

**THE HIGH COURT OF TRIPURA
A G A R T A L A**

CRL.REV.P. 105 OF 2009

1. Sri Benu Lal Das,
S/O. Lt. Nabadwip Das.
2. Sri Mithun Das,
S/O. Sri Benu Lal Das.
3. Sri Ranjit Majumder,
S/O. Lt. Prasanna Majumder.
4. Sri Ajit Majumder @ Sankar Majumder,
S/O. Lt. Beni Madhav Majumder.

All residents of Bijoynagar, P.S. Sabroom, South Tripura.

..... **Revision Petitioners.**

- V e r s u s -

The State of Tripura.
(Represented by Secretary cum
Commissioner, Home Department).

..... **Respondent.**

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA**

For the petitioners : Mr. S. Sarkar, Advocate.

For the respondent : Mr. R.C. Debnath, Addl. P.P.,
Ms. R. Purkayastha, Advocate.

Date of hearing and
delivery of judgment
and order. : 31.10.2014.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

This revision petition is directed against the judgment
dated 05-12-2009 passed by the learned Sessions Judge, South
Tripura, Udaipur in case No. Criminal Appeal 17(3) of 2009

whereby he upheld the judgment dated 03-08-2009 passed by the learned Sub-Divisional Judicial Magistrate, Sabroom, South Tripura in case No. G.R. 25 of 2008 convicting the accused for having committed offences punishable under sections 448 read with section 325 and 34 of the Indian Penal Code but modified the sentence under section 325 of IPC to 6(six) months' rigorous imprisonment instead of 2(two) years' rigorous imprisonment and enhanced the fine from Rs.500/- to Rs.5,000/- in respect of each of the accused. The sentence under section 448 read with section 34 IPC was maintained. The net result was that the accused have been directed to undergo rigorous imprisonment of 6 (six) months each under both the offences and to pay fine of Rs.5,000/- for the offence punishable under section 325 of IPC and in default of payment of fine to undergo 4(four) months' simple imprisonment. Both the sentences were directed to run concurrently.

2. The prosecution story, briefly stated, is that the victim Narayan Biswas went to the house of Maran Das to make a telephone call. At that time, all the four accused entered the house of Maran, forcibly pulled out the victim Narayan and took him under a mango tree near the house of Bhaba Das. There they assaulted Narayan both with 'lathi' and sharp edged weapon. One young boy Suman Das aged about 12 years thereafter came to the house of PW-1, Smt. Bijuli Biswas, informant, and told her that Narayan was being assaulted. Thereafter, Bijuli along with others rushed to the place of occurrence and found that both the hands of

Narayan had been tied with a 'gamcha' and he had been beaten and blood was coming out from his body. On inquiry, Narayan stated that he had been beaten by the accused. They took Narayan to the hospital, firstly to Sabroom, then to Udaipur and from Udaipur to Agartala. On the same day, she filed the complaint in question. Both the Courts below on the basis of the statements of the witnesses have convicted the accused as aforesaid.

3. I have heard Sri Subrata Sarkar, learned counsel for the petitioners, and gone through the entire evidence. Though Sri Sarkar has made strenuous effort to discredit the witnesses on the ground that they are all members of one family and that there was no independent witness, I am of the considered view that the Courts below have rightly decided the matter.

4. This Court while sitting in revisional jurisdiction is not to re-appreciate the evidence. The Courts below have come to a finding of fact that the accused had beaten the victim Narayan. This finding of fact is neither perverse nor based on no evidence. The conviction of the accused is based on the basis of the statement of the victim (PW-7) and the statements of PW-1, PW-2, PW-3, PW-4, PW-5 and PW-6 which clearly show that Narayan was lying under a mango tree in the house of Bhaba and had injury on his person. At that time, the victim Narayan had told all these persons that he had been assaulted by the accused persons. The statement of the victim is corroborated by the medical evidence of PW-15, Dr. Mani Ranjan Debbarma.

5. In this view of the matter, I am clearly of the view that on merits the judgments call for no interference. Having held so, this Court cannot lose sight of the fact that the occurrence in question took place in the year 2008. More than 6(six) years have elapsed and it would be a travesty of justice to send the petitioners behind bars after so many years. Therefore, though the conviction of the petitioners is upheld, their sentence is modified and each of the petitioners is sentenced to pay fine of Rs.2,000/- for the offence punishable under section 448 of IPC and Rs.10,000/- in respect of the offence punishable under section 325 of IPC. Consequently, each of the petitioners shall have to pay fine of Rs.12,000/-. In default of payment of fine, the petitioners shall undergo simple imprisonment of 2(two) months in respect of the offence under section 448 of IPC and simple imprisonment of 6(six) months in respect of the offence punishable under section 325 of IPC. In case, the fine amount is deposited, then out of Rs.12,000/- deposited by each of the accused, Rs.10,000/- shall be paid to the victim Narayan Biswas and Rs.2,000/- to the State. Therefore, if all the four accused deposit the fine, then the victim Narayan Biswas shall be paid Rs.40,000/- and Rs.8,000/- shall be paid to the State.

6. The criminal revision petition is disposed of in the aforesaid terms. Send down the lower court records forthwith.

CHIEF JUSTICE