



IN THE HIGH COURT OF ORISSA AT CUTTACK
CRA No.222 of 1999

Dhrubadutta Patel and another ***Appellants***
None

-versus-

State of Odisha ***Respondent***

Ms.Suvalaxmi Devi, Addl. Standing Counsel

CORAM:

HON'BLE MR.JUSTICE MURAHARI SRI RAMAN

ORDER

10.10.2025

Order No.
06.

1. None appears for the appellants when the matter is called. Heard Ms.Suvalaxmi Devi, learned Addl. Standing Counsel appearing for the State.
2. This appeal has been filed under Section 374 of the Code of Criminal Procedure, 1973 against the judgment dated 10th August, 1999/28th August, 1999 of the learned Judge (Special Court), Sambalpur rendered in T.R. Case No.52 of 1997 by which the accused/appellants, namely, Dhrubadutta Patel and Sanjay Patel were found guilty and sentenced to undergo R.I. for a period of six months each for the offence under Section 332 read with Section 34 of IPC, subject to set off.
3. This Court *vide* order dated 22nd September, 1999 admitted this appeal and granted bail to both the appellants, namely, Dhrubadutta Patel and Sanjay Patel by directing the learned court below for production of the L.C.R. Thereafter, the matter was taken up on several occasions, i.e., 01.08.2025 and 15.09.2025.
4. Today, when the matter is called for hearing, Ms.Suvalaxmi Devi, learned Addl. Standing Counsel produced the detailed instructions received from the DSP I/C, Kuchinda Police Station,



Sambalpur, wherein it is stated that during local enquiry, it could be ascertained that the appellant No.1-Dhrubadutta Patel, S/O: Late Gobindaram Patel is dead 15 years ago due to old age and another appellant, namely, Sanjay Patel (45 years), S/O: Late Dhrubadutta Patel is residing at village, Binjipali, P.S.: Kuchinda, Dist:Sambalpur along with his family members. The said instruction is taken on record.

5. Considering the submissions so made and after going through the records, it appears that this appeal is filed under Section 374 of the Cr.P.C. At this juncture, it may be pertinent to take note of provisions of Section 394 of the Cr.P.C., which is quoted hereunder:

“394. Abatement of appeals.—

(1) Every appeal under section 377 or section 378 shall finally abate on the death of the accused.

(2) Every other appeal under the Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant:

Provided that where the appeal is against a conviction and sentence of death or of imprisonment, and the appellant dies during the pendency of the appeal, any of his near relatives may, within thirty days of the death of the appellant, apply to the Appellate Court for leave to continue the appeal; and if leave is granted, the appeal shall not abate.

Explanation.— In this section, “near relative” means a parent, spouse, lineal descendant, brother or sister.”

6. Since the appellant No.1- Dhrubadutta Patel is dead, in view of the aforesaid provision, the appeal stands abated *qua* appellant No.1-Dhrubadutta Patel.

6.1. So far as the Criminal Appeal in respect of appellant No.2-Sanjay Patel is concerned, let the same be listed for hearing.

7. Hence, list this matter on 21st November, 2025.

(M.S. Raman)
Judge