



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRREV No.449 of 2001

(In the matter of an application under Section 401 of read with Section 397 of Cr.P.C.)

**1. Pati Pradhan
2. Khira Behera**

....

Petitioners

-versus-

State of Odisha

....

Opposite Party

For Petitioners : Mr. J.K. Naik, Amicus Curiae
For Opposite Party: Mr. C.R. Swain, AGA

CORAM: JUSTICE V. NARASINGH

DATE OF HEARING : 10.02.2026

DATE OF JUDGMENT : 23.02.2026

V. Narasingh,J.

1. This Criminal Revision has been filed assailing the judgment dated 21.06.2001 passed by the learned Additional Sessions Judge, Angul in Criminal Appeal No.31 of 1998 affirming the order of conviction dated 29.06.1998 of the Petitioners passed by the learned Chief Judicial Magistrate-Cum-



Assistant Sessions Judge, Angul in S.T. Case No.78-A of 1997 under Sections 376/511/34 I.P.C. and imposing a sentence of rigorous Imprisonment for a period of three years and to pay a fine of Rs.200/- (Rupees Three Hundred only) each, and in default to undergo rigorous imprisonment for one month is assailed in this revision.

2. It is the case of the prosecution that on 21.03.1997, while the victim was returning alone from the land, the accused persons uttered obscene words and caught hold of the victim, squeezed her breasts, assaulted her causing bleeding injury, and attempted to make her naked. However, the victim managed to free herself and ran away. Consequently, the incident was reported to the police. And, in due course, after completion of investigation, the accused persons were put to trial under Sections 323/376/511 IPC.

3. To drive home the charge, the prosecution examined eight witnesses of whom P.W.3 is the victim, P.W.7 is the informant and several documents were exhibited and marked as Ext.1 to 3.

Though no documentary evidence was addition in support of the accused- Petitioners, two witnesses were examined as D.W.1 and 2.

4. On considering the evidence on record, the learned Trial Court came to a finding that the Petitioners have committed the offence under



Sections 376/511/34 of IPC and sentenced them to undergo rigorous Imprisonment for a period of three years and to pay a fine of Rs.200/- each, and in default to undergo rigorous imprisonment for one month.

On appeal being filed by the accused-Petitioners, the learned Appellate Court, primarily referring to the evidence of the victim, P.W.3 and the Medical officer, P.W.6, dismissed the appeal and affirmed the order of conviction and order of sentence.

5. Heard learned counsel for the Petitioners and learned counsel for the State.

6. Learned counsel for the Petitioners, in support of the stand taken in the revision petition assailing the Appellate order, submits that there is ex facie perversity in the appreciation of the evidence. Hence, the same merits interference by this Court in exercise of its revisional jurisdiction.

7. Learned counsel for the State, on the other hand, submits that there is no infirmity in the impugned judgments of the learned Trial Court and the learned Appellate Court, warranting interference by this Court in exercise of revisional jurisdiction, keeping in view the limitation of exercise of such revisional jurisdiction.

8. On perusal of the judgment of the learned Trial Court, it is seen that though discrepancies were



noted, they were ignored, since the same were construed as not material so as to disbelieve the case of the prosecution, and such, the order of conviction was affirmed by the Appellate Court.

9. It is the specific case of the prosecution that the victim, P.W.3, had stated that she narrated the incident before P.Ws. 1, 2 and 7 (father, mother and brother of the victim, respectively). On going through the evidence of P.W.8-the I.O., it came to the fore that during investigation, P.Ws.1,2 and 7 did not corroborate such version of P.W.3.

Coming to the evidence of P.W.3, the victim, the learned Public Prosecutor submits that even ignoring the evidence of the other witnesses, the evidence of P.W.3 can be relied upon, as has very rightly been done in the case at hand. As such, the order of conviction cannot be said to be outcome of perverse appreciation.

10. Being conscious of the contours of exercising revisional jurisdiction, this Court perused the evidence of P.W.3, coupled with the evidence of medical officer, P.W.6.

11. On a conspectus of the evidence on record, this Court is persuaded to hold that, notwithstanding the discrepancies vis-à-vis the statements of P.Ws. 1, 2 and 7, as stated hereinabove, the stand of P.W.6 has been corroborated by material particulars on record. Significantly by the evidence of the



medical officer, P.W.6, which has been taken into account by the learned Trial Court as well as the Appellate Court. Hence, this Court does not find any perversity in the appreciation of evidence by both the Courts so as to warrant any interference by this Court in exercise of revisional jurisdiction.

12. Now coming to the question of sentence, it is seen that the occurrence in question took place almost 3 decades back and at the time of occurrence, both the Petitioners were aged about 25 years. It is submitted by the learned Amicus Curiae that in the meanwhile, there is no adverse report against the Petitioners. They have not misused the trust reposed in them while being on bail and have not indulged themselves in any other offence.

13. Such submission is not seriously opposed by the learned counsel for the State.

14. On considering the aforementioned circumstances, this Court is persuaded to hold that it is a fit case for the Petitioners to be granted the benefit under the Probation of Offenders Act, 1958 (hereinafter referred to as 'P.O. Act'), considering the nature of the allegation, as borne out from the evidence on record. In arriving at such a conclusion, this Court is guided by the judgment of the Apex Court in ***Chellammal and anr. V. State represented by the Inspector of Police, 2025 SCC OnLine SC 870.***



15. Hence, in the given factual matrix of the case at hand and in view of the evidence on record, while maintaining the conviction recorded against the Petitioners by the learned Trial Court, and having regard to the facts and circumstances, this Court is inclined to direct the release of the Petitioners on probation under Section 4 of the P.O. Act, on conditions to be settled by the Trial Court.

16. The Criminal Revision is accordingly disposed of.

17. The fees of the learned Amicus Curiae shall be as per the schedule adopted by the Legal Services Authority, High Court of Orissa for conducting criminal cases in this Court. Such fees shall be disbursed on being moved.

18. The bail bond(s) stand cancelled and the sureties are discharged.

(V. NARASINGH)
Judge

Orissa High Court, Cuttack
Dated the .23rd February, 2026/ Soumya