

(2019) 12 GAU CK 0031
In the Gauhati High Court
Case No : Criminal Appeal No. 346 Of 2017

Osman Goni Sk And 3 Ors

APPELLANT

Vs

State Of Assam And Anr

RESPONDENT

Date of Decision : 11-12-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 161, 357A, 374(2), 428
Indian Penal Code, 1860 — Section 34, 300, 302, 304(I)

Citation : (2019) 12 GAU CK 0031

Hon'ble Judges : Mir Alfaz Ali, J;S. Hukato Swu, J

Bench : Division Bench

Advocate : B Bora, A F N U Mollahr

Final Decision : Allowed

Judgement

S.Hukato Swu, J

1. The present appeal under Section 374 (2) of the Code of Criminal Procedure, 1973 is preferred against the judgment and order dated 29-06-2017 passed by the learned Sessions Judge, Dhubri in Session Case No. 195 of 2015 convicting the accused/appellants under Section 302/34 IPC, 1860 and sentenced them to undergo rigorous imprisonment for life and to pay fine of Rs. 10,000/- each and in default to undergo simple imprisonment for 6 (six) months.

2. The grounds raised by the appellants are that: (1) the learned District Judge has erroneously convicted the appellants under Section 302/34 IPC without any material proof by the prosecution, (2) secondly, it has been argued that there are several contradictions among the evidences of the PWs which were not considered by the learned Trial Court while passing the impugned judgment, (3) thirdly, the learned Trial Court had failed to appreciate the evidence on record in its true and proper perspective and came to an erroneous finding, (4) fourthly, all the witnesses are interested witnesses as such, conviction arrived at by the learned Trial Court on the basis of such witnesses are not tenable in law and

fifthly, it is contended that several improvements in their deposition were contradicted by the Investigating Officer thereby, rendering their depositions incredible. On the grounds enumerated, the learned senior counsel representing the accused appellants Mr. T.J. Mahanta has argued that the conviction cannot stand.

3. Briefly, the facts of the matter is that on 16-08-2012 at about 2:30 P.M, the accused persons waylaid the deceased Md. Harunall Rashid Sheikh and rendered him unconscious by dealing blows to his head by rod. When the informant heard hue and cry, he came out of the house to rescue the victim but the accused persons, Osman Goni Sk., Tahajal Hoque, Abu Taleb Shiekh, Abdul Hamid Shiekh and Anowar Hussian choked the informant and was rendered unconscious. The villagers come to his rescue and he regained consciousness after they poured water upon him. The villagers took the victim to Dhubri Civil Hospital in an unconscious state but the victim succumbed to his injuries at around 1:00 to 1:30 P.M in the night while undergoing treatment as an indoor patient. The informant is Jonab Ali Sheikh, father of the deceased victim Md. Harunall Rashid Sheikh. Thereafter, the FIR was lodged on 17-08-2012.

4. It will be appropriate to discuss some of the material evidences deposed by material witnesses in the case out of the 16 witnesses who were examined by the prosecution.

5. P.W. 1, Md. Jonab Ali Sk.; I know the accused person. Deceased Harunali Rashid is my son. On 16-08-2012, Thursday, at around 2-30 p.m./3:00 p.m. I was inside my house. I had heard my wife and son crying out for help. Having heard their cries, I had gone to the place of occurrence. I had seen Osman Goni, Tahajal, Abu Taleb, Abdul Hamid, Anowar Hussian armed with stick and rod assaulting my son. I tried to intervene. My younger son Ibne Bhututa had followed me. On seeing me, Osman Goni, Abdul Hamid, choked me and accused persons had assaulted me. My wife when tried to intervene, accused persons had also hit her. Having heard our cries people in the neighborhood came to the spot and accused persons had fled away from the place of occurrence. Harunall Rashid had sustained serious injuries on his head. He was brought to the hospital at Tamarhat. Later on being suggested by doctor at Tamarhat my son was brought to Dhubri while undergoing treatment Harunall Rashid succumbed to his injuries at around 1:00 A.M in the night. I had lodged a case in the P.S. Ext.-1 is the FIR bearing his signature Ext.-1 (1).

Cross by the defence.

I have not mentioned in the FIR with regard to having heard cries of the wife, my son Ibne Bhututa had gone to the place of occurrence. Osman Goin & Abdul Hamid are my brother. Rest accused persons are my nephews.

At the time of occurrence, due to riot at BTAD are one accused Osman Goin who usually used to reside at Habur Bili later came to live at the relief camp at the Sonalur Dabri LP School near my house.

Abdul Goni's whole family had been residing at relief camp. Osman Goni had never come to my house seeking a piece of land to construct their house there. I had also not assured Osman Goni that I would give him land. We had no dispute over landed property earlier and no salish/bihchar had taken place in this regard in presence of village elders.

Police recorded my statement. I have stated before the police with regard there being no land dispute between myself and accused persons. There is no forest adjacent to the place of occurrence. Following the above occurrence I had no further dispute with the accused persons. From my house to the place of occurrence is around 100 ft. From the place of occurrence of the relief camp it is around less than ½ miles.

On the day of occurrence at around 11:00 A.M. my wife and son had gone to the house of one Jamal. Hamid-al Rashid had been carrying my wife on the bicycle.

It is around ½ K.M. from my house to Jamal's house. It was 2:30 P.M. when my wife and Harunail Rashid were on their way back in Fulchander Dara bridge (Khal). There is wooden bridge over the khal. At the relevant time the bridge was not fit for use of cycle.

There are no residents near the place of occurrence. I had not seen any other person except accused in the place of occurrence and I had not found any other persons till my arrival. Thereafter, Fazar Ali, Sahjamal had come to the place of occurrence first. I had taken Harunall Rashid to the hospital in the car of Fazar Ali.

6. P.W. 2, Musstt. Hamida Bibi; I know accused persons. Harunall Rashid is my elder son. Around 3 ½ years back I and my son Harunall Rashid had gone to the house of my sister. On the way back from my sister's house at around 2:30 to 3:30 P.M. when we were on the verge of reaching our house, accused persons suddenly appeared from their hiding behind the bamboo bush and caught hold my son. Thereafter, by means of rod, spade, sticks started striking blows on my son. I had raised alarm. When I tried to resist accused persons from assaulting my son, I was also assaulted and I fell down on the ground. My husband and Ibne Bututa, my younger son came to the place of occurrence. On seeing them, accused Osman Goni and Hamid choked my husband. Hearing hue and cry, villagers came to the place of occurrence. On seeing villagers accused persons had fled away. While leaving, Abdul Hamid had stuck a blow on my right hand. My son Harunall Rashid had sustained head injury. We had been taken to the hospital with the help of villagers. At the hospital at around 1300 hrs. my son succumbed to his injuries.

Cross by defence: I had not informed the police regarding the alleged incident. Accused Osman Goni and Abdul Hamid are elder brothers of my husband. Earlier we had no land dispute with the accused persons. Accused persons used to live at BTAD area. During unrest they came down to our village and started living at the relief camp. There were around 4000 to 5000 persons at the relief camp.

It is not a fact that Abdul Goni has asked for land to settle down at our village and we had turned down their request. In this connection I had sent Harunall Rashid to call villagers and at the relevant point of time accused persons were present at our house and were engaged in an altercation with my husband and myself.

It is not a fact that I had stated before the I.O. above facts. The place of occurrence is near Phulchander Dara. There is a bridge over the said khal. It is not fit for plying any vehicle. I am unable to say right now who amongst accused persons had been armed with weapons. At the time of occurrence my husband had arrived at the place of occurrence. IT is not a fact that I had not stated to the police about having accompanied my son, deceased Harunall Rashid on a bicycle to the house of my sister immediately preceding the alleged occurrence.

7. P.W.3, Md. Ibne Bututa; Accused persons are known to me. Deceased Harun-Al Rashid was my elder brother. On 16-08-2012, Thursday at about 2:30 p.m. I and my father were inside the house when we had heard alarm raised my mother. Having arrived at the place of occurrence, I had seen these accused persons who are present today along with Anowar Hussian were assaulting my brother Harun-Al Rashid and when my father arrived at the place of occurrence and tried to intervene, accused Osman Goni and Abdul Hamid strangulated my father and also assaulted my mother and myself. We raised alarm and accused persons seeing the villagers crowding at the place of occurrence had fled away. My brother had sustained injuries on his head. Thereafter, my brother had been carried to the hospital at Tamrahat and then to Dhubri Civil Hospital. Thereafter, at Dhubri Civil Hospital my brother had succumbed to his injuries. Police had seized a bicycle and an iron rod vide Ext.-2 is the seizure list bearing my signature Ext.2 (1).

Cross-examination: On the day of the alleged occurrence my parents had no dispute with accused persons over matter relating to land.

It is not a fact that I had stated before the police that on the day of the alleged occurrence Osman Goni had come to our house asking my parents to give some land so that they can settle down there. It is not a fact that I had stated before the police that my parents had declined the request of Osman Gonin and in this connection there had been an altercation between my parents and accused Osman Goni and in the meantime my parents had sent my elder brother Harun-Al Rashid to the village to call the villagers.

On the day of the alleged occurrence my mother along with my brother had gone to the house of my aunt on a bicycle. My mother was sitting on the carrier of bicycle and my brother was ridding the same. At the time of occurrence my sister, my blind brother Elius, my mother and my father were the inmates of the house. Fazal, Joynal, Surat Zamal used to live near the place of occurrence. At the time of occurrence apart from me and my father, none of the persons in the neighborhood had come to the place of occurrence, they had come after we had

raised alarm. Initially Fazar and Surat Zamal had come to the place of occurrence hearing our cries. Thereafter, other villagers had followed. In the meantime incident was already over.

8. P.W. 6, Md. Fajor Ali; I know accused persons present in the Court. I also know the informant Jonab Ali. I also know the deceased. Around 3 ½ years back at around 2:30 to 3:00 P.M. I had heard hue and cry at the place of occurrence. I had immediately gone to the place of occurrence. Having arrived at the place of occurrence I had found Harun-al-Rashid lying injured on the ground. I had seen the accused Abu Taleb, Anowar and Tahajul at the place of occurrence. I had also seen Jonab Ali at the place of occurrence. On the very same day Harun-Al Rashid had died at the hospital.

Cross by defence: The alleged occurrence had taken place on Thursady but I cannot recollect the date. I found the victim Harun-Al Rashid lying injured at Phulchanderdara. He we lying injured along with a bicycle. The bridge covering the Phulchanderdara was in a dilapidated condition. The I.O. had interrogated me. I had not stated above facts I have disclosed before the Court today to the I.O. Jonab Ali is my nephew. We came together to the Court.

It is not a fact that I have given my deposition on being tutored by the informant. It is not a fact that I had not gone to the place of occurrence.

9. P.W. 9, Md. Surat Jamal Sk.; I know all the accused present in the Court today. On the day of the alleged occurrence I was on my way to the daily market. Having gone a bit on my way, I had heard hue and cry and having heard hue and cry, I had rushed to the place of occurrence. Before I arrived at the place of occurrence I had seen the accused persons running away from the place of occurrence. Having arrived at the place of occurrence, I had seen Harun-Al Rashid lying injured on the ground and blood was oozing out from the wound. I had heard from the persons present there namely Jonab Ali, Hamida Khatun, Ebon Ali etc. that accused persons had assaulted the victim. I had arranged the vehicle and got the injured shifted to the hospital. Thereafter, I had not visited the hospital but later I had heard that having undergone treatment at the hospital for a night, the victim died.

Cross by defence: The place of occurrence is around 15 minutes walking distance from my house. It cannot be noticed from my house. I do not remember the date of occurrence. The incidence had taken place at around 3:30 P.M. I was on my way to daily market and on the way the place of occurrence falls. I was on my way to the market alone. Jonab Ali, Fajor, Joynal and others are residents near the place of occurrence. I had not come across the persons I had mentioned above in my village at the place of occurrence. I had heard at the place of occurrence about the alleged occurrence. I had not seen any one assaulting Harun-Al-Rashi.

10. P.W. 10, Md. Nur Islam Bhuyan; I know accused persons. I also know Harun-Al-Rashid. Around 2 ½ years back in the evening hours having heard and cry I

had rushed to the place of occurrence. Having arrived at the place of occurrence I had seen Harun-Al-Rashid lying on the ground and we arranged for shifting the injured to the hospital. I had heard at the place of occurrence that accused persons had assaulted Harun-Al-Rashid. At the hospital Harun-Al-Rashid succumbed to his injuries.

11. P.W.11, Dr. Tapas Mazumdar; On 17-08-2012 I was posted at Civil Hospital, Dhubri in the capacity of Sr. Medical & Health Officer, I performed postmortem examination on the dead body of Harun Ali RAshhid, Male, 21 years of age. The dead body was brought in connection with Tamarhat GD 387 dated 17-08-2012 and the dead body was identified by UBC Amjad and Ibnebatata Sk. and recorded the following observations.

1. An average built male dead body was examined. Rigor mortis had already set on all limbs.
2. There was a surgically suture over the left temporal region size 3 cm X 1 cm X 1 cm
3. There were also niddle prick injuries seen over the usual injection side.
4. Left temporal bone was found fractured. The size of fracture 8 cm X ½ cm full depth of the scalp. Blood clots were seen present.
5. Laceration over the membrane below the fracture of the scalp was found. Size 17 cm X 10 cm. Blood clots were seen present.
6. Laceration of brain maters below the fracture. Size 17 cm X 10 cm. Blood clots were seen present.

Injuries were all anti mortem in nature. In my opinion the cause of death was shock and hemorrhage as a result of head injury sustained by the deceased.

Ext.-3 is my report bearing my signature Ext.-3 (1). Ext.-3 (2) is the signature of the then Joint Director of Health Services.

Cross by defence: Injuries may result from a fall from a height with a cycle.

There is only one injury in the postmortem.

12. P.W.16, Shri Upendra Nath; On 17-08-2012, I was posted at the Tamarhat Police Station as an attached officer. On that day, the O.C., Tamarhat Police Station entrusted me to investigate this case and accordingly, I investigated the case. During the course of investigation, I went to the Dhubri Civil Hospital and found that the victim Harunal Rasid Sheikh was lying dead at the hospital. Then I informed the Executive Magistrate and the Executive Magistrate conducted inquest on the dead body. The Ext.-5 is the said inquest report. Thereafter, I sent the dead body for post mortem examination.

Thereafter, I went to the place of occurrence and prepared a site plan. The Ext.-6 is the said site plan. I also recorded the statements of the witnesses. I also

seized one bicycle and a piece of iron rod from the place of occurrence. Ext.-2 is the said seizure list and Ext.-2 (2) is my signature therein.

The witness Joynal Abedin (PW-5) told me that armed with iron rod and sticks at Phulchander Dara (a stream), the accused persons assaulted the deceased Harunal Rasid and caused serious injuries to him and succumbed to his injuries at the Dhubri Civil Hospital.

As during the pendency of investigation, I was transferred, I handed over the case diary to the O.C., Tamarhat Police Station and went to my new place of posting.

I seized the iron rod from the place of occurrence. I have not mentioned in the site plan in which portion, the rod was lying. P.W. 3 showed me the iron rod. I did not see any stain of blood at the place of occurrence.

The jute plants at the place of occurrence were about four feet high.

There was a broken wooden bridge on the Phulchander Dara and the place of occurrence was below the said wooden bridge.

The three rectangular signs in the site plan were of three abandoned houses.

I have not seen the seized articles in the Court today.

The bicycle that I seized was having a carrier but in the seizure list I have mentioned the bicycle was not having a carrier. Now I do not remember whether bicycle was having carrier or not. What I have stated in the case diary is correct. I have wrongly mentioned in the seizure list that the bicycle was not having carrier in it.

I have not mentioned in the site plan in which place the bicycle and the iron rod were lying.

The witness Jonab Ali (PW-1) told me that before that incident, on 16-08-2012, when the accused were quarreling with them, they sent the deceased Harunal Rasid to call the villagers. The witness Hamida Bibi (PW2) did not tell me that at the time of the incident, she was travelling with the deceased Harunal Rasid in his bicycle. The witness Hamida Bibi (PW2) did not tell me that the accused Osman Goni and Abdul Hamid were choking her husband.

13. At the stage of 313, all the four accused persons denied of committing the offence and nothing can be elicited out of the examination. Out of the five accused persons, Anowar Hussian was found to be juvenile and was forwarded to the Juvenile Board Dhubri and presently the four accused persons Osman Goni, Adbul Hamid Sheikh, Abu Taleb and Abdul Hamid Sheikh are in trial. They declined to lead evidence in their depositions.

14. On scrutiny of the evidences, it is apparently clear that there were embellishment in the story of the prosecution witnesses and there were also considerable contradictions in the statements of P.Ws. P.W. 2, who deposed that

the accused persons were armed with rod, spade, sticks etc started blowing his son is somewhat not consistent with the medical report that was furnished by the doctor which does not show that the victim had severe multiple injuries on his person. The doctor opined that there was a single injury on the head. The remaining explanation given by the doctor is the impact with single injury and therefore, it cannot be treated that the deceased was inflicted with several injuries. Furthermore, there is inconsistency as pointed out by the learned counsel in the statement before the Court and in the GD Entry. The GD Entry No. 387 dated 17-08-2012 clearly registers that there was a land dispute between the deceased family and the families of accused although they are all related. In the deposition of P.W. 2, she has stated that there was no land dispute. Again, P.W. 3 who is the younger brother of the deceased has also stated the same thing. Hence, there is inconsistency about the fact as to whether there was land dispute.

15. The learned Sessions Judge was clearly aware of this defects and has discussed the matter and opined that the victim families may have been ill advised that if they tell the truth, their case would be weakened. However, this inconsistency does not belie the fact that the victim was attacked by the accused persons. Secondly, P.W.1 stated that he had sent the victim to call the villagers while the accused persons were quarrelling with him and his wife is clearly stated by the I.O. Whereas, P.W.1 in his statement during cross-examination has stated that his wife and the deceased were coming back from Jamal's house. In the statement of P.W.2, the witness stated that they had gone to his sister's house. So there is contradiction to some extent in their examination under Section 161 Cr.Pc and their statements before the Court. The learned counsel has rightly pointed out so. Furthermore, the points raised as to the proper scrutiny of fact with respect to the nature of demise of the victim also requires to be discussed as the issue was argued before the learned Sessions Judge. The appellants had argued that the deceased could have succumbed to injury sustained by falling from the bicycle while crossing the bridge at Phulchander Dara (name of a stream). However, all the witnesses who have deposed have clearly stated that the bridge over Phulchander Dara was not in a condition to use. This is stated by P.W.6, Md. Fajor Ali who is a resident nearby the place of occurrence. This is also stated by P.W.3. The theory that the victim had died of bicycle fall sustaining injury and succumbing to his injury is unbelievable. The accused persons and the victim are all relatives. Had there been no animosity between the parties in any natural course of event, they would have helped the victim and taken steps to ensure his treatment. However, it is the opposite. The accused persons were seen fleeing from the spot by P.W. 9, Md. Surat Jamal Sk. Neither do the defence proof was advanced to that effect since they had declined to lead evidence at the trial stage. Hence, the finding of the learned Sessions Judge discarding the possibility of the deceased sustaining injuries by falling from bicycle is appropriate and does not need further interpretation.

16. The fact that the doctor has stated that a person can die out of injury falling

from a bicycle does not affect his conclusive opinion of the facts that the death was homicide. The fact that eye witness are all interested witnesses and that the same is not desirable in the eye of law is also not a proper proposition. It depends upon the facts and circumstances. In the instant case, admittedly there are three eye witnesses who are all family members. However, if there are other supporting circumstances, then there is no reason why such statement should be discarded as evidence. To support their evidence, P.W. 6 had testified that he had seen Abu Taleb, Anowar and Tahajul at the place of occurrence and he has also seen Jonab Ali at the place of occurrence. He further stated that he had found the victim Harunal Rashid lying injured on the ground. Furthermore, P.W.9 has stated that he had seen the accused persons running away from the place of occurrence and had also seen the victim Harunal Rashid lying injured on the ground and P.W. 10 who also arrived at the place of occurrence saw the victim lying on the ground and had arranged for shifting the injured to the hospital. He had also heard at the place of occurrence that the accused persons had assaulted Harunal Rashid, the victim and that the victim had succumbed to his injuries. From all these statements of witnesses, the statements of close relatives of the victim are fortified. Only because a witness is a close relative of the deceased, he cannot be dubbed as interested witness in as much as dear one of the victim cannot be expected to screen the real culprit and falsely implicate someone else. There is nothing to disbelieve their statements under the given facts and circumstances, that the accused persons attacked the deceased and caused the injury upon the deceased which proved to be fatal.

17. Admittedly, there are certain inconsistencies regarding the statement but these are not inconsistencies which go to the root of the case so as to destroy the prosecution's case. All the witnesses have deposed that the appellants inflicted the injuries on him which led to his death. The inconsistencies such as whether the victim had gone to call the villagers or the victim had gone to his aunt's place does not in any sense make the attack on victim and causing his death questionable. Inconsistency which does not effect the substantial facts of the case should not be considered for merits of the case for we can go wrong. The other fact is whether they have dispute is a matter linked to motive in the instant case but as opined by the learned Sessions Judge, it can be the result of ill advise to show that their case is not weakened and can be overlooked. From all the above discussions, we are in agreement with the findings of the learned Sessions Judge that appellants inflicted the injuries to the victim which lead to death.

18. Having held so, we shall now examine as to whether there was culpable homicide amounting to murder as defined under Section 300 IPC to record a conviction under Section 302 IPC. Section 300 defines as under:

"300. Murder- Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or-

2ndly- If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or-

3rdly - 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 course of nature to cause death, or-

4thly- If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid."

19. For the offence of murder the degree of knowledge and the intention is much higher than in case of culpable homicide not amounting to murder. In our case, the accused persons were five in number. If they had the intention to kill/murder the victim, they could have dealt several blows inflicting several injuries to ensure that the victim is killed. However, this is not the case here. In spite of the fact that they could easily overpower the victim and could have inflicted as many fatal injuries at their will, the accused persons did not do this. They dealt just one blow on the head. According to the report of the doctor there is only one injury. Hence, it is clear enough.

20. The Apex Court has given different decisions in cases where the victim was dealt one blow according to the facts and circumstances. In *Dayanand-vs-State of Haryana*, (2008) CrL LJ (SC), the victim died of single head injury. The Apex Court converted the conviction from 302 IPC to 304 IPC. In *State of Rajasthan-vs-Dhool Singh*, 3004 CrL LJ 931 (SC), only a single blow was given which caused cut wound on the neck of the deceased. Injury had extensively damaged the blood vessels leading to excess bleeding causing heart failure. Here it was opined that the wound demonstrated the knowledge and intention to kill and conviction under Section 302 IPC was upheld. In *Abdul Qadir-vs-State of Bihar*, 1985 CrLJ 1735 (Pat), solitary lathi blow on the head of the victim entailed death of the victim. But the evidence and the circumstances betrayed absence of any object or intention to kill. It was held that it was not a murder but conviction under Section 304 Part II is proper and in *Ram Chandra Dhondiba Kaware-vs-State of Maharashtra*, 2009 CrLJ 1739 (SC), it was held that solitary injury by single blow with yoke was caused to the deceased in an incident that had taken place out of enmity. It was held that the accused was liable to be convicted under Section 304 Part I and not for murder.

21. From the above cited cases it has been exemplified that when faced with the fact where a single blow has been dealt leading to the death of the deceased. Inference is made from the nature of wound, weapon used and also considering the circumstances in each case.

22. As discussed above, there was a single injury, the accused persons had the opportunity to inflict further injuries, they overpowered the complainant and also

the P.W.2. There was nobody who could stop them had they really intended to kill the victim. The nature of the wound is also not devastating so as to exhibit the intention to kill. From all the above facts and circumstances, we hold that the case does not fall within the ambit of Section 300 IPC so as to record a conviction under Section 302 IPC. Therefore, in our considered opinion, the accused persons have committed culpable homicide not amounting to murder punishable under Section 304 (I) IPC. Accordingly, we alter the conviction from Section 302 IPC to Section 304 IPC Part I. The conviction under Section 302 IPC passed by the learned Sessions Judge, Dhubri in Session Case No. 195 of 2015 is set aside. We sentence accused persons, namely, Osman Goni Sk, Abu Taleb Sheikh, Tahajul Hussian Sk and Abdul Hamid Sheikh to undergo rigorous imprisonment for 10 (ten) years and to pay a fine of Rs. 10,000/- (Rupees ten thousand) each and in default to undergo simple imprisonment for 6 (six) months each for committing offences under Section 304 Part I read with Section 34 IPC. Days already served by the accused shall be set off as provided under Section 428 Cr.Pc.

23. The Secretary, District Legal Services Authority, Dhubri is directed to enquire and provide necessary compensation under Section 357A.

Remit the LCR.