. PW.1, Sri Raju Debroy stated that the accused Pradip Debroy is his elder brother and the deceased Amalesh Debroy was also his brother. He further stated that about one year back in Winter one day when they were asleep at night at about 11.30 p.m. to 12.00 a.m. they awoke from sleep as they heard a cry coming from the room of his elder brother Pradip Debroy. Accordingly, he went near the room of Pradip Debroy and the room was closed from inside and at that time his another brother Amalesh Debroy, his mother Mukul Debroy, his uncle and his aunt also rushed near his room. He further deposed that when Pradip was not opening his door, he and his deceased brother

Amalesh broke the door of Pradip and after that, they saw Pradip with one crowbar (*iron made*) in his hand. He further deposed that immediately, he along with his mother fled away but his brother Amalesh could not flee as he had a problem with his leg and then Pradip attacked his brother Amalesh and he fell on the ground and died on the spot. He further deposed that on that day, the two daughters of Pradip aged about one year and seven years died and their dead bodies were found in the room of Pradip. They went to the house of their Gram Pradhan and when they informed Pradhan he was reluctant to come to their house and he told them to wait and inform police. Within 15 minutes police went to the house of Pradhan and when daroga babu reached at his gate, the Pradhan forbade him not to get down but daroga babu got down from his vehicle. He further deposed that he was behind the Pradhan and then all of a sudden Pradip appeared and attacked daroga babu with the crowbar. P.W.- 1 further deposed that when daroga babu fell on the ground, Pradip chased the other police personnel and when Pradip left the same they came out of the room and took him inside the room of Pradhan and subsequently more police personnel came to the house of Pradhan. He further deposed that he was taken to the P.S. and narrating the incident, he lodged the ejarah before Khowai PS. He identified the accused Pradip Debroy in the dock.

During cross-examination, P.W.-1 stated that he exactly cannot remember whether he put his signature in the hospital. He also cannot say the contents of the surathal report where he put his signatures. He further stated that though the ejahar was written as per his dictation yet, he did not go through the ejahar before putting his signature on it. He further deposed that after 8/10 days of the incident again police informed him to go to Police Station. Accordingly, he went. He further deposed that he does not know how to write and read English.

24. P.W.- 2, Sri Kamal Dhar, deposed that the accused Pradip Debroy is his co-villager. On 26.11.2021 at about 12.00 a.m. at night, he woke up from sleep on hearing the sound of footfall of many persons as there is a footpath near his house. After that on hearing hue and cry he rushed to the house of Pradip as he heard that Pradip had killed his two daughters and brother. On reaching his house he saw the dead bodies of his two daughters and his brother. He identified the accused Pradip Debroy before this court.

During cross-examination, P.W.-2 deposed that he was examined by police on the day of the incident and he did not give any statement in English to police.

25. P.W.- 3, Sri Sanjit Dasgupta, deposed that he was the Upa-Pradhan of the village of the accused Pradip Debroy. On 26.11.2021 at about 12.00 a.m. at night, he woke up on hearing the screaming of Raju Debroy, the younger brother of Pradip and accordingly, he came out of his room and Raju informed him that Pradip killed his two daughters and his brother Amalesh. He further deposed that he immediately contacted the police station (P.S.) and from PS he was given the mobile number of the daroga babu namely, Sattajit Mallik who was on mobile duty at that time. Thereafter, immediately he informed Sattajit Mallik over the phone about the incident. P.W.-3 further deposed that Raju was followed by his mother and his uncle and aunt and everybody was screaming in his house and within 10 minutes Sattajit Mallik reached his gate and when police came he came out and went near to Sattajit Mallik. At that time, he noticed the accused with a crowbar and out of fear he fled away but he heard one sound of attack from behind. He further deposed that after a while his wife informed him over phone that Pradip attacked Inspector Sattajit Mallik on his head and after some time he came back to his house and saw Sattajit Mallik bleeding profusely. He saw one TSR with him and they were waiting for vehicle to shift Sattajit Mallik to the Hospital. After some time, Pradip came back to his house and called his nephew Mithu and he was telling Mithu

to open the door and hand over Sattajit Mallik to him to kill him. He further deposed that they did not open the door and when police came from P.S. they came out and Sattajit Mallik was taken away and Police detained the accused. P.W.-3 further deposed that on that day another person namely, Krishna Das was also killed and he heard that Pradip killed Krishna Das also. He further deposed that police seized blood samples, the iron crowbar etc., by preparing a seizure list. On being asked by police, he put his signature on three surathal reports. He also identified the crowbar before this court. He also identified the accused in the dock.

During cross-examination, he stated that he was examined by police and gave a similar statement to police. He gave the statement to the police in Bengali. He further deposed that he did not put any signature on any paper in the hospital. He admitted that the crowbar identified by him is available in the open market. He further deposed that when the crowbar was seized by police he did not put signature on it. He also deposed that he did not see any person attacking any other person with the said crowbar.

26. P.W.-4, Smt. Mukul Debroy, the mother of the accused Pradip Debroy deposed that Pradip is her son. The

deceased Amalesh Debroy was also her son. She deposed that in the month of last Agrahayana according to Bengali calendar at night while she was asleep, she woke up from sleep on hearing a peculiar high sound coming from the room of Pradip. Then she immediately called her another son Amalesh Debroy and then Amalesh and her another son Raju Debroy went to the room of Pradip but the doors were closed from inside. They tried to open the door. She further deposed that after sometime Pradip opened the door and chased them and she started running went to the house of their Pradhan. While running, she also heard a sound from behind. P.W.-4 further deposed that her son Amalesh was attacked by Pradip and Amalesh died. Her son Raju, one of her sister-in-laws also went to the house of Pradhan. She informed the Pradhan about the incident and requested him to come to their house and instead of coming he called Police. She further deposed that Mandira and Aditi were her two granddaughters and they were the daughters of Pradip. She further deposed that they were killed by Pradip on that day at night and after the incident she was brought before Magistrate by Police and she gave statement before the Magistrate.

During cross-examination, she deposed that she did not see Pradip killing his two daughters. She was examined by Police but she cannot remember what she stated to Police.

27. P.W.-5, Sri Karnabir Das, deposed that the deceased Krishna Das was his father. He stated that on 26.11.2021 they attended one invitation at Ramchandraghat at night and while returning by an auto at about 12.00 a.m. at Bir Chowmohani they noticed that Pradip@ Kutti was proceeding towards with a crowbar in his hand. He was naked and excited at that time and first, he gave a blow on the glass of the auto and after that, he attacked his father with the crowbar indiscriminately and his father died on the spot. He further deposed that he also attacked him and gave a blow to his facial region as a result of which he sustained serious injuries. P.W.-5 further deposed that his uncle and his aunt were also coming with them by the same auto and Pradip tried to kill them also but somehow they could manage to escape. He further deposed that he was shifted to Khowai Hospital initially from where he was referred to G.B. Hospital and had to stay as in door patient for a considerable period and still he is not fully recovered.

In cross-examination, the witness deposed that the convict Pradip was known as a good man in their locality. He deposed that they didn't have any enmity with him and also his father had no enmity with Pradip. Prior to the incident he never saw him in a naked condition in public place.

28. P.W.-6, Smt. Rekha Ghosh, deposed that deceased Krishna Das was his brother. She deposed that before one year they attended one invitation at Ramchandraghat at night and while returning by an auto at about 12.00 a.m. at Bir Chowmohani, Pradip @ Kuttu broke the glass of their auto and after that he attacked her brother Krishna Das with a crowbar. Her brother died on the spot and at that time her nephew Karnabir Das, Bishnu Das were also with them and to save their lives, she and her another brother Bishnu Das fled away.

During cross-examination, he stated that the person who attacked his brother was naked.

29. P.W.-7, Sri Ripal Das Gupta, deposed that on 26.11.2021 in between 11:30 p.m. to 12.00 a.m. while they were asleep, Raju Debroy and his mother went to their house and called them and they came out of their room and they informed them that Pradip Debroy killed his two daughters and his brother. Then he suggested his uncle Sanjib Das Gupta who was the Upa-Pradhan of their Panchayet to inform Police. P.W.7 further deposed that accordingly, his uncle informed Police, and Amrit Debroy, the uncle of Pradip Debroy also went to their house and when the vehicle of Police reached their house they came out of their room and saw Pradip Debroy coming near to the vehicle

with a crowbar. On seeing him, they went inside their room and closed the door from inside and after a while, they heard a sound. He further deposed that after 2 / 2 ½ minutes of hearing the sound one TSR personnel called them and told them to come out of the room as Satyajit Mallik, a Police Officer was attacked by Pradip and they immediately rushed out of their room and took Satyajit Mallik inside their room. P.W.-7 further deposed that after some time again Pradip Debroy came to their house with the crowbar and he was telling them to hand over Satyajit Mallik to him. After sometime another vehicle from P.S. went to the spot and Pradip was detained and then they came out of the room immediately. Satyajit Mallik was shifted to Hospital and subsequently, Satyajit Mallik died. He identified the accused in the dock.

During the cross-examination he stated that he was examined by Police.

30. P.W.-8, Constable Malindra Debbarma, deposed that on 26.11.2021 he was posted as constable at Khowai PS. On that day at night, while he was on patrolling duty with Inspector Sattajit Mallik, received one information from the PS that there was a problem in Shewratali area and immediately they rushed to Shewratali and at that time with them two TSR personnel and

another police constable were there. On reaching Shewratali they noticed one person coming in a naked condition with a crowbar in his hand and their vehicle stopped in front of the house of one person. Sattyajit Mallik was talking with the inmates of that house and when that naked person approached near the house, the inmates of the house went inside. He further deposed that Sattyajit Mallik scolded that naked person and that naked person gave a blow to Sattyajit Mallik with the crowbar and when he fell on the ground that person gave another blow to Sattyajit Mallik. After that, he turned towards them and gave a blow to the vehicle. He also chased them and they ran towards the road but one TSR was there, and he could hide himself. He identified the accused in the dock.

In his cross-examination he deposed that he saw many mad men roaming in Khowai in a naked condition. He further stated that he could not say whether any normal men roam on any public road in a naked condition. He further deposed that only a doctor can say whether a man is insane or not.

31. P.W.-9, Constable Rajsahi Debnath deposed that on 26.11.2021 at about 10.30 p.m. he was on night patrolling duty with Inspector Sattyajit Mallik and at that time constable Manindra Debbarma and two other TSR personnel were also with

them. They received an information about the murder of Shewratali and immediately, they rushed to Shewratali at about 12.30 a.m. and when they reached near the house of one villager, one naked person came and murdered Inspector Sattyajit Mallik with one iron rod. He also chased him and after that police personnel from P.S. came and detained the naked person. He identified the accused.

During cross-examination, the witness deposed that he could not say whether any normal man could roam on the road in a naked condition at night. He further deposed that the accused did not appear to be insane.

32. P.W.-10, Sri Nepal Paul, deposed that before 8/9 months Pradip Debroy, who is his son-in-law killed his two daughters. He deposed that his son-in-law is a sane man. He identified the accused in the dock.

In his cross-examination, he deposed that he heard about the incident.

33. P.W.-11, Smt. Mina Paul, the wife of the accused Pradib Debroy deposed that she had two daughters namely, Aditi Debroy aged about 01 year and Mandira Debroy aged about 07 years. She further deposed that on 26.11.2021 at night while she

was asleep with her two children and her husband, all of a sudden her husband became furious and tried to throttle her and uttered that he would eat her neck. P.W.- 11 further deposed that she was trying to save herself and in the meantime her two children woke up from sleep. She further deposed that he threw her younger daughter on the floor and her younger daughter died on the spot. He also pushed her elder daughter down from the cot and she could not understand anything and became perplexed and started screaming and tried to open the door but she could not. She further deposed that the Pradip attacked her on her head with a crowbar and a lantern. Thereafter, she started crawling and could come out of her room through the rear door and became senseless and she was bleeding profusely. She further deposed that after gaining sense again she started crawling and reached to a house of her neighborhood and she became senseless. Thereafter she regained sense at GBP hospital and she had 42 stitches on her head and on different parts of her body she sustained injuries due to the attack. She deposed that her husband killed her elder daughter also. She identified the accused in the dock.

During the cross-examination she deposed that her husband used to love her daughters. She cannot say why her husband killed her two daughters. She further deposed that the

accused used to maintain her and her children and on the day of incident her husband was quite normal and there was no dispute between her and her husband and between her husband and her children.

34. P.W.-16, Sri Sudhir Singha (Nayak, TSR), deposed that on 26.11.2021 he was working at Khowai Police Station as a TSR personnel and on that day he was on night patrolling duty with Inspector Sattajit Mallik. All of a sudden Inspector Mallik received one information over the phone as to one incident of murder and he instructed them to get ready as they had to rush to the spot and immediately they went to Shewratali and stopped in front of the house of the Pradhan of that village. He further deposed that initially Inspector Mallik was asking the local people from the vehicle through the window about the incident and within a while he was getting down from the vehicle, all on a sudden one person came with a crowbar and attacked Inspector Mallik with the crowbar. He further deposed that the person who attacked Inspector Mallik was naked and excited and he gave blow to Sattajit Mallik with the crowbar indiscriminately. PW 16 further deposed that there were other constables with them and the attacker indiscriminately gave blow to their vehicle with that crowbar and chased the other police personnel towards the road. He further deposed that he could

manage himself to hide at the spot and when he left the spot he rushed to Sattajit Mallik who was lying on the ground. All the inmates of Pradhan went inside the room and closed the doors and Inspector Mallik was bleeding profusely. He further deposed that he was frantically knocking the doors and grills of Pradhan and seeking their help. After some time, they opened the door and with the help of the inmates of the house of the Pradhan they took Sattajit Mallik inside the room of the Pradhan and immediately he informed P.S. over the phone, and a vehicle with police personnel was sent from P.S. and Inspector Mallik was shifted to Khowai Hospital. He identified the accused in the dock.

During the cross-examination, he deposed that the accused was attacking the vehicle and Inspector Mallik like an abnormal person. He further deposed that as he was attacking the persons who were available to him. He left the spot frightened.

35. P.W.-17, SI Suman Deb, further deposed that on 26.11.2021 he was posted as an SI of Police at Khowai PS, and on that day at night, he was informed by the duty officer that there was an attack on Inspector Sattajit Mallik and on receiving the information immediately he along with others rushed to the spot at Shewratali at about 12.45 a.m. While they were on their

way to Shewratali they noticed one dead body lying at Bir Chowmhoni and to find out the location they took the help of one local villager and when they reached in front of the house of Upa-Pradhan that local villager showed one person who was with a crowbar in his hand and was naked. He was at a distance of 10 mtrs from them and that naked person was shouting like anything. He further deposed that the local person who was with them said that the name of that naked person was Pradib Debroy @ Kutti and when they got down from the vehicle that person was approaching towards them to attack and at that time SI Subendu Das and other TSR and constables of PS were also there with him. They could manage to detain him and tied his hands with "gamcha" (towel) and before tying his hands they disarmed him by taking away the crowbar. He further deposed that they rushed to Inspector Mallik who was bleeding profusely and immediately they shifted him to Khowai hospital. He was immediately referred to GB Hospital and he accompanied him to GB hospital and during his treatment at GB hospital he succumbed to his injuries. He identified the accused in the dock.

During the cross-examination, he only stated that when they saw the accused he was very aggressive.

36. P.W.-24, Inspector Lalzuithara Darlong deposed that on 27.11.2021 he was posted as an SI of Police at Khowai P/S and on that day the O/C P/S endorsed this case to him for investigation. Accordingly, he took up investigation and during investigation, he visited the place of occurrences and prepared 3 hand sketch maps of four P.O. with separate indexes. He also prepared the surathal reports of the deceased Amalesh Debroy, Aditi Debroy, Mandira Debroy and Krishna Das. He identified the surathal reports prepared by him. He further deposed that he examined 13 witnesses and recorded their statements under Section 161 Cr.P.C. He arrested the appellant, namely, Pradip Debroy and he collected blood stain etc. from the different P.O., and seized those, collected control blood samples of four deceased persons namely Krishna Das, Mandira Debroy, Aditi Debroy and Amalesh Debroy and also seized two iron crowbars, one broken wooden mosquito net-stand, one gamcha, etc. by preparing two seizure lists. He identified the crowbar seized by him before the court. He also deposed that he recorded the statements of the witnesses U/S 161 Cr.P.C. in English though he can understand Bengali. He identified the accused in the dock.

37. P.W.-27, Sri Amrit Debroy, deposed that deceased Amalesh Debroy was his nephew and on 26.11.2021 he was killed by Pradip Debroy who was the younger brother of

Amalesh Debroy. He further deposed that Pradip also killed his two daughters. He deposed that he lives in the same house of Pradip and they share the same courtyard and on that day at night on hearing hue and cry he woke up from sleep and rushed out of his room and saw Pradip assaulting his brother Amalesh. He further deposed that he asked him why he was assaulting his brother and then Pradip was about to attack him and he ran away and rushed to the house of their Pradhan and as he was a diseased person, the wife of Pradhan forbade him to go out of the room and after that, he did not went out. He identified the accused.

During the cross-examination, he stated that there were about 16 persons in their house. He deposed that Pradip was a very good person and he had very good relations with all the family members. He further deposed that at the time of incident, he was acting like a madman and Pradip used to love his children very much and he used to love all his family members.

38. P.W.-29, Smt. Rupali Majumder , Scientific Officer-cum-Assistant Chemical Examiner to the Govt. of Tripura at TSFSL, Narsinghar, Agartala deposed before this court that on that day their office received two sealed paper envelopes and one

wooden box from SDPO, Khowai, Khowai, Tripura in connection with KHW P.S Case No. 2021/KHW/108, dated 27.11.2021 under section 302/326/307/333/353/427 of IPC and the parcels were endorsed to her for examination and she examined the Exhibits contained in the parcels on and from 04.12.2021 to 22.12.2021.

The parcels contained 16 Exhibits :- Exhibit-A to Exhibit-P.

The aforesaid exhibits were subjected to visual examination under different light sources, chemical tests, Gel-diffusion test and absorption-elution test. The results based on the tests are as follows:

(i) Blood stains of human origin were detected in the exhibits marked as A (dry blood sample of deceased Amalesh Deb roy collected from PO No.2),B (dry blood sample of deceased Mandira Deb roy collected from PO No.1),C (dry blood sample of deceased Aditi Deb roy collected from PO No.1),D (dry blood sample collected from PO No.3) ,E (dry blood sample collected from PO No.1),F (dry blood sample collected from PO No.4),G [one iron made crowbar (sabol) collected from PO No.2],H(one iron made crowbar (sabol) recovered from the hand of A/P from PO No.3) ,I (one broken wooden piece collected from PO No.1),J (one green, white and red coloured printed towel

collected from PO No.1),K (blood sample of deceased Krisna Das),L (blood sample of deceased Mandira Deb Roy),M (blood sample of deceased Aditi Deb Roy) ,N (blood sample of deceased Amalesh Deb Roy),O1 (one khaki coloured shirt with brownish stain),O2 (one khaki coloured full pant with brownish stain),O3 (one white coloured ganji with brownish stain),O4 (one sky coloured under ware with browned stain) and (blood sample of deceased Sattyajit Mallik).

(ii) Blood groups of the exhibits marked as A, B, C, D, E,L,M,N,O1,O2,O3,O4 and P could be determined as A Group.

(iii) Blood groups of the exhibits marked as F and K were inconclusive.

(iv) Small amount of human blood stain were detected in the exhibits marked as G,H,I and J; grouping could not be determined due to scanty amount of stain, hence, forwarded to DNA typing division for generation of DNA profiling and matching.

Since human blood stains were detected in the examined exhibits,hence, portion of the same exhibits along with controlled blood sample of all deceased persons sent to DNA

typing division for generation of DNA profiling and matching. She identified her report before the court.

Cross-examination of this witness has nothing but denials.

39. Before delving into the conclusion of the case, let us first examine different aspects for consideration that cropped up during the arguments of the learned counsel and while perusal of the evidence on record.

40

MOTIVE

During the course of hearing, Mr. H.K. Bhowmik, learned counsel appearing for the convict-appellant submitted that the convict-appellant had no motive to commit the said crime. To support his argument, learned counsel cited the witnesses of P.W.-5, Sri Karnabir Das, the son of the deceased Krishna Das and a co-passenger of the auto-rickshaw which was attacked by the convict-appellant. The said witness stated that he and his father had no enmity with the convict-appellant. P.W.-11, Smt. Minu Paul, the wife of the convict-appellant and one of the victims (injured) of the incident stated that the convict used to love her daughters and he used to maintain her and her children. P.W.-27, Sri Amrit Debroy stated that the convict appellant was a

good person and he was having very good relations with all the family members. The said witnesses further stated that the convict loved his children and family members.

Here it is seen in the above-mentioned statements that admittedly, no motive has been established behind the commitment of such a heinous crime. But, it cannot be said that that crime committed without any motive is not a crime and the accused is entitled to acquittal.

41. Here it is seen from the evidence of various eye-witnesses i.e., P.W.-1, P.W.-2, P.W.-4, P.W.-5, P.W.-8, P.W.-9, P.W-11, P.W—16 and P.W.-17, that the convict appellant attacked and killed five people and injured two other people, the same cannot be denied as it is an established fact.

42.

MENS REA

During the course of argument, learned counsel appearing for the convict-appellant also contended that there was no *mens rea* to kill the deceased and injure the victims. Here from the evidence of various eyewitnesses, it is evident that the convict-appellant has not preplanned and committed the murders and caused injuries. But a crime committed without any *mens rea*

does not entitle to acquittal. This Court negates the issue of *meas rea* against the convict appellant.

43. **MENTAL CONDITION OF THE CONVICT APPELLANT.**

44. Here it is seen from the deposition of P.W.-1, P.W.-2, P.W.-4, P.W.-5, P.W.-8, P.W.-9, P.W.-11, P.W.-16 & P.W.-17 that during the commission of crime, the petitioner exhibited an unusual behavior. The convict-appellant was also seen in naked condition running and shouting like anything on the main road. It is seen from the depositions of P.Ws.-4, 11 & 27 that the convict appellant previously before the fateful moment was a normal loving person. To ascertain such abnormal behavior of the convict-appellant at the time of the incident, let us examine some mental conditions which might be the reason of such behavior, same are given here-in-below:-

"i. IRRESTIBLE IMPULSE is a sudden irresistible urge to do an act

Example:Kleptomania

i.e.. a very **strong wish** to **steal** that you cannot **control**, **especially** without any need or **purpose**, usually **considered** to be a **type** of **mental illness**

- *Irresistible impulse is a type of insanity which means that the person could not control his actions even if he knew it to be as wrong;*
- *It does not fall within the scope of Section 84 of IPC*
- *The irresistible impulse test is a component of many tests for the Insanity defense. Under this rule, the defendant can be found not guilty if they prove that, as a result of mental illness, they were unable to control their impulses at the time of the crime, even if they knew that committing the criminal act was illegal or morally wrong.*

It was first applied by the Alabama Supreme Court in the landmark case of Parson vs state

The case centered around a man named John Parsons, who was accused of murdering his wife. During the trial, Parsons' defense argued that he was insane at the time of the murder and, therefore, not responsible for his actions. The prosecution countered that Parsons was fully aware of what he was doing and should be held responsible for his crime.

The trial court instructed the jury to consider whether Parsons was sane or insane at the time of the murder, according to the M'Naghten Rule. Under this test, Parsons would only be considered legally insane if he was so mentally ill that he could not understand the nature and quality of his actions or did not know that what he was doing was wrong.

However, the defense argued that Parsons was not insane under the M'Naghten Rule but was instead suffering from a mental disorder that caused him to experience an irresistible impulse to kill his wife. The defense argued that Parsons knew that what he was doing was wrong but could not control his actions due to the force of his mental disorder.

- *In 2002, a Texas trial court -Andrea Yates -2004, the Texas First Court of Appeals*

On June 20, 2001, Andrea Yates drowned each of her five children in her bathtub. The nation struggled to understand how a loving mother could systematically kill her children in apparent cold blood. No crime evokes more intense feelings than a mother killing her own children. There was extraordinary media coverage of her trial in Houston, Texas in 2002. Her defense attorneys, George Parnham and Wendell Odom entered a defense of not guilty by reason of insanity (NGRI) to multiple counts of first degree murder with death penalty specifications. The 2002 trial jury verdict of guilty was overturned on appeal. Her second trial in 2006 ended with an insanity verdict. This Article will relate the facts that led up to Andrea Yates's homicides, summarize the testimony of prosecution and defense psychiatrists, contrast Mrs. Yates's first and second trials, and comment on public perceptions of the insanity defense.

- *Lorena Bobbitt, state of Virginia-1993*

Lorena Bobbitt picked up a 12-inch fillet knife in her kitchen at 5 a.m. on June 23, 1993, she presumably never gave a thought to the gift she was about to bestow on the nation's editors and news anchors: the opportunity to put the unmentionable word "penis" in front-page headlines and on network news by the dinner hour. Was it on her mind to focus world attention on the issue of violence against women? Moments later, with one stroke of the knife, she accomplished both results by severing her slumbering husband from his most cherished possession. This act produced two courtroom dramas.

ii. **Disorders of mood and mind**

Observations from a variety of studies of depression have begun to fit together. For one thing, a handful of medications have proved to be effective in treating this disorder—so much so that they are now specifically called the antidepressants—and all of these seem to work by raising the brain's available levels of the same two neurotransmitters, serotonin and norepinephrine. For another thing, information about the drug reserpine has added to the base of knowledge. Once prescribed for high blood pressure, reserpine

brought about depression as an unwanted side effect in about 15 percent of cases: in correcting hypertension, it reduced the levels of serotonin and norepinephrine available at the synaptic cleft. More recent studies seem to show that the receptors for at least one of these neurotransmitters, norepinephrine, grow less sensitive in depression; but whether this effect is instead of, or in addition to, a lower level of available neurotransmitter is not yet clear. Nor has it been established that the biochemical factors lead to or in any sense cause the drop in mood, energy, motivation, or enjoyment that characterizes depression. Several drugs that are effective in treating depression apparently act by influencing, in different ways, the levels of norepinephrine and serotonin available to receptors. The research into depression may be a good opportunity for obtaining some information on how a disorder that is experienced mainly in the mind can bring about its own chemical changes in the brain.

The convict was having any hypertension and was under the prescription of antidepressants.

iii. "There comes a point where we need to stop just pulling people out of the river. We need to go upstream and find out why they are falling in," Archbishop Desmond Tutu says. So, digging deep into the causes of a crime gives us an insight of how to stop it.

iv. *Although chemical imbalances in the brain seem to have an association with mood disorders and mental health conditions, researchers have not proven that chemical imbalances are the initial cause of these conditions. Other factors that contribute to mental health conditions include: genetics and family history life experiences, such as a history of physical, psychological, or emotional abuse having a history of alcohol or illicit drug use taking certain medications psychosocial factors, such as external circumstances that lead to feelings of isolation and loneliness.*

v. *Causes - Psychosis*

Psychosis can be caused by a mental (psychological) condition, a general medical condition, or alcohol or drug misuse.

Psychological causes

The following conditions have been known to trigger psychotic episodes in some people:

vi. *schizophrenia – a mental health condition that causes hallucinations and delusions*

vii *bipolar disorder – a person with bipolar disorder can have episodes of low mood (depression) and highs or elated mood (mania)*

viii. *severe stress or anxiety*

severe depression – feelings of persistent sadness, including postnatal depression, which some women experience after having a baby

ix. lack of sleep

The underlying psychological cause often influences the type of psychotic episode someone experiences.

For example, a person with bipolar disorder is more likely to have grandiose delusions. Someone with depression or schizophrenia is more likely to develop persecutory delusions

x. A person with persecutory delusions may believe an individual or organisation is making plans to hurt or kill them.

XI. Psychosis is not the same as psychopath

The terms "psychosis" and "psychopath" should not be confused.

Someone with psychosis has a short-term (acute) condition that, if treated, can often lead to a full recovery.

A psychopath is someone with an antisocial personality disorder, which means they:

*lack empathy – the capacity to understand how someone else feels
are manipulative
often have a total disregard for the consequences of their actions
People with an antisocial personality can sometimes pose a threat to others because they can be violent.
Most people with psychosis are more likely to harm themselves than others.
The person has to be proved as a psychopath to be hanged.*

xi. Temporary insanity

Primary tabs

In a criminal trial, temporary insanity is a defense that can be raised to assert that, at the time of the commission of the offense, the defendant, as a result of severe mental disease or defect, was unable to appreciate the nature or wrongfulness of the defendant's acts. This defense is commonly used to contest the specific intent or mens rea required for certain offenses.

In some jurisdictions, courts do not differentiate between the temporary insanity defense and the traditional insanity defense, recognizing that insanity at the time of the offense is sufficient to raise a defense. For example, Colorado has asserted that "a defendant who was found to be legally insane at the time of the offense, but shortly thereafter regains sanity, may assert insanity as an affirmative defense."

While jurisdictions differ in the requirements to demonstrate temporary insanity, the Supreme Court of Iowa has offered a representative standard, stating that:

"In order to be an excuse and defense for a criminal act, the person accused, and who claims [temporary] insanity as a defense, must prove that the crime charged was caused by mental disease or unsoundness which dethroned, overcame, or swayed her reason

and judgment with respect to that act, which destroyed her power rationally to comprehend the nature and consequences of that act.”

Temporary insanity is often tied to intoxication, and courts have recognized intoxication as valid grounds to assert the defense. For example, Texas courts have held that while voluntary intoxication cannot excuse a crime, if the use of alcohol produces a state of mind that renders a defendant incapable of knowing the act that he is doing is wrong and criminal, then temporary insanity can be asserted to reduce the resulting penalty. Similarly, California has held that voluntary intoxication may establish temporary insanity as a partial defense to a criminal charge.

Lastly, jurisdictions like Florida, Arkansas, and Kentucky reject assertions of temporary insanity on the basis of extreme emotion, anger, and passion. Nonetheless, offenses committed under extreme emotional distress may still qualify for defenses such as crime of passion and extreme emotional distress.”

45. In so far as temporary insanity in India is concerned, it is to be established and proved to seek reducing of penalty.

46. Here we may also produce Section 84 of the India Penal Code, 1890 which is relevant to the fact of the case:-

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

46. In so far as temporary insanity in India is concerned, it is to be established and proved to seek reducing of penalty.

47. **LACHES ON THE PART OF POLICE OFFICIALS AND INVESTIGATING OFFICER.**

In view of the deposition cited supra, it is clear that the antecedents of the convict-appellant are clear and he has

no criminal background. The petitioner exhibited unusual behavior during the incident of commission of crime and he was also seen in a naked condition running and shouting on the road. As such, the police officials immediately could have sent the convict-appellant for medical analysis to find out the reasons as to whether the convict appellant was under the influence of any intoxication or narcotic drugs or whether his mental stability was disturbed by getting the suitable tests done in the hospital. But on the query of the Court that during the course of investigation or just after the incident, if any test was conducted on the convict-appellant to ascertain his mental condition, or to weigh the possibility that whether the convict-appellant was under the influence of any narcotic substance or not, learned counsel replied that no such test was conducted on the convict appellant to ascertain any such condition. Many police officials including P.W.-17(*Sub Inspector of Police*), P.W.-14(*Constable*) and P.W.-16(*Nayak TSR*) had seen the convict-appellant in a naked condition shouting exhibiting abnormal behavior. Even one inspector of police was attacked and killed but no attempt was made to determine why a normal person who had no bad antecedent attacked and killed five persons and injured two others behaving unusually with no motive or *mens rea*. The same

reflects a lacuna on the part of the investigation process and investigating officer.

CONCLUSION

48. No doubt, this present case is the rarest of the rare case. Within a span of one hour i.e. between 23.00 hours to 24.00 hours, on the fateful day i.e. 26.11.2021, 5(five) persons were killed and 2(two) persons were injured. The convict-appellant killed his minor daughters and caused grievous hurt by inflicting injuries on the head of his wife. He killed his brother and a known person who was commuting in the auto-rickshaw, the convict-appellant also injured the person who was accompanying the victim in the auto-rickshaw, and finally, a police officer i.e. Inspector Sattajit Malik was also killed. The convict-appellant was noticed running naked on the street and making hue and cry, shouting and holding a blood-stained crowbar in his hand. As per the prosecution, they arrested the convict-appellant on the same day i.e. on 26.11.2021. It is seen from the record that the police authorities have not taken proper care to investigate the matter, when so many serial killings have been done on the same day which also included a police officer.

49. At the very moment when the argument is advanced, it struck to the mind of this Court that when there is

no motive and no *mes rea*, what can be other reasons for killing so many persons including strangers like a commuter in the auto-rickshaw and also a police officer. It come to the mind of this Court that was the convict in Temporary Insanity condition under the influence of 1) *alcohol*, or 2) *narcotic drug(s)*, or 3) *was his mental ability disturbed as a temporary insanity or any other reasons*, or 4) *was it a case of any frustration due to failure in marital life, or for any extra marital affairs, or 6) business failure & in fit of frustration*. Unless there is any strong reason that would influence the mind of the convict-appellant, the instant incident cannot be reasonably believed in the light of the evidence and the witnesses who have certified the convict-appellant as a businessman, good person, affectionate towards his family members, loving his children, taking care of his wife and having no complaints in the neighborhood.

50. In view of the above, it is clear that the antecedents of the convict appellant are clear and he has no criminal background. The action of the investigating officer in not getting the mental and physical condition of the convict-appellant checked immediately reflects the lacuna in the investigating process.

51. However, this Court has directed the Superintendent Jail to get the psychiatrist analysis, complete blood test and brain test by way of MMA, MRI and CT Scan done under the supervision of neuro-physicist and other Doctors and conduct report of the convict in the jail. This Court is aware that getting the above test after a couple of years, when the incident occurred on 26.11.2021, would not give proper result indicating the status of mind and the health condition of the convict as on the date of crime. But, still not to leave any stone un-turned, since, it is a death sentence case, this Court is making an attempt to take all precautions.

52. In the report dated 05th February, 2024 submitted by Office of the Superintendent Kendriya Sansodhanagar, Tripura, Bishalgarh to the Registry of this High Court it is stated that:-

" It is also pertinent to mention here that, behavior towards co-prisoners are normal as well as during languishing in jail he is maintaining all existing jail discipline and norms in proper manner."

53. In the said report of 05th February, 2024 to assess the overall health status and behavioral report of the convict appellant, following tests were conducted:-

1. Electroencephalogram-Normal(Annexure-3)
2. MRI-Normal(Annexure-4)
3. C.T. Scan- Normal(Annexure-5)

4. Echocardiography (ECG)-Normal(Annexure-5)
5. Blood Test.

He is also sent to consultant Psychiatrist at Modern Psychiatry Hospital for evaluation as per direction of Hon'ble High Court of Tripura and the Psychiatrist concerned opined that at present he does not have any cognitive impairment as per 'Mini Mental State Examination' (MMSE) or significant illness as recorded by 'Brief Psychiatric Rating Scale' (BPRS) with no delusion, hallucination, affected judgment or abnormal thinking as per prescription of Psychiatrist dated 01.02.2024(Annexure-12).

The overall behavior of the aid patient prisoner at present is within normal limit and doesn't have any violent activity or distorted communication skill with other fellow inmates, staffs etc and the understanding, memory and thinking are within normal limit. Lastly, I have asked to him why has committed this incident, but he didn't reply."

54. Nothing adverse is elicited from the above test of the convict and all indicates that he is a normal person, the jail report also indicates that his behavior in present is like any other normal inmate and there are no traces of insanity.

55. The prosecution ought to have done the above tests on the date of the crime itself so that the reports could have been of some help in the process of the investigation, The investigating officer has also not thought out of the box to ascertain whether there was any family disturbance or business disturbance for which the convict was frustrated and committed the crime of hurting and killing people indiscriminately. The investigation has only focused on the commission of crime and proving that the convict appellant has committed murder and to see that he is punished. Accordingly, they could succeed proving the convict-appellant as guilty of offence. The same is also noticed from the evidence and also from the judgment of the

Court below. This Court is convinced in the light of the evidences discussed above and holds that finding of the Trial Court needs no interference as that the appellant-convict is guilty of committing murders and grievous hurt and opines that the appellant convict is liable to be punished under the charges/offences as they are proved beyond reasonable doubt.

56. This Court on the ground of doubtful of temporary Insanity is not considering to grant acquittal to the convict. But at the same time, there are laches on the part of the police authorities and also the investigating officer in not examining the crime delinquently from all aspects when this is the rarest of the rare case.

57. Now coming to the point of confirming the death sentence or to alter, this Court believes that it is only an act of God to give life to a human. In the absence of which, a person cannot take away someone's life. The act the convict has taken away the several lives. Though this Court is empowered to impose capital punishment, it should be exercised in the rarest of the rare case and if it feels that the accused person if released would be a threat to society.

58. In view of a developed ideology in Criminal Jurisprudence where a culprit is to be tried and punished, but also

the circumstance needs to be examined and analyzed by the Court. It also becomes immensely necessary that apart from not only to punish the accused-person, but also to think in terms of reformatory measures. The sword of justice given to a Judge has to be exercise with utmost responsibility and judiciously considering the reforms. In the present days, the law has more focused on the reformatory side.

59. As discussed supra, here is a case, where this Court is convinced to the extent of imposing punishment to the convict holding him guilty since the crime against him has been proved in the light of the eyewitnesses i.e., P.W.-1, P.W.-2, P.W.-4, P.W.-5, P.W.-8, P.W.-9, P.W-11, P.W—16 and P.W.-17. Since the crime is proved and the conviction is decided, the question that falls for consideration before this Court is whether to approve the death sentence or to impose lesser punishment in the light of the decision of the Hon'ble Supreme Court as cited in the judgment of this Court passed in ***Special Judge, Gomati Judicial District Vs. State of Tripura and ors(supra)*** and ***Special Judge(POCSO), North Tripura, Dharmanagar Vs. The State of Tripura and ors(supra)*** and following the Judgments of the Hon'ble Supreme Court of India passed in ***Jafel Biswas and ors Vs. State of West Bengal (supra)*** and ***Manoj Pratap Singh Vs. State of Rajasthan(supra)***.

60. Accordingly, the death sentence of the convict is converted into life imprisonment till he breathes his last in jail without any benefit of remission.

61. If the convict-appellant is allowed to socialize with the inmates in the jail, there is every possibility of his temporary insanity status of mind might strike back and assuming which has happened on the fateful day, again on any day and would cause a threat to the inmates. This Court feels that he should be kept in isolation, by keeping him away from other inmates and under surveillance.

62. The order of death sentence dated 23.11.2022 passed by the learned Session Judge, Khowai Tripura stands modified to the extent indicated above.

63. With the above observation, the present appeal and the reference is accordingly ordered and thus disposed of.

Send back the LCRs forthwith.

B. PALIT, J

T. AMARNATH GOUD, J