

IN THE COURT OF ASSTT. SESSIONS JUDGE::NALBARI

Present: *Sri Jayanta Kumar Saikia*
(Acting) Asstt. Sessions Judge, Nalbari

(Date of judgment: 07/02/2022)

(Sessions Case No. 144/2019)

(Details of FIR/Crime: 425/2019 and Police Station: Nalbari)

COMPLAINANT:	STATE OF ASSAM
REPRESENTED BY	Mr. Mrigen Das, Addl. P.P.
ACCUSED	A.1- Md. Mamtaz Ali
REPRESENTED BY	Mr. Jayanta Kalita Mr. Baharul Ali

Date of offence	26-06-2019
Date of FIR	26-06-2019
Date of charge-sheet	31-08-2019
Date of framing of charge	22-10-2019
Date of commencement of evidence	03-12-2019, 13-12-2019, 18-01-2020, 10-02-2020, 29-02-2020, 23-09-2021 & 21-10-2021
Date on which judgment is reserved	09-12-2021, 22-12-2021, 23-12-2021, 07-01-2022, 21-01-2022
Date of Judgment	07-02-2022
Date of sentencing order, if any	07-02-2022

Accused details

Rank of the accused	Name of the accused	Date of arrest	Date of release on bail	Offences charge with	Whether acquitted or convicted	Sentence imposed	Period of detention under gone during trial for the purpose of section 428 of IPC
A-1	Mamtaz Ali	27-06-2019	03-10-2019	354(B)/326/307 of IPC	Convicted	R/I 10 years and fine of Rs. 5,000/- u/s 326 of IPC and R/I of 10 years u/s 307 of IPC	03 months and 06 days

JUDGMENT

1. The prosecution case, in brief, as reveals from the FIR is that on 26/06/2019 at about 1:30 pm taking advantage in absence of the family members of the victim, who is the daughter of the informant, Musstt. Safiya Begum, the accused person, namely Mamtaz Ali attempted to rape the victim and when she tried to resist the accused person, the accused attacked her with a dao attempting to murder her and injured on the below of her left ear grievously. Immediately she was brought to SMK Civil Hospital, Nalbari and thereafter she was referred to GMCH, Guwahati. Hence, the informant lodged this case.

2. The FIR was registered as Nalbari PS Case No.425/2019 u/s-376/511/326/307 of IPC. During investigation stage accused Md. Mamtaz Ali was arrested. After completing the investigation the I/O submitted charge-sheet before the Ld CJM , Nalbari against the accused u/s-354-B/326/307 of IPC. The case was transferred to the learned Sub-Divisiona Judicial Magistrate(S), Nalbari for disposal, who has taken cognizance against the accused person, Md Momtaz Ali, who was in custody at that time, under section 354(B)/326/307of IPC. As the case was exclusively triable by Court of Session, the case was committed to the Court of Sessions by learned SDJM(S),Nalbari. Later on, the Honourable Sessions Judge, Nalbari transferred this case to this court. The accused was

released on bail vide order dated 01/10/2019 and formal charge was framed against him u/s-354-B/326/307 of IPC.

3. During trial prosecution examined as many as nine witnesses including M.O. & I.O. The Statement of the accused is recorded u/s 313 CrPC. Defence led three evidences. I have heard arguments from both sides and framed the following points for determination.

POINTS FOR DETERMINATION:-

- (i) Whether the accused person on 26/06/2019 at about 1:30 pm assaulted and used criminal force on Mamoni Begum with an intention to disrobe her and thereby committed an offence punishable u/s-354-B of IPC ?

- (ii) Whether the accused person on the same date, time and place voluntarily caused grievous hurt to Mamoni Begum by means of a dao and thereby committed an offence punishable u/s-326 of IPC ?

- (iii) Whether the accused person on the same date, time and place did assault with such intention and under such circumstances that by that act the accused person had caused the death of Mamani Begum, the accused would have been guilty of murder and thereby

committed an offence punishable u/s-307 of
IPC?

EVIDENCE OF PROSECUTION SIDE

4. The evidence of **PW-1 Musstt Safia Bibi**, who is the informant cum mother of the victim of this case testified that accused is the brother-in-law of her daughter. The occurrence took place on 26-07-19 at 1 PM. On that day one of their villagers informed her that the accused had caused cut over her daughter. She immediately went to the matrimonial house of her daughter and came to know that she was taken to GMCH, Guwahati. She saw blood near the tube-well of the house. Thereafter she returned home and lodged the ejahar on that day itself. After 2 days from the occurrence her daughter returned home from hospital. When her daughter recovered she asked her after 10 days about the occurrence as she could not speak. She told her that the accused used to abuse her with malafide intention and on the day of occurrence he assaulted her on her ear, back and neck with a dao. She exhibited the ejahar as Ext-1. During cross-examination she stated that she does not know the name of the villager who informed her about the occurrence. She went to the matrimonial house of her daughter after half an hour from the phone call. When she reached the house she did not find any other villagers there. She saw her grand-children crying. There is a bamboo fencing between the house of her daughter and her brother-in-law. When her son-in-law was

working in Guwahati, the accused had dispossessed him from his land. There was no other case prior to this occurrence. Prior to the occurrence her daughter did not alleged anything against the accused. Nawdhan, Ajmal and some women took her daughter to GMCH. She lodged the ejahar without meeting her daughter. The contents of the ejahar is written as per the version of her elder sister Sarifa Bibi. The ejahar was written by a Mohori. The contents of the ejahar was not read over to her. Police recorded her statement on the day of lodging the ejahar. On the day of seizure of the dao she again went to the police station. She saw the dao in the police station. She has not seen the dao earlier. Police did not take her to the place of occurrence. The accused used to stay adjacent to the house of the accused along with his family at the time of occurrence. At present the accused stays in a rented house. She does not know if there was any amicable settlement between the accused and her daughter regarding the land dispute. She will not allow her daughter to settle the dispute. She denied the defence that she lodged the ejahar without consulting the victim. It is also denied that the accused did not assault her daughter. It is also denied that she had filed this case falsely.

5. **PW-2 Md. Namdhan Ali @ Nawdhan Ali** deposed in his evidence-in-chief that he knows informant, victim and accused. The occurrence took place about 4 months back in the afternoon. At the time he was in the Maszid. When he

came out of the Maszid he saw a crowd of people in the road in front of the house of the victim. He ran and came to the place of occurrence. He saw Mamoni Begum lying on the road with her ears bleeding. They called 108 ambulance. But as the same was not available he took Mamoni Begum in his car to SMK Civil Hospital, Nalbari. At that time Mamoni could not speak. He came to know later that she was taken to GMCH, Guwahati. During cross-examination he stated that he heard from the villagers that there was a quarrel in the house of the victim.

6. **PW-3 Sri Biju Das** deposed that about 6 months back he received a call from someone informing that there was a marpit near Digheli chowk. He also informed that someone was killed in the incident. Immediately he sent their camera man to the place of occurrence and informed about the matter to Nalbari PS over phone. He did not visit the place of occurrence.

7. **PW-4 Md. Rashid Ali** deposed in his evidence that he does not know the informant. He knows the accused and the victim, Mamoni Begum. The accused and the victim are his neighbours and victim is the sister-in-law of the accused. The occurrence took place about 3 months back in the day time. At the time of occurrence while he was in his house he heard hue and cry in his village. He came out of his house towards the road and saw many people assembling in front of the house of the victim. He went there and saw that the

victim with blood over her body. They arranged for a vehicle and sent the victim to Nabari Civil Hospital in that vehicle. There is one house between my house and the house of the accused. During cross-examination he stated that he does not visit the house of Mamtaz Ali. He does not know how the victim was injured. At present he has heard from the accused that if he gives his land in the name of Mamoni, she will withdraw the case. Police did not record his statement. He denied the defence suggestion that police recorded his statement. He did not state before the police that he saw the victim with blood all over her body and that they arranged for a vehicle and sent the victim to Nalbari Civil Hospital in that vehicle.

8. **PW-5 Md. Rana Ali** deposed in his evidence that he does not know the informant. he knows the accused and the victim Mamoni Begum. The occurrence took place about 6 months back. At the time of occurrence he was at Guwahati for his duty. After few days when I returned home I came to know that there was quarrel between the accused and the victim. He also heard that after the incident the victim was lying on the road with blood over her body. Police recorded his statement. During cross-examination he stated that he does not know how the victim was injured. He did not state before the police that, "he came to know that there was quarrel between the accused and the victim and that after

the incident the victim was lying on the road with blood over her body”.

9. **PW-6 Musstt. Mamoni Begum**, victim of this case deposed in her evidence-in-chief that the informant is her mother. She knows the accused and he is her brother-in-law. The occurrence took place on 26/06/2019 between 12:30 - 1:00 PM. At the time of occurrence after brooming the house she went to throw the garbage at the backyard of their house. At that time the accused stared at her with malafide intention and said some obscene words to her. When she started screaming, the accused gave four blows on her cheek, neck and shoulder with a “dao”. (she has shown the cut marks on the left cheek, left side of the neck and the left shoulder of the victim). She started bleeding. Somehow she crawled and managed to come outside the house towards the road. Many villagers gathered around her. Some people trying to stop the blood oozing out from her wounds. Thereafter she was taken to SMK Civil Hospital, Nalbari. But immediately she was referred to GMCH, Guwahati. She was admitted there for two days. Since then after every three days she has to visit GMCH for her treatment till now. The house of the accused and her house are situated in the same compound. Her elder daughter Selina Akhtar witnessed the whole incident as she was with her at that time. The “dao” which is produced before the court today is the same “dao” with which the accused had hit her on the day of occurrence. She exhibited

Ext-A as M.Ext. Police recorded her statement. During cross-examination she stated that Nawdhan Ali and Hasina Begum accompanied her to the hospital. She was taken to GMCH from SMK Civil hospital in a 108 ambulance. At that time she was not in a position to speak. Her mother did not go to Guwahati to see her. She does not know from whom her mother came to know about the occurrence. Police met her after one week from the occurrence in the police station. She was taken to the police station by her family members. The accused has three children. The wife of the accused is suffering from paralysis since her marriage. After her marriage both the family of the accused and my family used to reside as a joint family. After one year of her marriage both the families got separated. she has filed a case against her husband. That case is compromised. The accused and his family has been residing in a rented house since two months. She denied the defence suggestion that there was a talk between her and the accused regarding the ancestral property and in that talk she demanded some land in their village and in lieu of that she assured to compromise this case. She had filed an affidavit in the court regarding amicable settlement with the accused. Ext. I is the affidavit filed by her. It is denied by her that as the matter was compromised with the accused she had filed Ext. I before the court. Nawdhan, Abdul, Nessa, Rana and Mokib Ali reside near her house. After recording her statement police did not

go to their house. She heard that the accused himself produced the "dao" before the police when police went to his house. She was not shown the "dao" by the police. Her clothes were stained with blood. Police did not seize the blood stained clothes. She does not know who showed the place of occurrence to the police. Later says, her daughter showed the place of occurrence to the police. It is denied by her that since her marriage she has spoiled the atmosphere of the house. She has never made any allegation against the accused earlier regarding his attitude towards her. It is also denied by her that on the day of occurrence she started the quarrel with the accused. It is also denied by her that she had assaulted the accused on the day of occurrence and somehow she fell down and sustained injury. It is also denied by her that the accused did not hurt her intentionally.

10. **PW-7 Miss Sahina Akhtar @ Selina Akhtar** deposed in her evidence that the informant is her grandmother. She knows the accused. He is her paternal uncle. The victim is her mother. On the day of the occurrence her mother went to throw garbage at the backyard of their house. She also went with her mother. At that time the accused stared at her mother with malafide intention and said her mother some obscene words. Thereafter her mother started screaming. The accused then hit her with a "dao" on her cheek, neck and shoulder. she has seen the accused hitting her mother. Her mother fell down on the ground and

crawled towards the road. Her uncle Nawdhan Ali took her mother to the hospital at Nalbari. But her mother was referred to Guwahati. The "dao" which is produced before the court today is the same "dao" with which the accused had hit her mother on the day of occurrence. M.Ext. A is the said "dao". During cross-examination she stated that to stare with malafide intention means to look at someone angrily. The children of the accused are in good terms with her. Prior to the occurrence she had returned home from school after appearing in the examination. The wife of the accused cannot stand by herself. On the day of occurrence she was sitting outside the house. There was no quarrel between her mother and the accused before the occurrence. Police came to their house. The accused produced the "dao" before the police when police came to their house. Her mother told her that today she has to depose in the court. Her mother did not tell her what to depose today. She knows about the occurrence as she was present there. She denied the defence suggestion that whatever she has stated today is tutored by her mother. She raised hue and cry at the time of occurrence but no one came. It is also denied by her that her mother herself quarrelled with the accused.

11. **PW-8 Dr. Deepjyoti Barman** deposed in his evidence that On 26-06-19 while he was working as a Registrar, GMCH, Guwahati, he examined one Mamoni Begum, aged

about 38 years, C/o Siraj Ali of village Balajan, Nalbari at about 4:30 PM against the Registration No. 123176/19.

On examination he found the following injuries:

1. Incise wound on the left side of the face extending from cheek upto post oracular region around size 7/2/4 cm³.
2. Incise wound on the left side of the neck around size 2 cm in length.
3. Left side facial palsy positive.

Patient was advised MRI. But the patient did not turn back with report.

He opined that the nature of injury is grievous caused by sharp weapon. The age of injury was fresh. He exhibited the the medical certificate as Ext-2.

During cross-examination he deposed that he is an ENT specialist and he can examine only the injuries caused relating to ENT. He cannot recall whether the victim was examined by any other doctor for the other injuries sustained by her. The victim was not admitted in GMCH at the time of submission of her medical report. There is no mention of any police case no. in my report. He has not examined the victim against any police requisition. He has not mentioned in his report that the victim was referred to GMCH by SMK Civil Hospital, Nalbari. In injury no. 2 he has not mentioned the

breadth and depth of injury. The injury sustained by the victim may be caused by falling over sharp bamboo fencing. He has not mentioned the exact age of injury. He denied that defence suggestion has not mentioned in his report about the advise for getting admitted in the hospital. It is also denied by him that Ext. 2 has no connection with this case.

12. **PW-9 Sri Raben Baro** in his evidence in-chief deposed that On 26/06/19 while he was working as a Second Officer at Nalbari P.S., the O.C. Tapan Kalita endorsed him to investigate a case lodged by one Safia Bibi against Mamtaz Ali, which was registered as Nalbari P.S. Case No. 425/19 u/s 376/511/326/307 IPC. Prior to the lodging of the ejahar on the same day one reporter, Biju Das informed the O/C, Nalbari PS that someone caused serious injury on a woman by giving her a blow with a dao at Digheli, Balajan. Accordingly a GD entry was made vide no. 17/19 dated 26/06/2019. On the day of endorsement itself he went to the place of occurrence at Digheli, Balajan. The place of occurrence was the house of the victim, Mamonni Begum. He drew up the sketch map of the place of occurrence and recorded the statement of the witnesses. On that day as the victim was referred to GMCH he could not record her statement. After returning from the place of occurrence on the same day he recorded the statement of the informant in the police station. As the victim was undergoing treatment at GMCH he recorded the statement of the victim in the police

station on 02/07/2019. In total he recorded the statement of 11 witnesses. In connection with the said incident he seized a dao on 27/06/2019 from accused Mamtaz Ali. The dao was kept under the bed of Mamtaz Ali. Accordingly he seized the dao on being showed by the accused. He collected the medical certificate of the victim from GMCH. On 27/06/2019 He arrested the accused and forwarded him to the court. After completion of investigation on 31/08/2019 he filed charge-sheet against the accused Mamtaz Ali u/s 354(B)/326/307 IPC vide CS No. 340/19. He exhibited the seizure list vide Ext-3 and the sketch map vide Ext-4. During cross-examination he stated that in the GD entry it is mentioned that the incident took place due to family dispute. He has not inquired about the family dispute. He has not submitted that extract copy of the GD entry in the court. It is mentioned in the ejahar that the accused tried to commit rape on the daughter of the informant taking advantage of the fact that there was no one else in the house. The case was initially registered as Nalbari P.S. Case No. 425/19 u/s 376/511/326/307 IPC. He did not sent the victim for medical examination before any doctor who is expert in examining victim of sexual abuse. He did not sent the victim for medical examination before any doctor. He did not collect the referral letter of SMK Civil Hospital through which the victim was sent to GMCH. He did not produce the victim before the court for recording of her statement. He denied the defence suggestion

that as the victim did not sustain any injury and as no sexual harassment was done upon the victim he did not send her for medical examination. He did not send the dao for forensic examination in order to find out whether it contains any human blood or whether the injury sustained by the victim was caused by the said dao. It is denied by him that he did not seize any dao from the accused and that the accused did not show him the dao. He did not furnish the copy of the seizure list to the accused. In Ext. 3 the time of seizure is not mentioned. It is also denied by him that the medical report collected from GMCH has no connection with this case and the victim was never admitted in GMCH. He did not seize any blood stained clothes or any other clothes of the victim. He has not examined the husband of the victim. There is a bamboo fencing between the house of the accused and the victim. It is also denied by him that the injuries sustained by the victim is caused by falling over these bamboo fencing and that the accused did not assault the victim as he was not present in the house on the day of occurrence. It is further denied that as there is a land dispute between the informant and the accused this case is lodged against the latter with false allegations. It is further denied that he has filed the charge-sheet against the accused presuming him to be guilty after investigating the case. It is also denied that he has not investigated the case properly. Material Ext. A is a dao. It is also denied that Material Ext. A is not a dao but a knife.

The evidence of defence side:

13. **DW-1 Md. Mamtaz Ali** deposed in his evidence that he is the accused of this case. Safia Bibi has lodged the case 2 years ago. On that day, he was not present at the place of occurrence as he had gone out with his tractor. He filled petrol in his tractor at 7:00 AM and went to Pagladia river-side to load earth with labourer Goni and Bhainta. He was cutting earth till 2:30 PM. Then he released the labourers and he came back home. He fed his differently abled wife. After that, the police came looking for him. The police took him with them to the Thana. He doesn't know why Safia lodged the case against him. Mamoni Begum is his sister-in-law (bhai-bowari). She had been pressurizing him to vacate the land and house. As he did not vacate the land and house, she filed the false case through her mother. After he was released from the jail, she had been threatening him so he was compelled to leave his house. Presently, he is staying in a rented house. Mamoni told him that she will compromise the case if he vacated the land. During cross-examination he denied the defence suggestion that he has deposed falsely and no property angle is involved in this case. He has not brought the documents of the tractor with him. The tractor is in his son's name. It is denied by him that he did not have any tractor at that time and he did not go out with his tractor on that day. It is also denied that he was at home on the date of occurrence. The police asked him about the incident.

It is further denied that he had admitted his crime before the police and that Mamoni's daughter Selina saw the incident. It is further denied that that he stabbed Mamoni Begum with a *Dao* below her ears.

14. **DW-2 Md. Goni Ali** deposed in his evidence that he knows the accused. He doesn't know the informant. The incident took place about 2 years ago. On the date of occurrence, he was working with the accused as labourer. They were cutting earth to load it in his tractor. We were working from 7:00 AM to 2:00 PM. Mamtaz was on the driving wheel. Next day, they came to know that Mamtaz had been arrested. During cross-examination he stated that he is a daily wage labourer. Mamtaz called him to the court today. He reached court at about 9:00 AM. He denied that Mamtaz will bear today's expenses. He doesn't remember where they unloaded the earth. He also denied that he deposed falsely.

15. **DW-3 Md. Rebul Ali** deposed in his evidence that he knows the accused person but he does not know the complainant. The incident took place two years ago. On that day at 7 am he went in the tractor of the accused to carry earth. Another labourer named Gani was with him. On that day the accused purchased diesel worth Rs.1000/-for his tractor. Ext-A is the receipt (cash/credit memo) of Rs.1000/-for purchasing the diesel. As it started raining they stopped out earth cutting work at 2 pm. Next day they heard that the accused was arrested in connection with an incident that took

place on the previous date. During cross-examination he stated that the accused has brought him to the court today. He is a daily wager. He came to court at 9-30 am. Accused is not related to him. Ext-A does not bear the name or number of the vehicle. He does not know the registration no. of the tractor in which he was working on that day. He denied that defence suggestion that he has deposed falsely that he was working in the tractor of the accused and they purchased diesel on that day.

DISCUSSION, DECISION AND REASONS THEREOF

16. In the instant case, the accused Mamtaz Ali is facing the trial on the charge of commission of offences u/s-354-B/326/307 of IPC.

17. The informant, Musstt. Safia Bibi has lodged the FIR i.e Ext-1 (Exhibit-P-1/PW-1). Her signature is exhibited as Ext-1(1). According to the FIR that her son-in-law Chiraj Ali lives in Guwahati at his work place and the accused Mamtaj Ali subjected her daughter, Miss Mamoni Begum for mental torture to establish sexual relationship with her. On 26/06/2019 at 1-30 pm in absence of any other person, the accused attempted to rape her daughter and when the victim objected the accused inflicted a cut injury by means of a dao on the left ear of the victim. The victim was admitted at Swahid Mukunda Kakati Civil Hospital, Nalbari and thereafter

she was referred to GMCH, Guwahati. The FIR was lodged on the date on which the incident occurred.

18. The informant has deposed before the court as PW-1. Her evidence reveals that the accused is brother-in-law of her daughter/ victim and on 26/07/2019 at 1:00 pm she received information from the villager that the accused had caused cut over her daughter. She immediately went to the matrimonial house of the daughter and came to know that she was taken to GMCH, Guwahati. She saw blood near the tube-well of the house. Thereafter she returned home and lodged the ejahar on that day itself. After 10 days her daughter told her that the accused used to abuse her with malafide intention and on the day of occurrence he assaulted her on her ear, back and neck with a dao. During cross-examination it is found that she went to the matrimonial house of her daughter after $\frac{1}{2}$ an hour from the phone call. When she reached the house did not find any other villagers there. She saw her grand-children crying. There is a bamboo fencing between the house of her daughter and her brother-in-law i.e the accused. At present, the accused stays in a rented house. According to her Nawdhan, Ajmal and some women took her daughter to GMCH, Guwahati. It is also came in her cross-examination that she lodged the ejahar without meeting her daughter and the content of the ejahar was written as per the version of her elder sister Sarifa Bibi. She saw the dao in the police

station when on the day of the seizure of the dao she again went to the police station.

19. From the evidence of PW-1 it is found that she was not present at the time of alleged occurrence but she reached at the place after receiving the information and she found that her daughter was taken to GMCH, Guwahati and she saw blood near the tube-well of the house. She saw her grand-children were crying. She lodged the FIR after hearing the incident from her elder sister Sarifa Bibi. Though she is not an eye witness of the case but the facts which are effect immediate or otherwise of relevant fact and which constitute the state of things under which they happened are relevant facts whatever she has stated.

20. Her testimony regarding marks on the ground i.e blood and seeing her grand-children crying when their mother victim was sent to the medical after $\frac{1}{2}$ an hour of the incident are relevant fact. Moreover, the defence side failed to shake her credibility on the aforesaid relevant facts. She has stated that she doesn't know if there was any amicable settlement between the accused and her daughter regarding the land dispute. She will not allow her daughter to settle the dispute. These facts don't derail the prosecution case.

21. Now coming to the evidence of Namdhan Ali @ Nawdhan Ali(PW-2) it is found that at the time of occurrence he was in the Mazid. When he came out of the Mazid he saw

a crowd of people in the road in front of the house of the victim. He ran and came to the place of occurrence. He saw the victim lying on the road with her ears bleeding. They called 108 ambulance. But as the same was not available he took Mamoni Begum in his car to SMK Civil Hospital, Nalbari. At that time victim could not speak and he came to know later that she was taken to GMCH, Guwahati. During cross-examination he stated that he heard from the villager that there was a quarrel in the house of the victim.

22. It is found that the evidence of informant PW-1 is corroborated by PW-2 to the fact that he has taken the victim to the medical. Moreover, the fact that he saw the victim lying on the road with her ears bleeding after the incident is also relevant fact which to be appreciated alongwith the evidence of PW-1 informant regarding the occurrence of the alleged incident.

23. PW-3 is a reporter of Assam Talk News Channel, who received a call from someone informing that there was a marpit near Dighali Chowk and someone was killed in the incident. He sent the camera man to the place of occurrence and informed the matter to the Nalbari police station over phone. He did not go to the place of occurrence. His cross-examination is declined by the defense side. His evidence also indicates that an unwanted incident occurred at the place of occurrence and he has received the information. Though PW-2 & PW-3 did not state anything incriminating the accused

but their evidences help the prosecution to inspire confidence to that extent that the incident has occurred in which the victim sustained injury.

24. From the evidence of PW-5, Md Rana Ali it is found that he heard that after the incident victim was lying on the road with blood over her body. After few days when he returned home he came to know that there was quarrel between the accused and the victim. From his evidence it is found that his evidence is hearsay evidence and cannot be relied upon.

25. PW-4 Rashid Ali is another neighbour of the accused and victim. He heard hue and cry at the time of incident and he came out of his house towards the road and saw many people assembling in front of the house of the victim. He went there and saw the victim with blood over her body. He arranged for a vehicle and sent the victim to Nalbari Civil Hospital. His house is situated between the house of the accused and another person. Though he does not know how the victim was injured but he heard from accused that if he gives his land in the name of Mamoni she will withdraw the case.

26. It is to be noted that the same matter was also brought before PW-1(informant). PW-1 has stated that she doesn't know if there was any amicable settlement between the accused and her daughter regarding the land dispute. She will not allow her daughter to settle the dispute.

The defence side has argued that there is previous animosity between the parties. In the cross-examination of PW-1 it is found that when her son-in-law i.e husband of the victim was working in Guwahati, the accused had dispossessed him from his land. There was no other case prior to this occurrence. Prior to the occurrence her daughter did not allege anything against the accused.

27. However, during cross-examination of PW-6 (victim), she denied the suggestion that there was a talk between her and the accused regarding the ancestral property and in that talk she demanded some land in their village and in lieu of that she assured to compromise the case. She had filed an affidavit in the court regarding amicable settlement with the accused. Ext-i is the affidavit filed by her. Ext-i(A) & i(B) of her signature.

28. It is well-settled principle of law that enmity is a **double-edged sword**. It can be a ground for false implication. It also can be a ground for assault. Therefore, a duty is cast upon the court to examine the testimony of inimical witnesses with due caution and diligence. In the present case the High Court has rejected the otherwise creditworthy testimony of eyewitness account merely on the ground that there was enmity between the prosecutions.

29. There is an important piece of evidence available in the case is the M/O, PW-8, Registrar, GMCH, Guwahati. His evidence reveals on 26-06-19 while he was working as a Registrar, GMCH, Guwahati. He examined one Mamoni Begum, aged about 38 years, C/o Siraj Ali of village Balajan, Nalbari at about 4:30 PM against the Registration No. 123176/19.

On examination he found the following injuries:

1. Incise wound on the left side of the face extending from cheek upto post oracular region around size 7/2/4 cm³.
2. Incise wound on the left side of the neck around size 2 cm in length.
3. Left side facial palsy positive.

Patient was advised MRI. But the patient did not turn back with report. He opined that the nature of injury is grievous caused by sharp weapon. The age of injury was fresh. He exhibited the medical certificate as Ext-2.

30. During cross-examination he deposed that he is an ENT specialist and he can examine only the injuries caused relating to ENT. He cannot recall whether the victim was examined by any other doctor for the other injuries sustained by her. The victim was not admitted in GMCH at the time of submission of her medical report. There is no mention of any police case no. in his report. He has not examined the victim

against any police requisition. He has not mentioned in his report that the victim was referred to GMCH by SMK Civil Hospital, Nalbari. In injury no. 2 he has not mentioned the breadth and depth of injury. The injury sustained by the victim may be caused by falling over sharp bamboo fencing. He has not mentioned the exact age of injury. He has not mentioned in his report about the advice for getting admitted in the hospital. It is also denied by him that Ext. 2 has no connection with this case.

31. The evidence of PW-1, PW-2, PW-3 and PW-4 reveal that the victim sustained injury and the evidence of MO i.e. PW-8 reveals that she sustained grievous injury. Regarding cause of injury, PW-6 (victim) gives a graphic account of the attack caused to her.

32. PW-6 (victim) , the star witness of the case, deposed in her evidence-in-chief that the occurrence took place on 26/06/2019 between 12:30-1:00 PM. At the time of occurrence after brooming the house she went to throw the garbage at the backyard of their house. At that time the accused, her brother-in-law, stared at her with malafide intention and said some obscene words to her. When she started screaming, the accused gave four blows on her cheek, neck and shoulder with a "dao". (she has shown the cut marks on the left cheek, left side of the neck and the left shoulder of her to the court who was recording the testimony). She started bleeding. Somehow she crawled and

managed to come outside the house towards the road. Many villagers gathered around her. Some people trying to stop the blood oozing out from her wounds. Thereafter she was taken to SMK Civil Hospital, Nalbari. But immediately she was referred to GMCH, Guwahati. She was admitted there for two days. Since then after every three days she has to visit GMCH for her treatment till now. The house of the accused and her house are situated in the same compound. Her elder daughter Selina Akhtar witnessed the whole incident as she was with her at that time. The "dao" which is produced before the court today is the same "dao" with which the accused had hit her on the day of occurrence. She exhibited Ext-A as M.Ext. Police recorded her statement. During cross-examination she stated that Nawdhan Ali and Hasina Begum accompanied her to the hospital. She was taken to GMCH from SMK Civil hospital in a 108 ambulance. After her marriage both the families of the accused and her family used to reside as a joint family. After one year of her marriage both the families got separated. She has filed a case against her husband. That case is compromised. The accused and his family have been residing in a rented house since two months. She denied the defence suggestion that there was a talk between her and the accused regarding the ancestral property and in that talk she demanded some land in their village and in lieu of that she assured to compromise this case. she had filed an affidavit in the court regarding

amicable settlement with the accused. Ext. I is the affidavit filed by her. It is denied by her that as the matter was compromised with the accused she had filed Ext.I before the court. Nawdhan, Abdul, Nessa, Rana and Mokib Ali resides near her house. After recording her statement police did not go to their house. She heard that the accused himself produced the "dao" before the police when police went to his house. She was not shown the "dao" by the police. Her clothes were stained with blood. Police did not seize the blood stained clothes. She does not know who showed the place of occurrence to the police. Later says, her daughter showed the place of occurrence to the police. It is denied by her that since her marriage she has spoiled the atmosphere of the house. She has never made any allegation against the accused earlier regarding his attitude towards her. It is also denied by her that on the day of occurrence she started the quarrel with the accused. It is also denied by her that she had assaulted the accused on the day of occurrence and somehow she fell down and sustained injury. It is also denied by her that the accused did not hurt her intentionally.

33. The evidence of PW-6 (victim) is natural one and she has given graphic account of the attack on her. Her evidence deciphered that accused stared her with mala-fide intention and said some obscene words at that time. When she started screaming accused gave four blows on her person. According to her, she crawled towards the road from the place of

occurrence i.e. backward of their house. PW-1 (informant) saw blood near the tubewell of the house when she visited the place of occurrence. PW-2 found the victim lying on the road with her ears bleeding and took her to SMKCH in his car. PW-4 saw the victim with blood over her body in front of her house. Even PW-3 (reporter), whose cross-examination is declined sent a camera-man to the place of occurrence when he was informed that someone was killed in the incident. All the evidences are cogent and inspired confidence regarding the alleged incident in which the victim sustained injury.

34. Moreover, according to her, her daughter, Salina Akhtar witnessed the incident. The defence side did not deny the fact by putting any suggestion in this regard. The said witness, Miss Sahina Akhar @ Selina Akhtar, of the age of 9 (nine) years, is examined in this case as PW-7.

35. As witness was child, age about 9 years, the learned Presiding Officer put certain questions on her to test her veracity as a witness and after putting the aforesaid question on the witness she has assured that she will be able to give reasonable answer. Thereafter her testimony was recorded under oath. Her evidence is natural and clear.

36. PW-7 deposed in her evidence that the informant is her grand-mother. She knows the accused. He is her paternal uncle. The victim is her mother. On the day of the occurrence her mother went to throw garbage at the backyard of their

house. She also went with her mother. At that time the accused stared at her mother with malafide intention and said her mother some obscene words. Thereafter her mother started screaming. The accused then hit her with a "dao" on her cheek, neck and shoulder. She has seen the accused hitting her mother. Her mother fell down on the ground and crawled towards the road. Her uncle Nawdhan Ali took her mother to the hospital at Nalbari. But her mother was referred to Guwahati. The "dao" which is produced before the court today is the same "dao" with which the accused had hit her mother on the day of occurrence. M.Ext. A is the said "dao". During cross-examination she stated that to stare with malafide intention means to look at someone angrily. The children of the accused are in good terms with her. Prior to the occurrence she had returned home from school after appearing in the examination. The wife of the accused cannot stand by herself. On the day of occurrence she was sitting outside the house. There was no quarrel between her mother and the accused before the occurrence. Police came to their house. The accused produced the "dao" before the police when police came to their house. Her mother told her that today she has to depose in the court. Her mother did not tell her what to depose today. She knows about the occurrence as she was present there. She denied the defence suggestion that whatever she has stated today is tutored by her mother. She raised hue and cry at the time of occurrence but no one

came. It is also denied by her that her mother herself quarrelled with the accused.

37. The defense side relied on the judgment of **State of UP Vs. Ashok Dixit and another** cited in **2000 STPL 2774 SC** in which the Hon'ble Supreme Court held that *9. Law is well settled that evidence of a child witness must be evaluated carefully as a child may be swayed by what others tell him and as an easy prey to tutoring. Wisdom requires that evidence of a child witness must find adequate corroboration before it is relied on [see Panchhi v. State of U.P., (1998) 7 SCC 177 : (1998 AIR SC W 2777 : AIR 1998 SC 2726 : 1998 Cri LJ 4044)*

38. In the instant case, during cross-examination of PW-7 (child witness) said that her mother told her that today she has to depose in the court but her mother did not tell her what to depose today. She knows about the occurrence as she was present there. She raised hue and cry the time of occurrence but no one came. She confirmed whatever she has stated in her examination-in-chief. Moreover, there is no contradiction brought out by the defence side regarding her testimony before the court and her statement recorded u/s 161 CrPC. Resultantly, after scrutinizing the worth of this piece of evidence, I found that her evidence is not suffering from any lurking doubts.

39. The evidence of PW-6 (victim) is corroborated by PW-7 that she went to throw the garbage at the backyard of her house and accused hit her with a dao on her cheek, neck and shoulder. She has seen the accused hitting her mother.

40. Now the evidence of PW-6, PW-7 and PW-8 corroborated each other. From the cross-examination the victim (PW-6) , it is found that there is no contradiction brought out by the defence side with her earlier statement. PW-7 is the only eye witness of the incident. She is nine years old. She was a child witness. It is a established principle that the evidence of child witness is trustworthy, if she can able to put rational answers to the question put to her. PW-7 is the daughter of the victim PW-6. On the day of occurrence her mother went to through garbage at the backyard of their house. The presence of the PW-7 at the place of occurrence also is natural one and it doesn't cast any doubt. Though PW-2 has not seen the alleged occurrence but he corroborated the evidence of PW-6 victim that the witness Nowdhan Ali (PW-2) took the victim to the hospital immediately after the alleged incident. There is no contradiction in their evidences.

41. Now if the evidence of PW-6, PW-7 and PW-8, M/O stitched together , no hesitation left to say that the prosecution side able to adduce plausible, credible, trustworthy and cogent evidence against the accused person. During cross-examination the defence side failed to sake the credentiality of the said witnesses.

42. The defence took the plea of alibi and adduced evidences of DW-1, DW-2 and DW-3 to support their plea of alibi. According to the accused (DW-1), he was not at home at that time of alleged occurrence. Evidence of DW-2 reveals

that he does not remember where he unloaded the earth. The evidence of DW-3 also reveals that Ext-A does not bear the name of the number of the vehicle. He does not know registration number of the tractor in which he was working on that day. Though DW-1 has stated that on the day of incident he filled patrol in his tractor at 7:00 am and went to Pagalidia river side to load earth with labourer Gani and Bhainta but DW-3 does not know where on that day he was working. Also coming to the evidence of DW-2 it is found that he also does not remember where he unloaded the tractor. Hence, it is not believable that on the day of alleged occurrence DW-1 was absent at the alleged place of occurrence.

43. Moreover, PW-7 a nine years old girl who knows the accused as he is her parental uncle, identified the accused and saw herself when the accused was causing injury to her mother (PW-6) by means of a dao which is believable.

44. The defense side has relied on the Judgment of **Dilip Devnath Vs State of Tripura** cited in **(2007) 2 GLR 769** where it is stated by Hon'ble Gauhati High Court that

Undoubtedly such two contradictory statement cannot exist together and the conviction on such contradictory evidence is not sustainable in law and in the absence of other corroborative reliable evidence in support of either of the two sets, both contradictory evidences are to be discarded. In Harchand Singh and another v. State of Haryana AIR 1974 SC 344, the hon'ble Apex Court held that when prosecution leads two sets of evidence, each one of which contradicts the other, it is difficult to convict the accused on such statement. It appears that the learned trial court arrived at a finding regarding the credibility of the statement of PW3 and PW1 more on emotion and sympathy without taking into consideration the existence of

contradictory statement of PW2, PW13 and PW21. In the above factual matrix, the statement of PW1 and PW3 with regard to the disclosure alleged to have been made by the deceased are not free from doubt and the accused should be given the benefit of such contradictory statement.

45. Now, the argument of the defense side is that there is serious contradiction in the evidence of the informant (PW-1) and victim (PW-6). According to PW-1 (informant), her daughter could not speak for ten (10) days after the incident. So, she asked her about the incident after 10 days. Her daughter returned home from hospital after two days of the incident. The victim, PW-6 said at that time she was not in a position to speak and police met her after seven (07) days.

46. However, in my opinion, the factual matrix of the aforesaid judgment is not applicable at the present case at hand. There is presence of other corroborative reliable evidences in support of the prosecution's case in the present case in hand as discussed above. Secondly, the contradiction pointed out by the defense side is not material one and it doesn't go to the root of the case to derail the whole prosecution's case.

47. There is another argument advanced by the defense side that no seizure witness is examined in this case. There is contradiction between the I.O. and PWs regarding the recovery of the weapon of offence i.e. the *Dao*. The material exhibit is not proved as per law and there is no evidence that weapon of offence is recovered from the accused.

48. Here, I would like to humbly put my reliance in the judgment of **Lallu Manjhi and Anr. vs. State of Jharkhand** cited in **(2003) 2 SCC 401**, in which the Hon'ble High Court had classified the oral testimony of the witnesses into three categories:-

- a. Wholly reliable;
- b. Wholly unreliable; and
- c. Neither wholly reliable nor wholly unreliable.

In the third category of witnesses, the Court has to be cautious and see if the statement of such witness is corroborated, either by the other witnesses or by other documentary or expert evidence. Equally well settled is the proposition of law that where there is a sole witness to the incident, his evidence has to be accepted with caution and after testing it on the touchstone of evidence tendered by other witnesses or evidence otherwise recorded. The evidence of a sole witness should be cogent, reliable and must essentially fit into the chain of events that have been stated by the prosecution. When the prosecution relies upon the testimony of a sole eye-witness, then such evidence has to be wholly reliable and trustworthy. Presence of such witness at the occurrence should not be doubtful. If the evidence of the sole witness is in conflict with the other witnesses, it may not be safe to make such a statement as a foundation of the conviction of the accused. There is however, no bar in basing the conviction on the testimony of a solitary witness so long as the said witness is reliable and trustworthy. "

49. Coming to the present case at hand, it is already discussed that the presence of PW-7, daughter of the victim, at the time of occurrence at day time, at the place of occurrence i.e. back yard of their house with the victim i.e her mother is not at all the doubtful. Her evidence fit in the chain of events on which the prosecution's case is based on.

50. There is another plea of defence side that the recovery of weapon used is not made as per section 27 of Cr Pc. Now, let us see whether the statement of the investigating officer , who made the seizure, is reliable and so trustworthy or not that even if the attesting witnesses to the seizure would have

turned hostile, the same can still be relied upon or not, more so, when it is otherwise corroborated by the prosecution evidence.

51. In the present case at hand, according to the IO, PW-9 he seized a Dao on 27/06/2019 from accused Mamtaz Ali and the Dao was kept under the bed of Mamtaz Ali. Accordingly, he seized the Dao on being showed by the accused. He denied the suggestion that he did not seized any Dao from the accused and the accused did not show him the Dao. It is to be noted vide Exhibit-3 (Seizure list) the Dao was seized and the signature of the accused was taken on it as Exhibit-3(1).

52. During cross-examination, the defense side brought out that the IO did not furnish the copy of the seizure list to the accused. In Exhibit-3, time of seizure is not mentioned. Apart from this, no defect on the seizure list i.e. Exhibit-3 was insinuated in this case. There is no suggestion regarding the affirmation made by the IO that Material Exhibit- A is the Dao that he has seized from the accused. PW-7 (eye witness) and PW-6 (Victim) testified that the dao which was produced before the court on the day of their testimonies are the same dao with which accused had hit the victim on the said day of occurrence. Material Exhibit A is the said dao. No suggestion was given to the said witnesses to shake their credibility regarding these facts. Furthermore, PW-7 says in her cross-examination that the accused produced the "dao" to police

when the police visited the place of occurrence. No denial of this fact by the defence side too.

53. Here, the reliance can be put on the judgment ***State Government of NCT of Delhi v. Sunil & Anr.*** referred in ***(2001) 1 SCC in which Honourable Supreme court held that :***

" We are certainly not indicating that despite all this, the statement of the Police Officer for recovery and other matters could not be believed and form the basis of conviction but where the statement of such witness is not reliable and does not inspire confidence, then the accused would be entitled to the benefit of doubt in accordance with law. Mere absence of independent witnesses when the Investigating Officer recorded the statement of the accused and the article was recovered pursuant thereto, is not a sufficient ground to discard the evidence of the Police Officer relating to recovery at the instance of the accused. Similar would be the situation where the attesting witnesses turn hostile, but where the statement of the Police Officer itself is unreliable then it may be difficult for the Court to accept the recovery as lawful and legally admissible. The official acts of the Police should be presumed to be regularly performed and there is no occasion for the courts to begin with initial distrust to discard such evidence. "

54. In the instant case, the evidence of PW-9 (IO) clearly shows that he seized Material Exhibit-A as per the Seizure List i.e. Exhibit-3 from the accused. His statement is supported by the child witness, PW-7 in her cross-examination. There is nothing on record to discard his evidence. In such case, his statement cannot be thrown out of the window just because of some technical lacuna left during investigation and trial.

55. It is proved that the accused, Mamtaz Ali voluntarily caused grievous injury/ hurt i.e. 1) Incise wound on the left side of the face extending from cheek upto post oracular

region around size 7/2/4 cm³, 2) Incise wound on the left side of the neck around size 2 cm in length 3) Left side facial palsy positive to the victim Smti. Mamani Begum, PW-6 by means of a "dao" i.e. Material Exhibit-A, which is an instrument of cutting and thereby committed an offence u/s 326 of IPC.

56. It is also found that the injury i.e. incise wound on the left side of the neck around size 2 cm in length and incise wound on the left side of the face extending from cheek upto post oracular region around size 7/2/4 cm³ was caused with a "dao" i.e. Material Exhibit-A, which is an instrument of cutting by the accused, Mamtaz Ali.

57. To constitute an offence under sec. 307 the intention or knowledge must be such as is necessary to constitute murder. The relevant facts, from which the intention has to be inferred and deducted in the present case :

i) Nature of weapon used: in the instant case, it is a "Dao", a dangerous weapon of cutting.

ii) the place where injuries were inflicted: in the instant case on the neck and from cheek to the post oracular region around size 7/2/4 cm³ of the victim.

iii) nature of injury is grievous.

58. As such, I am of the considered opinion that the injury was done to the victim with intention and knowledge to cause death by the accused and thereby committed an offence u/s 307 of IPC.

59. I have also scrutinized the evidence on record to find out whether accused has committed an offence u/s 354(B) of IPC or not. Necessary ingredients u/s 354(B) of IPC are that

i) Accused assaulted or used criminal force to a woman.

ii) He did it intentionally for disrobing or compelling that woman to be naked.

60. Going through the evidence of victim, PW-6 and PW-7, no such ingredients are found in their testimonies. According to PW-6, the accused stared at her with malafide intention and said some obscene words to her. PW-7 also supported the same. But during cross-examination, PW-7 says that malafide intention means looking to someone angrily. The obscene words are also not specified by any witnesses. Hence, in absence of the aforesaid ingredients, no offence u/s 354(B) of IPC is committed by the accused in this case.

CONCLUSION/DECISION

61. Here I find from the evidence on record that prosecution has been fairly able to establish the charge of section 326/307 of IPC and I hold accused Md Mamtaz Ali is guilty of commission of offence punishable u/s 326/307 of I.P.C and he is convicted u/s 326/307 of IPC . His bail stands cancelled. The nature of the offence committed by the accused does not entitle him benefit of section 360 Cr.P.C and under the provision of Probation of Offender Act and accordingly he is not considered under the said provision of

law. Accordingly, I have heard accused on the point of sentence.

HEARING OF THE ACCUSED ON THE POINT OF SENTENCE

62. Convicted accused Md Mamtaz Ali is heard on the point of sentence and his plea of sentence is reduced into writing in separate sheets and keep with case record. I heard Ld. defence counsel as well Ld. P.P for the state on the point of sentence. Convict pleaded mercy and prays for considering leniently.

63. Learned PP prays to for sentencing the convict as per the law and the plea taken by convicted accused person being pity the same should not be consider by the court while sentencing the accused taking in to consideration nature of the offence committed by the offence.

64. Learned defence counsel made submission that Accused's physical condition is very weak so counsel prays for leniency in sentencing the accused.

65. After hearing Ld. Counsel for both sides and accused on the point of sentence, going through the material on record and considering the nature of the offence which accused persons has committed and further taking into account the increasing number of offence of like nature in the society against woman, I am of the opinion that this is not a fit case to consider accused leniently. Accordingly, taking into consideration all aspect, nature of the offence committed by

the convicted accused person and considering the overall facts and circumstances of the case, the convict person, namely, Md Mamtaz Ali is punished with rigorous imprisonment of 10 (ten) years and also liable to pay fine of Rs. 5,000/- (five thousand) to the victim u/s 326 of IPC. In case of default, in payment of fine, he will undergo simple imprisonment (SI) for a term of 03 (three) months. He is also further punished with rigorous imprisonment of 10 (ten) years for commission of an offence u/s 307 of IPC.

66. It is also made clear that the sentence in this case shall run concurrently with previous sentence of the accused, if any by court, under section 427 Cr.P.C.

67. Benefit of section 428 Cr.P.C. be also given to the convict and period of undergone by him till date of this case shall be set off against the term of imprisonment imposed on them on conviction. The convicted accused is told that he has right to appeal against the judgment and order of this court before Hon'ble Appellate court through the jail authority or independently of his own.

68. Convicted accused is further informed that he is entitled free legal aid to prefer appeal before the Hon'ble High court.

69. Let furnish free copy of Judgment to convicted accused persons.

70. Send copy of judgment to learned District Magistrate Nalbari u/s 365 Cr.P.C.

71. Seized goods be disposed of in accordance with law in due course of time.

72. Send back the GR case record to the learned committal Court with a copy of the judgment.

Given under my hand and seal of this court on this 07th day of February, 2022 at Nalbari.

(Acting) Asstt. Sessions Judge,
Nalbari.

Dictated and corrected by

(Acting) Asstt. Sessions Judge,
Nalbari.

D.Roy(stenographer Grade II)

APPENDIX-14

LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Musstt. Safia Bibi	INFORMANT
PW2	Md. Namdhan Ali @ Nawdhan Ali.	OTHER WITNESS
PW3	Sri Biju Das.	OTHER WITNESS
PW4	Md. Rashid Ali.	OTHER WITNESS
PW5	Md. Rana Ali.	OTHER WITNESS
PW6	Musstt. Mamoni Begum	VICTIM
PW7	Miss Sahina Akhtar @ Selina Akhtar.	EYE WITNESS
PW8	Dr. Deepjyoti Barman.	MEDICAL WITNESS
PW9	Sri Raben Baro (I.O).	POLICE WITNESS

B. Defence witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1	Md. Mamtaz Ali	ACCUSED
DW2	Md. Goni Ali	OTHER WITNESS
DW3	Md. Rebul Ali	OTHER WITNESS

C. Court witnesses, if any: **NOT APPLICABLE**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW1		
CW2		

LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Exhibit P-1/PW1	Ejahaar
2	Exhibit P-2/PW8	Medical certificate
3	Exhibit P-3/PW9	Seizure list
4	Exhibit P-4/PW9	Sketch Map
5	Exhibit P-5/PW9	Charge-sheet

B. Defence:

Sr. No.	Exhibit Number	Description
1	Exhibit D-1/DW3 (Exhibit-A)	CASH/ CREDIT MEMO OF RS. 1000/-
2	Exhibit-i/PW6 (during cross-examination)	AFFIDAVIT FILED IN COURT

C. Court Exhibits: NOT APPLICABLE

Sr. No.	Exhibit Number	Description
1		
2		

D. Material Objects:

Sr. No.	Exhibit Number	Description
1	MATERIAL EXHIBIT- A	DAO i.e. weapon of offence

(Acting) Asstt. Sessions Judge,
Nalbari.