



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRREV No.657 of 2001

(In the matter of an application under Section 401 of the
Criminal Procedure Code)

Prahallad Behera

....

Petitioner

-versus-

State of Odisha

....

Opposite Party

For Petitioner : Mr. B.S. Dasparida, Advocate
On behalf of
Mr. D.P. Dhal, Sr. Advocate

For Opposite Parties : 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. The judgment dated 12.09.2001 passed by the learned Ad hoc Addl. Sessions Judge (Fast Track Court), Balasore, in Criminal Appeal No. 84 of 1990, thereby affirming the judgment dated 22.09.1990 passed by the learned Asst. Sessions Judge-cum-C.J.M., Balasore in S.T. Case No.13/73 of 1990 under



Section 366 IPC and imposing a sentence of R.I. for three years, is assailed in this criminal revision.

2. The case of the prosecution is that the victim, a student of Class 10th of Sakuntala Girls' High School, Sunhat, on 25.10.1989 at about 10 A.M., while proceeding to school from her house at Dasi, met Tarulata Das (P.W.3) and Jyotirmayee Parida, daughter of one of the accused, Achhuta Parida of village Isani. At Mulanagar crossing, she found a jeep parked facing towards Balasore with the accused persons nearby and 3 to 4 persons inside. When she was about to cross the jeep, the accused Petitioner and the said Achhuta Parida came from behind and, the accused Petitioner gagged her mouth by putting his hand over it and Achhuta Parida dragged her towards the jeep. Though she cried, no sound was heard due to pressure on her mouth. The jeep proceeded towards Balasore, one person alighted on the way and it later stopped near a tank as the driver expressed his unwillingness to proceed further, thereafter, the accused persons took her to the



verandah of Achhuta Parida and the present Petitioner allegedly threatened the victim with a knife and asked her to marry him, and two women, subsequently identified as the mother and sister of Achhuta Parida, also threatened her. On 25.10.1989, Prabir Kumar Das, the cousin brother of the victim, lodged a report at the Police Station, which was registered as the F.I.R., on the basis of which the case was instituted.

3. The defence case is one of complete denial. To drive home the charge, prosecution examined 10 witnesses, of whom P.W.1, the informant, P.W.5, the doctor, P.W.6, the victim are the material witnesses. Several documents were exhibited and marked as Exts.1 to 11/1, out of which Ext.4 and 11, being the seizure lists, Ext.5, being the medical report and Ext.6, being the X-ray plate are of significance.

Though no documentary evidence was filed in support of the defence, one witness was examined on behalf of defence as D.W.1.



4. Heard learned counsel for the Petitioner and learned counsel for the State.

5. It is submitted by the learned counsel for the accused Petitioner that admittedly P.W.3 was going along with the victim when the alleged incident happened and since she has not supported the prosecution, it creates a great doubt regarding the occurrence.

6. It is further submitted that the driver of the vehicle has also not been examined and discrepancy regarding the timing of the institution of the FIR is also pressed into service to question the credibility of the case of the prosecution.

7. Per contra, the learned counsel for the State, referring to the statement of P.W.6- the victim coupled with the statement of her elder father P.W.9, submits that there is no perversity in appreciation of evidence and the Appellate Court, having rightly affirmed the judgment passed by the Trial Court, the matter does not merit interference in exercise of revisional jurisdiction of this Court.



8. This Court carefully perused the evidence on record, including that of P.W.6 and being conscious of the limitations in exercising revisional jurisdiction, does not find any patent infirmity or perversity in the appreciation of evidence, so as to warrant interference with the judgment of conviction and the sentence imposed. The same are accordingly affirmed.

9. At this stage, it is submitted by the learned counsel for the Petitioner that the incident occurred in the year 1989, almost 37 years back. Over these three decades and half, the Petitioner who has had his home and hearth within the jurisdiction of the Trial Court has well integrated himself into society and there is no allegation against him save and except the present incident.

10. Hence, on the said count, in the light of the Judgment of the Apex court in the case of ***Chellammal and another vs. State Represented by the Inspector of Police, 2025 SCC OnLine SC 870***, it is submitted that the Petitioner may be



extended the benefit of the Probation of Offenders Act ,1958 (hereinafter referred to as "P.O. Act").

11. Learned counsel for the State, on the other hand submits that the offence as alleged is heinous and hence the benefit of P.O. Act ought not be extended. But he does not seriously dispute the fact that apart from the case at hand, the Petitioner does not have any criminal proclivity.

12. On a bare perusal of the provisions contained in the P.O. Act, it is seen that there is no embargo on the powers of this Court, while exercising jurisdiction under Section 11 to extend the benefit of the provisions of the P.O. Act, if the conviction does not come within the restrictions so imposed.

Ex-facie taking into account the punishment imposed such prescription does not come into play.

13. Hence, taking into account that the Petitioner has no criminal antecedent save and except the case at hand and in the light of the judgment of the Apex Court in the case of ***Chellammal(supra)***, this Court is inclined to direct the release of the Petitioner on



probation under Section 4 of the P.O. Act, on conditions to be settled by the learned Trial Court.

14. Accordingly, the criminal revision stands disposed of.

15. In view of the disposal of the Crl. Rev., pending I.As, if any, stand disposed of.

(V. NARASINGH)
Judge

*Orissa High Court, Cuttack,
Dated the 23rd of February, 2026/Santoshi*