



THE HIGH COURT OF ORISSA AT CUTTACK

CRA No. 275 of 1997

(In the matter of an application under Section 374 of Criminal Procedure Code)

Laxman Bastia

.....

Appellant

-Versus-

State of Orissa

.....

Respondent

For the Appellant : Mr. J.R. Dash, *Amicus Curiae*
along with Ms. Sartika Das,
Amicus Curiae

For the Respondent : Mr. Sobhan Panigrahi, ASC

CORAM:

THE HONOURABLE SHRI JUSTICE SIBO SANKAR MISHRA

Date of Hearing: 24.02.2026 : Date of Judgment: 26.02.2026

S.S. Mishra, J. The present Criminal Appeal has been preferred by the appellant assailing the judgment and order dated 11th November, 1997 passed by the learned Special Judge-cum-Sessions Judge, Balangir-



Sonepur at Balangir in G.R. Case No.195 of 1995 / T.R. No.17 of 1995. By the said judgment, the learned trial Court convicted the appellant for the offences punishable under Sections 324 and 294 of the Indian Penal Code (hereinafter referred to as “the Code” for the sake of brevity) as well as under Section 3(1)(xi) of the S.C. & S.T. (P.o.A.) Act (hereinafter referred to as “the Act” for brevity). Upon such conviction, the appellant was sentenced to undergo rigorous imprisonment for a period of one month for the offence under Section 294 of the Code; further rigorous imprisonment for six months and to pay a fine of Rs.500/-, in default to undergo rigorous imprisonment for one month, for the offence under Section 323 of the Code; and rigorous imprisonment for one year for the offence under Section 3(1)(xi) of the Act. The learned Court below directed that all the substantive sentences shall run concurrently. It was further observed that the fine amount, if realised, shall be paid to the informant as compensation.

2. Heard Mr. J.R. Dash and Ms. Sartika Das, learned *Amicus Curiae* for the appellant and Mr. Sobhan Panigrahi, learned Additional Standing Counsel for the State.



3. The prosecution case, in brief, is that the informant, Lata Barik (P.W.1), and her husband, being landless persons, were in cultivating possession of Ac.2.00 of Patra jungle land. The accused laid claim over the said land as his own, which gave rise to ill-feeling between the parties.

The alleged occurrence is stated to have taken place at about 5:00 P.M. on 06.06.1995, when the informant was returning from a grocery shop in her village, Rengali. On her way, she came across the accused in front of his house. It is alleged that the accused, who does not belong to any Scheduled Caste or Scheduled Tribe, abused her in obscene language. Out of fear, P.W.1 rushed towards her house. The accused allegedly followed her and assaulted her on the way by means of a lathi, dealing a blow on her head, as a result of which she sustained injury and fell down. On seeing the husband of the informant approaching the spot, the accused fled away.

On the basis of the oral report lodged by P.W.1 at about 8:00 P.M. on the same day, A.S.I. Sri Jayabandhu Padhan (P.W.4) of Lachhipur



Out Post reduced the same into writing, prepared the First Information Report (Ext.1), made Station Diary Entry No.91 dated 06.06.1995, and forwarded the report to Dungripali Police Station for registration of the case and took up investigation. On the requisition of P.W.4, Dr. Chudamani Meher (P.W.3) medically examined P.W.1 at Lachhipur Additional P.H.C. and issued the injury report (Ext.2). During the course of investigation, P.W.4 examined the witnesses, visited the spot, and prepared the spot map (Ext.3). Upon completion of investigation, the Officer-in-Charge of Dungripali P.S. submitted charge-sheet against the accused.

4. Defence plea is one of complete denial and false implication, on such plea of denial he was put to Trial

5. In order to substantiate its case, the prosecution has examined four witnesses in all. P.W.1 is the informant–victim, Smt. Lata Barik. P.W.2 is the Ward Member of the village where the occurrence allegedly took place and is a post-occurrence witness. P.W.3 is Dr. Chudamani Meher, who medically examined the injured and proved the injury report. P.W.4



is A.S.I. Sri Jayabandhu Padhan, the Investigating Officer, who reduced the oral report into writing, registered the case, and conducted the investigation. The prosecution has relied upon the documentary evidence marked as Exts.1 to 3.

6. The learned trial Court, upon an elaborate discussion of the evidence on record, particularly that of the injured witness, recorded its findings in paragraphs 10 and 11 of the impugned judgment. The said paragraphs read as follows:

“10. Learned defence counsel also submitted that in view of admitted hostile relationship between the accused and informant's family, P.W.1's testimony is not capable of being relied upon without corroboration from any independent eye-witness. It is argued that prosecution has not chosen to examine any other witness though named in the F.I.R. to have witnessed the occurrence. Hostility, being a double edged weapon, not only probabalises false implication but also constitutes motive for alleged offence. In the present case P.W.1 admits to the defence suggestion that she was terribly afraid of the accused and his family members after their acquittal in an earlier case concerning Possession of Patra jungle land instituted by P. W.1's husband. P.W.1's evidence is free from any material infirmity effecting the intrinsic ring of truth around it. Corroboration of her evidence by P.W.2 who has no motive whatsoever to make false allegation against the accused, as well as medical evidence lends further assurance to her testimony. Therefore, prosecution has well established the allegations against the accused. It has been proved beyond reasonable doubt that the accused abused and assaulted by



means of a stick causing injuries on the informant P.W.1 with full intent to dishonour her modesty in a Public Place in order to avenge institution of criminal case against him by P.W.1's husband in connection with occupation of Patra jungle land.

11. In the result the accused Laxman Bastia is found guilty of charge framed against him and he is convicted for commission of offences under sections 323 and 294 I. P. C. as well as Section 3(1)(xi) of the S.C. & S.T. (Prevention of Atrocities) Act, 1989."

7. Thus, on the basis of the aforesaid reasoning, the learned trial Court proceeded to record an order of conviction against the accused for the offences under Sections 323 and 294 of the Code and Section 3(1)(xi) of the Act, holding that the prosecution had established the charges beyond reasonable doubt.

8. Aggrieved by such Judgement of conviction and order of sentence, the appellant has preferred the appeal.

9. It is brought to the notice of this Court by the amicus curiae for the appellant that the investigation in the present case was conducted by an officer below the rank of Deputy Superintendent of Police. It is contended that in view of the provisions of the S.C. & S.T. (Prevention of Atrocities) Rules, 1995, which came into force with effect from



31.03.1995, any offence under the Act is required to be investigated by a police officer not below the rank of a Deputy Superintendent of Police.

Drawing attention to the record, the amicus curiae submitted that the occurrence allegedly took place on 06.06.1995 and the F.I.R. was registered on 07.06.1995. The investigation, however, was conducted by the Sub-Inspector of Police, who has been examined as P.W.4 and was the Officer-in-Charge of the concerned Police Station at the relevant time. The charge-sheet was submitted on 08.07.1995 by the said officer. It is thus urged that since the Rules of 1995 had already come into force prior to the date of occurrence, compliance with the mandate requiring investigation by an officer not below the rank of Deputy Superintendent of Police was obligatory. In absence of such compliance, it is submitted that, the conviction recorded under the S.C. & S.T. (Prevention of Atrocities) Act, 1989 cannot be sustained.

10. Accordingly, insofar as the conviction under Section 3(1)(xi) of the S.C. & S.T. (Prevention of Atrocities) Act, 1989 is concerned, this Court, for the reasons as assigned by the learned *Amicus Curiae*



hereinabove with regard to non-compliance of the mandatory requirement relating to investigation by an officer not below the rank of Deputy Superintendent of Police, is of the considered view that the conviction under the said provision cannot be sustained and the appellant is entitled to acquittal of the charge under the Act.

11. However, no submission has been advanced on behalf of the appellant with regard to the conviction under Sections 323 and 294 of the Indian Penal Code. Upon independent scrutiny of the evidence and the findings recorded by the learned trial Court, this Court finds no perversity or illegality in the appreciation of evidence insofar as the said offences are concerned. The conclusions arrived at by the learned trial Court with respect to the offences under Sections 323 and 294 I.P.C. are based on proper evaluation of the materials on record and do not warrant interference. Accordingly, the conviction under the said provisions is liable to be upheld.

12. At this stage, Mr. Dash, learned *Amicus Curiae* for the appellant submitted that keeping in view the procrastinated judicial process



undergone by the appellant in this case and the ordeal of trial faced by him; he submitted on the quantum of sentence. He submitted that the incident pertains to the year 1995. The appellant has undergone the rigors of trial for about two year. Thereafter, the appeal was preferred in the year 1997. The appeal has been prolonging to be heard for about 29 years. The appellant who was 30 years then is about 60 years of age now and therefore, sending him to custody for fulfilling his remaining sentence at this belated stage would serve no purpose. The learned *Amicus Curiae* further submitted that the appellant has no criminal antecedent, and no other case of a similar nature or otherwise is stated to be pending against him. Over the years, he has led a dignified life, integrated well into society, and is presently leading a settled family life. Incarcerating him after such a long delay, it is argued, would serve little penological purpose and may in fact be counter-productive, casting a needless stigma not only upon him but also upon his family members, especially when there is no suggestion of any repeat violation or ongoing non-compliance with regulatory norms. Therefore, in the fitness of situation, the appellant may be extended the benefit of the Probation of



Offenders Act read with Section 360 Cr.P.C. I am inclined to accede to the prayer made by Mr. Dash, learned *Amicus Curiae* for the appellant on the facts scenario of the case.

13. Regard being had to the societal position of the appellant, clean antecedents and the fact that the incident had taken place in the year 2008, I am of the considered view that the appellant is entitled to the benefit of the Probation of Offenders Act and Section 360 of Cr.P.C. Additionally, the case of the appellant is also covered by ratio of the judgment of this Court in the case of *Pathani Parida & another vs. Abhaya Kumar Jagdevmohapatra*¹ and *Dhani @ Dhaneswar Sahu vs. State of Orissa*².

Additionally, the present case is also squarely covered by the judgment of this Court in *Sk. Wahed Ali Vs. State of Orissa*³, wherein, while dealing with an offence of a similar nature, the Court had extended

¹ 2012 (Supp-II) OLR 469

² 2007 (Supp.II) OLR 250

³ AIROnline 2025 ORI 280



the benefit of the Probation of Offenders Act, 1958 to the appellant, who had been convicted under Section 323 of the Indian Penal Code.

On similar footings, this court in *Maheswar Sahoo Vs. State of Orissa*⁴ wherein the accused persons were convicted U/s.326/34 of I.P.C, has extended the benefit of Probation of the Offenders Act, 1958.

14. The ratio of the aforesaid decisions, emphasizes the reformatory approach of criminal jurisprudence in cases involving personal disputes and absence of criminal antecedents, is fully applicable to the facts and circumstances of the present case.

15. In such view of the matter, the present Criminal Appeal in so far as the conviction is concerned is turned down. But instead of sentencing the appellant to suffer imprisonment, this Court directs the appellant to be released under Section 4 of the Probation of Offenders Act for a period of three months on his executing bond of Rs.5,000/- (Rupees Five Thousand) within one month with one surety for the like amount to

⁴ CRA No.302 of 1996 disposed of on 11.11.2025



appear and receive the sentence when called upon during such period and in the meantime, the appellant shall keep peace and good behavior and he shall remain under the supervision of the concerned Probation Officer during the aforementioned period of three months.

16. Accordingly, the Criminal Appeal is partly allowed.

17. This Court records appreciation of the meaningful and effective assistance rendered by Mr. J.R. Dash and Ms. Sartika Das, learned *Amicus Curiae*. They are entitled to the honourarium of Rs.5,000/- (Rupees Five thousand) each as a token of appreciation.

(S.S. Mishra)
Judge

The High Court of Orissa, Cuttack
Dated the 26th February, 2026/Ashok