

GAHC040013292023

2026:GAU-AP:202-DB



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

**Case No. : CrI.A./28/2023**

Ranbir Sing Kr. @ Ashok Kumar  
S/o Shri Gyan Chand, resident of Housing board, House No. 1002, Chandigarh, PS-  
Danas, District Chandigarh, Punjab.

VERSUS

The State of AP and Anr  
represented by the public Prosecutor.

2:Smti Mamta Chetry  
Age: 0  
Occupation :  
W/o Shri Ranbir Singh @ Ashok Kumar  
resident of Tawang  
P.O/P.S Tawang  
District Tawang  
A.

**BEFORE**

**HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI**

**HON'BLE MR. JUSTICE BUDI HABUNG**

Advocate for the Appellant : Mr. P. Taffo

Advocate for the State Respondent No.1 : Mr. G. Tado, Addl. P.P

Advocate for the Respondent No.2 : Mr. D. Laji, Id. Amicus Curiae

Date on which Judgment is reserved : 11.02.2026

Date of Hearing : 11.02.2026

Date of Judgment and Order : 27.02.2026

Whether the pronouncement is of the Operative part of the Judgment? :No

Whether the full Judgment has been pronounced ? : Yes

## **JUDGMENT & ORDER**

### **(CAV)**

[Budi Habung, J]

Heard Mr. P. Taffo, learned counsel for the appellant. Also heard Mr. G. Tado, learned Additional Prosecutor for the State respondent No.1 and Mr. D. Laji, learned Amicus Curiae for the respondent No.2.

**2.** This criminal appeal has been preferred by the appellant under Section 374 of the Code of Criminal Procedure, challenging the judgment dated 27.07.2023 and the order of sentence dated 28.07.2023 passed by the learned Sessions Judge, Bomdila, Arunachal Pradesh, in Bomdila Sessions Case No. 06/2023, corresponding to Tawang P.S. Case No. 01/2023, under Section 302 of the IPC, whereby the accused appellant was convicted under Sections 302 and 325 of the IPC and sentenced as follows:

- i. Life imprisonment with a fine of Rs. 20,000/- (Rupees Twenty Thousand only) under Section 302 of the IPC;
- ii. Imprisonment for 7 (seven) years with a fine of Rs. 10,000/- (Rupees Ten Thousand only) under Section 325 of the IPC;
- iii. In default of payment of the fines, the accused convict shall undergo

simple imprisonment for 3 (three) months in addition to the above sentences.

**3.** Being aggrieved, the appellant has challenged the order of conviction primarily on the following grounds:

- a.** The conviction is based solely on the evidence of prosecutrix-P.W.-1.
- b.** There is no eyewitness to the incident except P.W.-1, and the conviction has been recorded on assumptions and presumptions without being supported by the evidence of any independent witness.
- c.** In addition to the above grounds of challenge, the learned counsel for the appellant, contends that there was no deliberate intent to cause the death of the child as such and at most the case would fall under Section 304 Part II of the IPC, which deals with culpable homicide not amounting to murder, rather than under Section 302 of the IPC.

### **BRIEF SUMMARY OF THE PROSECUTION CASE**

**4.** The prosecution case, in brief, is that on 22.01.2023, the family consisting of the appellant, his wife (informant-PW-1) with their child (deceased) returned together from Tawang Monastery after attending the Torgy festival. At night, the wife (PW-1) prepared dinner, but the accused denied to have dinner with her. After dinner, when the wife (PW-1) went to sleep with the accused, she found appellant sleeping with a blanket wrapped around his body. When she asked him to extend the blanket so that they could sleep together, quarrel took place between the appellant and his wife. Due to the altercation, the accused became angry and was about to leave the room with their 2 (two) years old minor son. The wife asked him not to take their son. The accused stated that if

he was not allowed to take the son, he would kill him. At that time, when the wife attempted to take the son, the accused physically assaulted her, causing dislocation of her left elbow. The accused then held his son's leg and dashed him twice against the ground.

**5.** After hearing the noise, the brother-in-law of the accused (PW-2), who resides nearby, came and knocked on the door. The PW-1 opened the door. When PW-2 entered the room, he saw the child in an injured condition and the accused inside the room; however, the accused immediately fled from the room. PW-2, then with the help of P.W.-4, took the wife and the child to the hospital for treatment, but the doctor declared the child "brought dead". The wife (PW-1) was found to have sustained severe injuries on her hand. The police were informed, and accordingly, an FIR was registered as Tawang P.S. Case No. 01/2023 under Sections 302/325 of the IPC. Thereafter, the investigation was initiated and a post-mortem examination was conducted. As per the post-mortem report, the following injuries were found on the dead body of the deceased child:

1. *Depression seen on left of scalp on frontal & parietal region with crackling sound on palpation. On dissection of scalp, diffuse bruising of scalp is seen & huge amount of blood (20 ml) & clot (10 gm) along with brain matter (15 gm) is present below the scalp.*
2. *Depressed comminuted fracture of skull is seen involving the left frontal, parietal, temporal & right parietal bone.*
3. *Cranial meninges are rupture and stained with blood and brain matter.*

4. *Avulsion of middle portion of left hemisphere of brain.*
5. *Left lower limb below the level of lower 1/3<sup>rd</sup> of thigh is externally related & is moving freely.*
6. *On dissection of left thigh, displaced compound fracture of lower 1/3<sup>rd</sup> of shaft of left femur.*

**6.** Upon completion of the investigation, a charge-sheet was filed against the accused for offences under Sections 302/325 of the IPC, and accordingly, charges were framed under the said Sections.

**7.** In order to bring home the charges, the prosecution examined altogether 10 witnesses. In his examination under Section 313 Cr.P.C, although he did not fully and directly admit his guilt, the accused admitted the occurrence of the incident on 22.01.2023 evening and stated that the child died due to the mistake of his wife (PW-1). The accused also examined two defence witnesses including himself.

#### **POINT FOR DETERMINATION**

**8.** From the materials on record and submissions of the parties, the following points emerge for consideration:

- I. Whether the death of the child was homicidal in nature;
- II. Whether the appellant caused the death of the child;
- III. Whether the act amounts to murder under Section 302 of the IPC or to culpable homicide not amounting to murder under Section 304 of the IPC;

- IV. Whether the appellant voluntarily caused grievous hurt to P.W.-1 punishable under Section 325 of the IPC; and
- V. Whether the impugned conviction is sustainable.

**I. WHETHER THE DEATH OF THE CHILD WAS HOMICIDAL IN NATURE**

**9.** PW-5 is the doctor who conducted the post-mortem examination of the deceased child. PW-5 deposed regarding his findings as under:

*“Depression seen on left side of scalp. Frontal & parietal bone of skull was giving crackling sound on touch. There was defused bruising on scalp in blue colour. There was huge amount of blood and blood clot, blood is around 20 ml and clot is about 10 gram on left side of the scalp, there was 15 grams of brain matters present below the scalp. On further dissection, depressed multiple fracture of skull involving frontal parietal, temporal and also the right parietal bone. Further dissection cranial meninges which protect the brain is found ruptured and stained with blood. On further dissection avulsion of middle portion of left hemisphere of brain was found out. Left lower limb was found below the level of 1/3<sup>rd</sup> of thigh, there was puncture wound and below the injury the leg was freely moving and externally rotated. On further dissection it was found that there was displaced compound fracture of lower 1/3<sup>rd</sup> of the left shaft of femur bone (thigh bone, longest and strongest bone of body)”.*

**10.** PW-5 opined that the cause of death was due to avulsion of the middle portion of the left hemisphere of the brain following a head injury. The nature of

the injury was ante-mortem. It was found that there was a severe head injury on the left side of the head caused by blunt trauma, resulting in the death of the child. These injuries were extensive, severe, and clearly indicative of a violent and forceful impact. The nature of the scalp fracture, combined with brain damage, unequivocally establishes that the death was homicidal, caused by deliberate and forceful head trauma.

**11.** Although the defence contended that the death of the child occurred due to a fall during a push-and-pull struggle between the accused and his wife (PW-1), when the accused was allegedly leaving the room with the child, and PW-1 pushed them causing them to fall, the severity of the scalp fracture and brain injury, particularly the brain tissue extrusion and avulsion, is not consistent with accidental force or minor impact. Such injuries typically result from a high-impact blow or a fall onto a hard surface with significant force.

**12.** The medical findings leave little room for alternative explanations, such as accidental injuries, and point firmly towards the intentional infliction of a fatal injury. Accordingly, point No. I is answered in the affirmative: the death was homicidal.

## **II. WHETHER THE APPELLANT CAUSED THE DEATH OF THE CHILD**

**13.** PW-1, Smti. Mamta Chetry, is the mother and informant of the deceased child, as well as the wife of the accused appellant. She is a natural and injured eyewitness. She deposed that after dinner, at about 8:30 P.M., when she went to bed to sleep, she saw the accused sleeping on the bed with the entire blanket wrapped around his body. When she asked him to share the blanket, the accused shouted at her in a loud voice, which frightened her son, who

began crying and calling out "Mamaji" and "Papaji". She then told the accused that if he did not wish to sleep with her, he could go to another room. The accused got up and attempted to go to another room with their son. However, she told him that he could not take the child along. At that time, the accused shouted and stated that if she does not allow him to take their son, he would kill the child. Thereafter, he snatched her son and hit him on the floor by holding his leg. She tried to stop him, but the accused pushed her and broke her left hand at the elbow. Thereafter, he hit her son on the floor due to which her son sustained injury on his head and blood was oozing out from his mouth and nose. The child was not making any sound, so she shouted for help. Hearing her cries, PW-2 came and knocked on the door. She opened the door and continued shouting for help because her son was not moving.

**14.** Then, she, along with PW-2, immediately took the child to the hospital, but the doctor declared him brought dead. Her husband/accused fled from the residence and did not accompany her or take her son to the hospital, even though her left hand was broken and her son had sustained injuries to his head and was bleeding from the nose and mouth. As noted above, PW-1 categorically stated that the accused appellant threatened to kill the child during the altercation and forcibly held the deceased child by legs and struck his head on the floor twice. When she tried to intervene, the accused pushed her causing a dislocation of her left elbow. After the assault, the accused fled the scene.

**15.** The testimony of PW-1 remained consistent throughout the trial and was not materially discredited during cross-examination. Her testimony directly links the appellant's aggressive acts to the grievous injuries sustained by the deceased child. The evidence shows that only PW-1 was present at the time of

the incident. It is settled law that a conviction can be based on the testimony of a single reliable witness, especially when such testimony is trustworthy and corroborated by medical evidence and the circumstances of the case.

**16.** In this regard, the learned Amicus Curiae appearing on behalf of the respondent No.2/informant relied upon the decisions of the Hon'ble Supreme Court in ***Prahlad v. State of Madhya Pradesh & Anr.***, reported in (**2024**) **14 SCC 203** [paragraph 41], and ***Anil Phukan vs. State of Assam***, reported in (**1993**) **3 SCC 282** [paragraph 3], wherein it was held that "*if the testimony is credible and trustworthy, the absence of an independent witness is immaterial*".

**17.** In the instant case, PW-2 corroborated the presence of the accused appellant at the scene. He was the nearest neighbor. After hearing the shouting, he immediately came and knocked on the door, and on entering the room he saw that his sister, PW-1, had sustained injuries and that the accused was inside the room. He was informed that the accused had broken her hand and hit her son, who was lying in the room. When he went inside the bedroom, he saw that the child had sustained fractures on his head, and both his hands and legs were broken. Blood was oozing from his nose and mouth. He lifted the child, who was lying on the ground, but the accused had fled from the residence. He immediately took the child (his nephew) and his sister (PW-1) to the hospital for treatment, but the doctor declared that the child was no more.

**18.** PW-3, on receiving information about the incident, went to the hospital and saw that the child had sustained a head injury, due to which one side of his head was dashed. Blood and a whitish substance were coming out of his mouth and nose. He saw that the child was already dead.

**19.** Further, PW-4, another neighbor of the accused, deposed that upon hearing the noise, he went out of his room and saw P.W-2 holding the child of the accused. He was asked to assist in taking the child to the hospital. He saw that the child was bleeding from the mouth and nose, and while taking them to the hospital, he came to know from the doctor that the child was brought dead.

**20.** PW-7 is the doctor who examined P.W-1. This witness confirmed, through medical examination, the dislocation of P.W-1's elbow. This substantiate the evidence of PW-1 that when she tried to prevent the accused from assaulting her son, she was broken her elbow and pushed her away.

**21.** PW-6 is the owner of a house under construction in Kharsa village, Jang about 4 KM away from the place of occurrence. He deposed that during those days, a viral message was circulated on social media that a person had killed his son, injured his wife, and fled. The police had also circulated a photograph of the accused. He further deposed that when he visited his under-construction house on 23rd or 24<sup>th</sup> of January 2023, between 3:30 and 4:00 P.M., he saw that the lock of the kitchen had been tampered with. Upon checking from outside, he also noticed that the wall was damaged. When he entered the kitchen, he saw the accused sleeping inside. When the accused saw him, he got up and tried to flee, but PW-6 overpowered him and apprehended him until the police arrived. He identified the accused as the same person in the photographs circulated on social media. He then dragged the accused onto the road and informed the police, who took him away.

**22.** The PW-6 proved that the appellant was hiding in his under-construction building after commission of the offence. The medical evidence of PW-5, i.e., P-Exhibit-5, aligns with the ocular testimony of PWs-1, 2, 3, and 4, who deposed

that they had seen the injuries sustained by the child, confirming the nature and severity of those injuries. The accused claims to be innocent; however, his conduct does not support such a claim. The evidence reveals that the threats to kill the child prior to the incident, coupled with the repeated assault on the child and his wife, demonstrate a pattern of aggressive behaviour by the accused. After the incident, when he realized that the child was not responding and he had dislocated the hand of PW-1, the accused immediately fled the scene and subsequently attempted to hide in an under-construction building in Jang, approximately 3–4 km away from the place of occurrence. These are relevant circumstances indicating that he was conscious of his guilt. Any sensible person would have taken the injured child and wife to the hospital immediately. However, in this case, although he was the father of the child who was lying on the floor injured, and his wife was injured in her hand, the accused fled from the scene, allegedly out of fear of the public. This conduct only indicates his guilt in committing the alleged offences.

**23.** Also, the accused appellant's conduct is inconsistent with his claim of innocence and supports the inference that he intentionally had caused injuries that led to the death of the child. A mother is unlikely to falsely implicate the father in the murder of her own child. It is highly improbable that a mother would cause injury to her own son and herself to the extent of causing death of her son and dislocating her hand. The accused failed to explain anything about the injuries sustained by PW-1. Furthermore, the accused appellant admitted that he was apprehended by PW-6 from the under-construction building located at Jang 3-4 Kms away from his house, where he had been hiding after the incident. Fleeing from the scene and absconding after the incident are relevant circumstances; however, the accused did not explain why he was hiding in the

under-construction building away from his house.

**24.** The defence claimed that the child fell accidentally when PW-1 allegedly pulled the child's leg. However, in his evidence as a defence witness (DW-1), the accused improvised his statement under Section 313 of Cr.P.C., and stated that when he was holding the child, PW-1 pushed them both, causing them to fall. This attempt suggests an accidental cause of injury. The accused even went to the extent to attribute the child's injuries to the mistake of his wife (PW-1). However, he provided no explanation for the extensive scalp fractures and brain avulsion. According to the doctor, such injuries cannot result from a simple fall. No explanation was provided for the femur fracture either, which also suggests a high-impact trauma.

**25.** Furthermore, if the injuries had been caused accidentally, any sensible person would have immediately rushed the child to the hospital for treatment. In this case, the accused, being the father of the dying child, chose to flee from the scene. His conduct is therefore inconsistent with a claim of innocence, particularly considering his prior threatening behaviour and immediate flight from the scene. As indicated above, the medical evidence of PW-5 rules out a simple accident or fall. The nature and extent of the injuries are too severe for ordinary fall or accidental injury, strongly indicating deliberate infliction of trauma. Thus, the prosecution has established beyond reasonable doubt that the appellant caused the fatal injuries to the child.

**26.** Accordingly, point number 2 is answered in the affirmative.

**III. WHETHER THE ACT AMOUNTS TO MURDER UNDER SECTION 302 OF THE IPC OR TO CULPABLE HOMICIDE NOT AMOUNTING TO**

## **MURDER UNDER SECTION 304 OF THE IPC.**

**27.** The learned counsel for the appellant argues that there was a lack of intention on the part of the accused to kill the child; however, the evidence suggests otherwise. According to the testimony of PW-1, the accused threatened to kill the child if he was not allowed to take the child along with him. The accused forcibly held the child and struck his head on a hard surface twice, resulting in fatal injuries. The injuries inflicted are sufficient, in the ordinary course of nature, to cause the death of the child. The act of violently striking the head of a two-year-old on a hard floor with such force demonstrates a clear awareness on the part of the accused of the potential for causing harm, or at least knowledge that death was the most probable consequence. The repeated nature of the assault further confirms the intention, or at least the knowledge, of the probable outcome of such actions.

**28.** Section 300 of the Indian Penal Code – Clause Thirdly (Clause 3), reads as follows;

*“If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary cause of nature to cause death- then the act amounts to murder.”*

**29.** The evidence in this case firmly establishes that the injuries inflicted on the child meet this criterion; therefore, the offence falls squarely under Section 300 of the Indian Penal Code, which defines murder. The plea for conversion of the offence to culpable homicide not amounting to murder under Section 304 Part II of the IPC is not sustainable.

**30.** In view of the above, point number III is answered accordingly. The

offence is, therefore, murder under Section 302 of the IPC.

#### **IV. WHETHER THE APPELLANT VOLUNTARILY CAUSED GRIEVOUS HURT TO P.W.-1 UNDER SECTION 325 OF THE IPC**

**31.** PW-7, the doctor who examined PW-1, confirmed in his medical report that the appellant caused a dislocation of his wife's (PW-1) left elbow, which was verified through X-ray examination. This dislocation was confirmed as posterior and constitutes grievous hurt under Section 320 of the IPC, which defines grievous hurt to include the fracture or dislocation of a bone or tooth. PW-1, as an injured witness, further substantiated the prosecution's case. It is further substantiated by the evidence of PW-2 who deposed that he lifted the child lying on the ground and took him and the PW-1 to hospital. Further, PW-4 another neighbour deposed that he assistance of PW-4 taking them to hospital. The medical evidence, together with the testimony of the ocular and other witnesses, collectively establish that the appellant inflicted grievous hurt on PW-1, satisfying the criteria for conviction under Section 325 of the IPC. Therefore, the conviction under Section 325 of the IPC is justified.

#### **APPRECIATION OF DEFENCE EVIDENCE**

**32.** The learned counsel for the appellant primarily reiterated the statement made by the accused in his examination under Section 313 of the Cr.P.C., suggesting that the injuries sustained by the child might have been accidental or caused during a fall. However, this version of the appellant fails to establish the probability of the accidental theory in light of the facts and circumstances, particularly considering the severity and pattern of injuries observed on the child's body. The medical evidence, especially regarding the scalp fracture and

brain avulsion, is inconsistent with a simple fall. Such submissions by the learned counsel for the appellant do not rebut the consistency of the ocular and circumstantial evidence of the prosecution side. Accordingly, the defence evidence does not create any reasonable doubt regarding the prosecution case and does not undermine the strong evidence pointing to the appellant's guilt.

**33.** We have heard the arguments the argument advanced by the learned counsels for the parties and considered the evidence on record. After a thorough reappraisal of all the evidence, this Court finds that the death of the child was homicidal in nature. The appellant caused the fatal injuries to the deceased child on the night of 22.01.2023 during an altercation with his wife (PW-1). The act of the accused amounts to murder, punishable under Section 302 of the Indian Penal Code.

**34.** This Court also finds that the appellant caused grievous hurt to his wife (PW-1), which has been duly proved. In light of the above, there is no perversity or illegality in the judgment of the learned trial Court dated 27.07.2023 convicting the accused or in the order of sentenced dated 28.07.2023. The conviction is based on reliable eyewitness testimony, corroborated by medical and circumstantial evidence, leaving no ground for reasonable doubt regarding the appellant's guilt.

**35.** In view of the foregoing, this criminal appeal is dismissed. The judgment dated 27.07.2023 and sentence order dated 28.07.2023 passed by the learned Sessions Judge, Bomdila, Arunachal Pradesh, in Bomdila Sessions Case No. 06/2023 under Sections 302 and 325 of the IPC are hereby affirmed. The appellant shall continue to serve the sentence as imposed.

**36.** With the above observations, this criminal appeal stands disposed of.

**37.** Sent back the Trial Court Record.

**38.** Before parting we would like to put on record our appreciation for Mr. D. Laji, learned Amicus Curiae for the respondent No.2. who would be entitled to the prescribed remuneration.

**JUDGE**

**JUDGE**

**Comparing Assistant**