

j
Crl.A.No. 923 OF 1996

ITEM No.102

Court No.4

SECTION IIA

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

CRIMINAL APPEAL NOS.923 OF 1996

STATE OF ORISSA

Appellant (s)

VERSUS

DANDAPANI NAHAK

Respondent (s)

(With Office Report)

[With SLP(Crl.).....Crl.M.P.213/1996 (Crl.M.P.213)

Date : 24/09/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s) Mr.Raj Kumar Mehta,Adv.

For Respondent (s) Mr.Jana Kalyan Das,Adv.

Upon hearing counsel the Court made the following
O R D E R

Delayed condoned.

Leave granted.

The appeal is allowed filed by the State in terms of the signed order.

(Vijay Aggarwal) (N.K.Gandhi)
COURT MASTER AR-cum-PS

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.923 OF 1996

STATE OF ORISSA... APPELLANT (S)

VERSUS

DANDAPANI NAHAK

... RESPONDENT (S)

CRIMINAL APPEAL NO. OF 2003

O R D E R

Delay condoned.

Leave granted in SLP.

We do not think it necessary to go into the merits of the appeal filed by the State at length in view of the fact that appeal appears to have been disposed of on a concession made by the learned counsel for the respondent herein on the facts, before the High Court. The concession was regarding the applicability of Section 307 IPC and on the same set of facts, the conviction and sentence of the appellants were maintained. Strangely, while considering the case of charge under Section 302 IPC, the High Court proceeded to appreciate the evidence which was doubtful. This is an apparent contradiction in appreciation of evidence and the approach of the High Court is rather casual. On that score alone, we feel the matter needs to be re-heard by the High Court afresh and while setting aside the orders of the High Court we remit the matter to the High Court for a fresh adjudication. The High Court shall consider the matter afresh in accordance with law after hearing parties and decide the same uninfluenced by the observations made earlier by the High Court or in

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this order. Since we have allowed this appeal filed by the State and remitted the proceedings to High Court there is no necessity to pass any separate order in the Criminal Appeal, filed by the complainant.

.....J.
{Doraiswamy Raju}

.....J.
New Delhi, [Arijit Pasayat]
September 24, 2003.