

IN THE COURT OF ADDITIONAL SESSIONS JUDGE:: DHUBRI.

Present:- P. Buragohain, AJS.

Session Case No.46/98.

State

-Versus-

Aminal @ Amirul Hoque, Gomiruddin, Bubul Hussain,
Noor Amin, Alauddin Sheikh, Daktar Ali, Zakir Ali,
Nazir Hussain, Golapuddin Sheikh, & Atabuddin Sheikh.....Accused persons.

Appearance:

Mr. A.T.A. Bepari, Addl. PP.....For State.

Mr. N.I.Choudhury,

Mr. U.K.Dutta, Advocates.....For Accused persons.

Evidence recorded on: 19-08-99; 06-01-2K; 19-02-02;
29-08-02; 20-11-02; 07-01-03;
17-02-03; 07-07-04; 04-01-05;
03-02-05; 28-03-07; 12-06-07;
& 04-07-07.

Argument heard on : 13-05-13.

Judgment delivered on: 22-05-13.

- JUDGEMENT-

Tender love is blind and knows no law and seldom restricted by any sense. This pathetic murder case had been originated as a consequences of such a tender love, however, the real paramours got escaped from being assassinated or injured but out of the battle one died and some others got injured.

The brief fact of the prosecution case, inter-alia, is that on 10-07-95 the informant Wahed Ali (PW-1) lodged an Ejahar reporting that on that date at about 10-00am, accused-persons armed with wooden beat, spike, spear, dao & lathi entering into his house compound assaulted him, his wife, his four sons and the nephew Gafur Ali causing injuries on their persons; on raising alarms and having seen arrival of local people, the accused-persons fled away. Therefore, the informant prayed for necessary action.

That on receipt of the FIR the police registering the same being Bilasipara P.S. Case No. 86/95 u/s 147/148/149/447/326/325 of IPC sprung up into the investigation

and during the period of medical treatment the injured Gafur Ali died due to his injuries; thereafter on completion of the investigation the police submitted the charge-sheet against the accused-persons sending them to stand trial for the offences punishable u/s 147/148/149/447/325/302 of IPC. Hence, the case in hand.

That during appearance stage accused **Golapuddin Seikh & accused Atabuddin Seikh died and the case is abetted against them.** And on appearance of other accused-persons, the learned committal court furnishing the copies of the police-papers committed the case for trial.

That on appearance of accused-persons and on hearing both sides & on the materials on record, my learned Predecessor framed charges punishable u/s **148/447/325/302 of IPC read with section 149 of IPC** and same was read over & explained to them to which they pleaded not guilty.

In the trial, the prosecution in support of its case, has examined 14 witnesses including the Investigating Officer but the defence has examined none and in view of the evidence on record, one of my learned Predecessor also have examined the accused-persons & recorded their statements wherein they have taken the plea of total denial and declined to adduced their defence evidence.

I have heard arguments put forward by the learned counsel of both-sides and carefully gone through the evidence on record.

Now, the points for determination in the instant case are:-

Whether accused-persons on 10-07-95 at about 10-00am at village Jogirmahal Part-II under Bilasipara Police-Station forming an unlawful assembly armed with deadly weapons and in prosecution of their common object committed rioting, thereafter in prosecution of their common object committed criminal trespass by entering into the house compound of the informant, voluntarily caused grievous hurt to the informant, his wife, his sons & his nephews causing injuries on their persons and committed murder intentionally or knowingly causing the death of Gafur Ali as alleged?

-DECISION AND REASONS THEREFOR-

The prosecution in support of its case has examined all 14(Fourteen) witnesses. PW-1 is Wahed Ali, the informant; PW-2 is Atowar Rahman; PW-3 is Marzina Bibi @ Ketu; PW-4 is Yakub Ali; PW-5 is Sayed Ali; PW-6 is Dr. M.R. Mondol, PW-7 is Dr. M. Islam; PW-8 is Nurul Hoque; PW-9 is Dr. R. K. Mahato; PW-10 is Zakir Hussain; PW-11 is Mustt. Ayesha Bibi; PW-12 is Taiyab Ali; PW-13 is Mustt. Mafida Bibi & PW-14 is S.I /Kallyan Kumar Deb, the Investigating Officer.

PW-1 is the complainant-Wahed Ali, identifying accused persons has deposed that the deceased Gafur Ali is his nephew; the occurrence took place about 4 years ago; his daughter Mafida Khatun (PW-13) had been married away to accused Ainal and after 5/6 months prior to the occurrence his youngest daughter age 13/14 years named Ketu (PW-3) had been taken away by said Ainal for viewing cinema and after three months his daughter Ketu came back to his house; thereafter on a day said Ainal divorced his eldest daughter Mafida. He has further deposed that again on a

day said Aminimal called his daughter Mafida to the house of one Mondol and knowing about that he called both Aminimal & Mafida to his house and asked Aminimal as to why he had spoiled his both daughters, however, he informed Aminimal that if he is going to take back Mafida again, in that case that can be possible only in presence of the village elderly persons; at that moment of conversation his another nephew Nurul was present; while he came out to call the villagers, at that time, accused Daktar Ali, Bubul, Nazir, Zakir Ali, Golapuddin, Nur Amin, Alauddin, Aftabuddin arrived in his house to which his another nephew **Gafur Ali (the deceased)** asked them not to raise hullah; at that moment, accused Bubul by wooden beat gave a blow on the head of Gafur Ali; immediately Gofur Ali fell down on the ground, then accused Nazir with a bamboo lathi assaulted on the chest of Gafur Ali and on being obstructed by Nurul, then accused Daktar Ali assaulted Nurul by bamboo lathi causing fracture of right hand and accused Zakir Ali also assaulted Nurul by lathi on head and Nurul also fell down on the ground and on hearing hullah his son Zakir Hussain rushed to the place of occurrence; at that time, accused Bubul assaulted Zakir on head and Zakir also fell down on the ground and the accused Daktar Ali also assaulted him on his back & shoulder by lathi and the accused Gimiruddin by a spike caused hurt on his right hand and while his wife Ayesha Khatun (PW-11) was coming to save him, accused Daktar Ali assaulted her on right hand by a lathi causing fracture. He has further deposed that the injuries of Gafur Ali, Nurul & Aysha Khatun were grievous and while the villagers assembled, accused persons with their arms went away towards the house of accused Golapuddin and villagers took the injured to Bilasipara Hospital wherein they were given first aid by the doctor, thereafter, the injured were shifted to Dhubri Civil Hospital and **Gafur died at Dhubri Civil Hospital** and after postmortem examination, Gafur was cremated; and his wife, Nurul & Zakir were treated at Dhubri Civil Hospital as indoor patient.

In cross-examination, he has asserted that at the time of entering of the accused persons in his compound, said Aminimal fled away from his house. He in cross-examination clarifying has asserted that the house of Golapuddin is adjacent to his house and while the accused persons were in front of the house of Golapuddin, at that time, Gofur was in the backyard of the house of Habibur and **the confrontation took place in front of the house of Golapuddin and the marpit also took place on that spot.**

PW2-Atowar Rahman-the son of the informant, identifying accused persons and the -deceased Gofur Ali, has deposed that the occurrence took place about 10-00am on 10-07-95, at that time he was at home and his father (PW-1) calling his sister Mafida (PW-13) & accused Aminimal into their house told that if Aminimal wants Mafida again, in that case that should be done in presence of some villagers by observing formalities and while his father was going to call villagers, **accused Bubul & accused Nazir Hussain entering into their compound assaulted Gofur by a**

lathi and Gofur fell down on the ground and accused Nazir Hussain assaulted Gafur on chest and while as he was proceeding, accused Bubul chased him and while his father & brother Nurul came to save him, at that moment, accused Daktar Ali & accused Zakir assaulted Nurul on head and Nurul also fell down on the ground. He has further deposed that due to the assault, he got injury on his left eye and chin & on chest and the accused Gomiruddin by a spike assaulted his father and while his mother Ayesha Bibi was coming, accused Daktar by a lathi assaulted her causing fracture on right hand and having seen the gathering of village people, the accused-persons taking their weapons went away. His further version is that the injured persons were taken to Bilasipara Hospital and those having grievous injuries were shifted to Dhubri Civil Hospital but Gafur succumbed to injuries in the hospital.

In cross-examination, he has asserted that he is an accused in Nowsad Ali murder case and on the date of occurrence, his school was closed; Aminimal was kept in a room and **the marpit took place in the south of their house** and accused Bubul was holding a lathi; and while his father was going out of the room to call villagers, at that time, he (PW-2) and Nurul (PW-8) were in that room with Aminimal and on hearing hullah he immediately came out from that room and saw returning of his father. However, he has denied all other suggestions put to him.

PW-3 is Marzina @ Ketu and she identifying accused persons and the deceased Gafur has deposed that accused Aminimal is the husband of her elder sister and on an evening accused Aminimal took her for viewing a cinema and from cinema she was taken to the house of relative of Aminimal, thereafter, she was taken hither and thither for about three months and committed sexual intercourse with her; and on a day she came back to her house and on arriving in the house she found her elder sister-the wife of accused Aminimal as she was divorced; she narrated the entire incident to her father and her father lodged a case against Aminimal.

She has further deposed that on a day Aminimal came to their house and her father leveled charge as to why he had spoiled his both daughters and if he wants to take her in that case there must be an written agreement in presence of village elders, thereafter Aminimal went away, and after a while accused-persons Daktar, Bubul, Zakir, Nazir, Gomiruddin armed with lathi, spikes entered into their house and Gomiruddin assaulted her father by a spike on right hand; she also saw injuries on person of Nurul, Gafur, her mother Ayesha Bibi & Zakir, thereafter, the accused persons went away and the injured were shifted to hospital and on that day Gofur died at Dhubri Civil Hospital.

She in cross-examination has asserted that having seen the anger of her father she thought that her father collecting people will kill Aminimal and considering the hot situation Aminimal got escaped from their house to which she raised no objection.

The PW-4 is Yakub Ali, and he identifying the accused persons has deposed that Gafur Ali died about 6/7 years ago and at that time he was working in

his cow shed. He has further deposed that **accused Bubul Hussain gave a blow on the head of Gafur by a wooden beat and he fell-down on the ground**; at that time **accused Golapuddin directed other accused persons to kill & behead Gafur Ali and he was assaulted by accused Alauddin on his head &** accused persons also assaulted other injured persons and went away, thereafter all injured persons were shifted to hospital and Gafur Ali died at Dhubri Civil Hospital.

The PW-5 is Sayed Ali and he identifying the deceased Gafur Ali as his youngest brother has deposed that on hearing hullah towards the direction of the house of accused Golapuddin, he saw accused Golapuddin, Bubul Hussain, Najir Hussain, Nur Amin, Alauddin, Gomuriddin, Daktar, Zakir armed with lathi, spike entering into their compound to which his brother Gofur asked them not to raise hullah, at that moment **on being directed by accused Golapuddin, the accused Babul with a wooden beat assaulted Gofur on head; Gofur fell down**; other accused-persons also assaulted Gafur. He has also deposed that accused Daktar assaulted Wahed on left side of head and accused Gomiruddin assaulted Wahed by a spike on right hand and on arrival of Ayesha-the wife of Wahed, the accused Nazir assaulted her by a wooden stick (used as grinder); and while Nurul-the nephew of Wahed obstructed, the accused Daktar assaulted him on right hand by lathi and accused Zakir assaulted Nurul on fingers of the left hand & on head.

The **PW-6 who conducted postmortem** on the dead body of Gafur Ali has deposed that he found Rigor-mortis present; closed eyes & mouth; nails pale; and one stitched wound (ten stitches) present over the left parietal area; depression present over the left temporal parietal area.

The examination of the cranium:-Scalp vertebrae. Depressed fracture over the left temporal parietal area present. On dissection, communicated fracture of left temporal & parietal bones seen.

Membranes- Torns & lacerated over the left parietal & temporal area.

Brain :- Brain materials lacerated over the left & parietal area.

Thorax:- Healthy; Wall, ribs, cartilages- healthy; Pleurae-healthy; Larynx & trachea-healthy; both lungs- healthy; Pericardium- healthy; heart- healthy, chamber contains-blood clot; Vessels-collapsed, no other injury; Abdomen:- Walls. Pericardium mouth, pharynx & esophagus – healthy. Stomach – healthy, contains few partly digested food particulars. Intestine :- contains phigal materials. Liver, Spleen & Kidneys – healthy. Bladder – healthy. Organs of generation, internal & external – healthy. Injuries are ante-mortem in nature.

Opinion:-in his opinion, death is due to shock & haemorrhage & coma as a result of grievous injuries sustained by the deceased. He has proved the postmortem report marked as Ext-1 and his signature marked Ext-1(1).

In cross-examination, he has asserted that **all the head injuries were found on the temporal parietal area and injuries were caused by single strike and there was no injury found on chest area.**

PW-7 has deposed that on 04-02-97 while he was at Bilasipara SHC as M & HO-I, he issued a medical report to the effect that on 10-07-95, Dr. Subrata Mitra **examined one Zakir Hussain** and found the following:-Haematoma on left eye; haematoma on left parietal region and one cut injury above left eye 2" X 2". Type of injury & the kind of weapon are not mentioned. It was copied from the Medico-legal Khata of Bilasipara SHC.

On that date, **one Wahed Ali was also examined** at 12-40pm at Bilasipara SHC by the same doctor and found the following- one cut injury on external surface of right fore-arm 3" in length. Emulsion of superficial skin- 2" X 1".

He has further deposed that on that date, same doctor at same time **examined one Yakub Ali** and found the following-Bruising & abrasion over the back of the scapula. Type of injury & kind of weapon not mentioned. He copied the particulars in the same way as above & has proved the injury report marked as Ext-2.

PW-8 is Nurul Hoque, has deposed that deceased Gafur Ali is his cousin, died in 1995; on that day at about 9/10am while he was working in his cultivation, he heard hullah in the house of Wahed Ali and he came there and saw Gafur lying in the front court-yard having blood injuries and found accused-persons Golap, Aftabuddin, Daktar, Nazim, Alauddin standing and also noticed accused-persons Bubul, Nur Amin, Gomiruddin going away crossing the ditch; and **he was assaulted on his head & right hand by accused-persons Daktar, Nazim & Zakir** and immediately he went inside the house of Wahed Ali (PW-1), thereafter they were taken to hospital but on that date Gafur died in the hospital and he was under treatment for 17days.

PW-9, Dr. Raj Kumar Mahato has deposed that 10-07-95 while was at Dhubri Civil Hospital as Sr. M & HO, on that date, **he examined one Ayesha Bibi** and found the following-Bruise over right arm; fracture of right humerus. X-ray of right arm, plate No. R 2213 which showed comminuted fracture of right humerus. The injury was 0-24 hours old, grievous in nature and caused by blunt object. He has proved the injury report marked as Ext-4 and his signature marked as Ext-4(1).

In his cross-examination, he has asserted that bruise & fracture is the result of the same injury and it may be caused by fall on hard substance. Radiological report is not available with injury report. He is not a Radiologist. No size of injury is mentioned in the injury report. They cannot differentiate with the bruise caused by lathi blow and bruise caused by fall on hard substance.

PW-10 Wahed Ali Sheikh has deposed that deceased Gofur is his brother and he died ten years ago; the occurrence took place about 09-00am; hearing hullah, he rushed to place of occurrence; at that moment **accused Golapuddin gave a blow on his head** and due to the assault he got unconscious for two days and he regained his sense in the hospital; he heard that accused Golapuddin & Atabuddin (both since died), killed Gafur Ali but he had not seen the assault. This witness was declared hostile by the prosecution, but in cross-examination by the prosecution, he

has denied the suggestions put to him. In cross-examination by the defence, he has asserted that he heard that the occurrence took place on the road in front of the house of accused-Golapuddin.

PW-11 Ayesha Bibi has deposed that deceased Gafur is her nephew; he died 8/9 years ago and while she was in the house of her another daughter near to her house, she hearing hullah came out and saw marpit in the house of accused-Golapuddin and on her arrival at the spot, **she was assaulted by accused Golapuddin (since deceased) causing injuries on her hand** and she got fainted and regained her sense at Dhubri Civil Hospital. This witness also declared hostile by the prosecution but in cross-examination by the prosecution, she has denied the suggestions put to her.

PW-12 Taiyab Ali has deposed that he wrote the ejahar Ext-5 as per dictation of the informant Wahed Ali and he read over the contents of the ejahar to him and the informant put the thumb impression and he endorsed the same.

PW-13 is Mafida Bibi identifying the deceased Gafur to be her elder brother has deposed that on that date she was in the house of her father Wahed Ali as she came back to the house of her parents quarreling with her husband. She has also deposed that on that date, her husband-accused Aminimal came to her parents house to take her back to which her father informed that he will hand over her to him in presence of 2/4 villagers;

PW-14 is the Investigating Officer and he has deposed that on 10-07-95 he was posted as SI of Assam Police and on that the O/c, receiving the Ejahar-Ext.5, endorsed the case for investigation; during investigation he visited the place of occurrence; examined the witnesses; prepared the sketch map (Ext.6) of the place of occurrence; arrested the accused-persons and forwarded to court; other accused-persons surrendered in the court; got the injured examined by doctor; injured Gafur died; seized the wearing cloths of the deceased from the complainant vide Ext.7. Thereafter, on completion of the investigation, he submitted the charge-sheet against the accused-persons.

The complainant (PW-1) & PW-11 have deposed that the confrontation took place in front of the house of Golapuddin and the marpit was took place on the same spot. As the occurrence of marpit took place outside the house compound of the complainant (PW-1).Therefore, the offence of criminal trespass has been negated by the complainant himself and his wife-PW-11.

According to the complainant, accused Bubul Ali by wooden beat gave a blow on the head of Gafur Ali, immediately Gafur Ali fell down on the ground then accused Nazir with a bamboo lathi assaulted on the chest of Gafur Ali. The PW-2 Atowar Hussain has also deposed that accused Babul and accused Nazir Hussain assaulted Gofur Ali by lathi and the Gafur Ali fell down on the ground and the accused Nazir Hussain assaulted Gafur Ali on chest and while he (PW-2) was proceeding, accused Bubul Ali chased him. The PW-4 Yakub Ali has deposed that accused Babul Ali gave a blow on the head of Gafur Ali by wooden beat and he fell

down on the ground. The PW-5 has deposed that while the accused persons entered into their house compound, his brother Gafur Ali asked them not to raise hullah. At that moment on being directed by accused Golapuddin, the accused Babul with a wooden beat assaulted Gafur Ali on head. Gafur Ali fell down. Other accused-persons also assaulted Gafur Ali.

The doctor (PW-6) who conducted the postmortem examination on the dead body of Gafur Ali has opined that he found head injuries and all the head injuries were found on the temporal parietal area and the injuries were caused by single strike and there was no no any injury found on the chest area. Thus, it has been well proved that Gafur Ali succumbed to injuries on the single strike/blow on his head by wooden beat caused by accused Bubul Hussain. Learned counsel Mr. Choudhury, for the accused persons, has submitted that the doctor (PW-6) has belied the testimony of the PW-1, PW-2, PW-4, PW-5 & PW-8. The doctor (PW-6) did not find any injury on the chest as claimed by PW-1, PW-2, PW-4, PW-5 & PW-8. **The PW-6 has negated asto any injury on the chest of Gofur Ali, therefore, that Nazir assaulted on the chest of the Gafur Ali has been remained in the womb of mystery.**

According to PW-1 complainant, accused Daktar Ali assaulted Nurul (PW-8) by bamboo lathi causing fracture on right hand and the injured Nurul has also deposed that he was assaulted on his head and right hand by accused persons Daktar Ali, Nazim & Zakir. PW-10 Wahed Ali Sk has deposed that he rushed to the spot, at that moment accused Golapuddin gave a blow on his head and due to the assault, he became unconscious for two days and he regained his sense in the hospital. **According to the prosecution, all injured persons were taken to Bilasipara hospital but Nurul Hoque (PW-8) & PW-10 Wahed ali Sk have failed to depose that they were medically examined & treated by any doctor. There is no evidence that Nurul Hoque was ever examined by any doctor. The PW-7 (the Medical & Health Officer of Bilasipara SHC) found no record of his examination. Thus, that the accused Daktar Ali, Nazim & Zakir assaulted Nurul Hoque on his head and right hand has also been negated, rather remains in the womb of mystery.**

The complainant PW-1 Wahed Ali has deposed that accused Daktar Ali assaulted him on his back and shoulder by lathi and the accused Gimiruddin by spike caused hurt on his right hand and according to the Dr. (PW-7) said Wahed Ali (PW-1) got one cut injury on external surface of right fore arm 3" in length. Emulsion of superficial skin and 2" X 1". Thus, the injury on the complainant Wahed ali was caused due to assault by accused Daktar Ali & Gimiruddin.

According to doctor (PW-7), Yakub Ali got bruise & abrasion over the back of scapula and Yakub Ali (PW-4) has deposed that accused Babul Hussain gave blow on the head of Gofur Ali by wooden beat as directed by Golapuddin and **accused Alauddin asaulted him (PW-4) on head. Therefore, the injury on PW-4 Yakub Ali was caused by accused Alauddin.**

PW-1 has further deposed that while his wife Ayesha Bibi was coming to

save him, accused Daktar Ali assaulted her on right hand by lathi causing fracture. The PW-2 Atowar Rahman has also deposed that while his mother Ayesha Bibi was coming, accused Daktar Ali by a lathi assaulted her causing fracture on right hand. The PW-9, the doctor who examined Ayesha Bibi found bruise on right hand with fracture of right humerus which is grievous in nature caused by blunt object.

But, the injured Ayesha Bibi-PW-11 on the other hand has claimed that she hearing hullah came out and saw marpit in the house of Golapuddin and on her arrival at the spot she was assaulted by accused Golap (now deceased). Thus, the injury on Ayesha Bibi (PW-11) was caused on the assault of accused Golapuddin (now deceased).

On scanning the evidence of prosecution witnesses, it appears that the accused Aminimal had gone to the house of the complainant (PW-1), at that moment, the complainant leveled allegation on him as to why he had spoiled his two daughters. However, he informed accused Aminimal, if he is going to take back his daughter-Mofida, in that case that can be done in presence of village elder persons and he (PW-1) came out of his house to call the villagers.

Therefore, it reveals that the complainant-PW-1 while was going to convey a meeting of elderly persons, the marpit took place, and the accused-persons namely Bubul Hussain, Daktar Ali, Gomiruddin, Golapuddin, Aftabuddin and Alauddin armed with lathi and other weapons arriving in front of the house of accused Golapuddin (now deceased) caused marpit causing injuries on Gafur Ali, Wahed Ali, Ayesha Bibi and due to assault injured Gafur Ali died and they came to the place of occurrence in prosecution of their common object, accordingly they caused marpit.

The learned counsel for the accused Mr. Choudhury, has submitted that the accused Aminimal had left the place of occurrence prior to the marpit and according to Mafida & Ketu, he had without any sort of arms in his hand and was coming to talk with them. **The PW-13, Mafida is the wife of the accused Aminimal and she has deposed that on that date, her husband-accused Aminimal had come to her parents house to take her back to which her father told that he will hand over her to him in presence of 2/4 villagers. The complainant has clarified himself that accused Aminimal had talk with Mafida in the house of the complainant. The intention of accused Aminimal was only to take back his wife-Mafida and he had left before the occurrence of marpit. Thus, apparently, the intention of Accused was quite different from that of other accused-persons.**

The evidence on record further reveals that although PW-1 has deposed that accused Nazir Hussain assaulted Gafur on chest but that has been negated by the doctor-PW6 who conducted the postmortem on the dead body of Gafur Ali as he has categorically asserted that he did not find any injury on chest of Gafur Ali. The other witnesses have failed to implicate the accused Nazir Hussain with the alleged marpit. Again, none of the witnesses has raised any finger of allegation against accused Noor Amin & accused Zakir Hussain. Therefore, accused-persons namely Aminimal, Nazir, Nur Amin & Zakir Hussain are acquitted on the benefit of doubt.

The clinching evidence is that accused Bubul Hussain, Gomiruddin, Alauddin, Daktar Ali, Golapuddin (now deceased), Aftabuddin (now deceased) in front of accused Golapuddin (now deceased) armed with weapons forming an unlawful assembly in furtherance of their common object committed rioting, thereafter in prosecution of their common object, voluntarily caused grievous hurt to Ayesha Bibi (PW-11); Wahed Ali (PW-1), Yakub Ali (PW-4) & Zakir Hussain, (PW-10) causing injuries on their persons and committed murder intentionally or knowingly causing the death of Gofur Ali ,therefore, they are found guilty for the offences punishable u/s 148/325/302 read with section 149 of IPC and I convict them thereunder. It deserves a mention, that on the death of Golapuddin & Aftabuddin the case against them abetted.

As discussed herein above, accused Nazir Hussain, Aminal Haque, Noor Amin & Zakir Hussain are acquitted from the charges u/s 148/447/325/302/149 of IPC on the benefit of doubt and set them at liberty forthwith.

Accordingly, on hearing the convict on the point of sentence u/s 235 of CrPC convicts namely Bubul Hussain, Gomiruddin, Alauddin & Daktar Ali are sentenced to suffer rigorous imprisonment for life and to pay a fine of Rs.5,000/- each in default to suffer simple imprisonment for another six months for the offenses u/s 302/149 of IPC and they are also to suffer rigorous imprisonment for rigorous imprisonment for one year and to pay a fine of Rs.3,000/- each in default to simple imprisonment for three months for the offenses u/s 325/149 of IPC; the convicts are also sentenced to suffer rigorous imprisonment for two years for the offenses u/s 148/149 of IPC. The convicts are acquitted from the charges u/s 447 of IPC as discussed herein above.

Furnish free copy of judgment to the convicts forthwith and also to District Legal Services Authority, Dhubri for enabling appeal/revision for the convicts as they are entitled to free legal aid u/s 12 of Legal Services Authority Act and another copy for payment of compensation u/s 357(A) of Cr PC as the heirs of the deceased Gofur Ali are entitled to compensation on the pathetic facts & circumstances of the case.

Considering the facts & circumstances of the case, I am not inclined to extend the benefit u/s 360 of Cr PC or u/s 3/4 of Probation of Offenders' Act.

Also send a copy of this judgment to the learned District Magistrate, Dhubri.

Given under my hand & seal of this court on this 22nd May, 2013.

Additional Sessions Judge
Dhubri.