



IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. OF 2026  
(arising out of SLP (CrI.) Nos. OF 2026)  
(@ Diary No. 24449/2025)

SRI SAGAR MURA ETC. APPELLANT(S)  
VERSUS

STATE OF ASSAM & ANR. RESPONDENT(S)

O R D E R

1. Delay condoned.
2. Leave granted.
3. The appellants, namely, Sri Sagar Mura and Sri Nagar Mura, are aggrieved by the common judgment and order dated 15.11.2018 passed by the Gauhati High Court, in Criminal Appeal (J) Nos. 51/2017 and 52/2017. Thereby, the High Court confirmed their conviction under Section 302 read with Section 34 of the Indian Penal Code, 1860, for the murder of one Biren Gogoi, *vide* judgment dated 14.03.2017 passed by the learned

Additional Sessions Judge, Sivasagar, in Sessions Case No. 276 (S-C) 2013.

4. The prosecution's case against the appellants hinged on the 'last seen' theory. PW-4 (Benu Gogoi), PW-6 (Gita Munda) and PW-10 (Putu Munda) spoke of the appellants chasing after the deceased, armed with a stick and a Kalam Katari/Dao (knife).
5. However, these witnesses spoke of the deceased being chased by the appellants on 15.06.2013 in the afternoon, whereas the body of the deceased was found on 16.06.2013 at 08.30 a.m.
6. The gap between the alleged sighting of the deceased while being chased by the appellants and the discovery of his body is, therefore, quite large. It is a settled proposition of law that the 'last seen' theory can be applied only if the gap between the last sighting of the deceased and the accused together and the discovery of the deceased's body is so proximate that it allows no possibility

for the intervention and interference by a third party.

7. In *Ajitsingh Harnamsingh Gujral V/s. State Of Maharashtra*<sup>1</sup>, this Court had pointed out that the duration of the time between the two events, i.e., the victim last being seen alive with the accused and the finding of the deceased's body, should be so small as to obviate the possibility of any other person being the author of the crime.
8. In *Kiriti Pal V/s. State Of West Bengal*<sup>2</sup>, this Court again affirmed that the 'last seen' theory comes into play when the time gap between when the accused and the deceased were last seen together and the deceased being found dead was so small that the possibility of any other person committing the murder becomes impossible.
9. That being one aspect of the matter, we find that the depositions of PW-4 (Benu Gogoi), PW-6 (Gita Munda) and PW-10 (Putu Munda) do not inspire confidence. More

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<sup>1</sup> (2011) 14 SCC 401

<sup>2</sup> (2015) 11 SCC 178

so, PW-6 (Gita Munda), who stated that the deceased entered her house at about 4.00 p.m., as the appellants were chasing him. She spoke of the weapons, viz., the knife and the stick, that they were allegedly wielding. According to her, she asked the deceased to leave as she would also be attacked otherwise and he, accordingly, left. She further stated that the appellants again started chasing him.

10. In her cross-examination, however, she admitted that the deceased did not even speak to her or tell her anything. She conceded that she had heard no hue and cry and that the accused did not enter her house. No explanation was, however, given by her as to how she knew that the appellants were chasing after the deceased, when the deceased did not even tell her so and when the accused did not enter her house. She made no mention of seeing the accused chasing after the deceased either through an open doorway or through a window, whereby she could

have accounted for sighting of the weapons in their hands. However, no such statement was made by her. The evidence of this witness, therefore, does not have credibility and cannot be acted upon. Similar is the situation with the other two witnesses, PW-4 and PW-10.

11. On a conspectus of the facts and circumstances of the case, we are of the considered opinion that this was not a fit case for application of the 'last seen' theory and the conviction of the appellants, based on the said theory, therefore, cannot be sustained.
12. The appeals are, accordingly, allowed, setting aside the impugned judgment and order dated 15.11.2018 and the judgment dated 14.03.2017 passed by the learned Additional Sessions Judge, Sivasagar, in Sessions Case No. 276 (S-C) 2013.
13. The appellants shall be set at liberty forthwith unless their continued incarceration is lawfully required in relation to any other case.

14. Fine amounts, if any, paid by them, shall be refunded.
15. Pending application(s), if any, shall stand disposed of.

.....J.  
(SANJAY KUMAR)

.....J.  
(K. VINOD CHANDRAN)

NEW DELHI;  
MAY 08, 2026.

ITEM NO.49/1

COURT NO.12

SECTION II

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CRIMINAL) Diary No.  
24449/2025

[Arising out of impugned final judgment and order dated 15-11-2018 in CRLAJ No. 51/2017 15-11-2018 in CRLAJ No. 52/2017 passed by the Gauhati High Court]

SRI SAGAR MURA ETC.

Petitioner(s)

VERSUS

STATE OF ASSAM & ANR.

Respondent(s)

(IA No. 146226/2025 - CONDONATION OF DELAY IN FILING)

Date : 08-05-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KUMAR  
HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s)

Mr. Rana Ranjit Singh, AOR  
Mr. Vivek Kumar Singh, Adv.  
Mr. Ravish Singh, Adv.  
Mrs. Akanksha Singh, Adv.  
Mrs. Sweta Singh, Adv.  
Mr. Aniket Rajput, Adv.  
Ms. Parul Kanojia, Adv.  
Ms. Saiyam Maan, Adv.  
Mr. Rajesh Garg, Adv.

For Respondent(s)

Mr. Debojit Borkakati, AOR  
Mrs. Deeksha Rai, Adv.

UPON hearing the counsel, the Court made the following  
O R D E R

Leave granted.

The appeals are allowed in terms of the  
signed order.

Pending application(s), if any, shall stand  
disposed of.

(BABITA PANDEY)  
AR-CUM-PS

(PREETI SAXENA)  
COURT MASTER (NSH)

(Signed order is placed on the file)

ITEM NO.49

COURT NO.12

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HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s)

Mr. Rana Ranjit Singh, AOR  
Mr. Vivek Kumar Singh, Adv.  
Mr. Ravish Singh, Adv.  
Mrs. Akanksha Singh, Adv.  
Mrs. Sweta Singh, Adv.  
Mr. Aniket Rajput, Adv.  
Ms. Parul Kanojia, Adv.  
Ms. Saiyam Maan, Adv.  
Mr. Rajesh Garg, Adv.

For Respondent(s)

Mr. Debojit Borkakati, AOR  
Mrs. Deeksha Rai, Adv.

UPON hearing the counsel, the Court made the following  
O R D E R

The Court passed a detailed order in open Court, allowing the appeals and setting aside the High Court's judgment and order dated 15.11.2018 and the judgment dated 14.03.2017 passed by the Additional Sessions Judge, at Sivasagar, in Sessions Case No. 276(S-C) 2013, which shall follow shortly.

Meanwhile, the appellants, namely, Sri Sagar Mura and Sri Nagar Mura, shall be set at liberty forthwith if their incarceration is not lawfully required in relation to any other case.

Copy of this order shall be sent to the Superintendent of the jail concerned for immediate compliance.

(BABITA PANDEY)  
AR-CUM-PS

(PREETI SAXENA)  
COURT MASTER (NSH)