

(2025) 10 OHC CK 1411

In the Orissa High Court

Case No : Criminal Appeal No. 79 Of 1998

G. Krutibasa Patra @ Gudla Krutibas Patra

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 14-10-2025

Acts Referred:

Scheduled Castes And The Scheduled Tribes (Prevention Of Atrocities) Act, 1989 —
Section 3(1)(xi)
Indian Penal Code, 1860 — Section 354, 448, 509
Code Of Criminal Procedure, 1973 — Section 313

Citation : (2025) 10 OHC CK 1411

Hon'ble Judges : Sibho Sankar Mishra, J

Bench : Single Bench

Advocate : Biswa Kumar Mishra, Subhalaxmi Devi

Final Decision : Partly Allowed

Judgement

S.S. Mishra, J

1. The present criminal appeal is directed against the judgment and order dated 27.03.1998 passed by the learned Special Judge, Koraput, at Jeypore in T.R. Case No.73 of 1995 arising out of G.R. Case No.476 of 1995, whereby the learned trial Court while acquitting the appellants of the charges under Sections 3(1)(xi) of SC & ST (PoA) Act, convicted the appellant for the offences punishable under Sections 448/354/509 of I.P.C. The appellant was sentenced to undergo R.I. for two months for the offence under Section 448 of I.P.C., additionally undergo R.I. for two months for the offence under Section 354 of I.P.C. and S.I. for one month under Section 509 of I.P.C., and the sentences to run concurrently.
2. Heard Mr. Biswa Kumar Mishra, learned counsel for the appellant and Ms. Subhalaxmi Devi, learned Additional Standing Counsel for the State.
3. The prosecution case in terse and brief is that the accused repeatedly entered the informant's residential quarters, bearing No.B-215 in Sector-III, Damanjodi,

during the informant's absence, on various pretexts. Despite objections raised by the informant's wife, the accused forcibly remained at the premises. It is further alleged that he misbehaved with the wife of the informant and used words that outraged her modesty. He also allegedly attempted to lure her with promises of gold ornaments and precious stones. Moreover, the accused is said to have persuaded the informant's wife to consume liquor, purporting that it would be beneficial for her health and appearance. The informant, upon learning these incidents, sent a message to the accused through one Prasanta Kumar Mohapatra, requesting a meeting, which did not materialize. Subsequently, on 02.08.1995, the informant confronted the accused regarding his inappropriate conduct, but the accused remained silent. Thereafter, on 05.08.1995, the informant lodged an F.I.R. against the accused. It is also alleged in the prosecution version that the victim is a member of Scheduled Caste and the accused-appellant is of general caste. On the basis of said report, Damanjodi P.S. Crime No. 46 of 1995 was registered and investigation commenced. After investigation, charge-sheet was filed and charges were framed for the offences under Sections 448/354/509 of I.P.C. read with Section 3(1)(xi) of the SC & ST(PoA) Act. On his stance of denial and claim of trial, he was put to trial.

4. The prosecution in order to bring home charges, examined five witnesses. Out of whom, P.W.1 was the victim of the incident whereas P.W.2 was the informant and husband of the P.W.1. P.W.3 was the son of P.Ws.1 and 2. P.W.4 was the Office Superintendent of Delhi Public School and P.W.5 was the I.O. of the case.

5. Although initially the appellant was charged under Section 448/354/509 of I.P.C. read with Section 3(1)(xi) of the SC & ST(PoA) Act, however, the learned trial Court after analyzing the evidence of the victim (P.W.1) and the informant (P.W.2) have arrived at a conclusion that the accused person is not guilty of the offences under Section 3(1)(xi) of the SC & ST (PoA) Act rather he has been held guilty of the offences under Sections 448/354/509 of I.P.C. and on that count, sentence has been awarded. Relevant part of the impugned judgment is reproduced hereunder:-

"12. P.Ws.1 and 2 have stated that they belong to Dhoba Caste. Ext.4, the Certificate issued by the Sub-Divisional Officer, Chatrapur shows that P.W.2, (the husband of P.W.1) is a member of a Scheduled Caste. It is not proved that the accused is not a member of a Scheduled Caste or a Scheduled Tribe. Prosecution ought to have investigated into this aspect and obtained a certificate from the concerned authorities as to the community to which the accused belongs and the fact whether he is a member of a Scheduled Caste or a Scheduled Tribe. The accused in his statement under Section 313 Cr.P.C. on the question of this Court that P.W.1, the victim, has stated that she belongs to Dhoba Caste which is a Scheduled Caste and that you do not belong either to a Scheduled Caste or a Scheduled Tribe, has stated 'HON' (Yes). In my view, this itself is not sufficient to show that he does not belong either to a Scheduled Caste or a Scheduled Tribe. Thus the offence under Section 3(1) (xi) of the Act is not made out in this case.

13. From the aforesaid discussions, I am of the view that the prosecution has established the charges under Sections 448, 354 and 509 I.P.C. Accordingly, I hold the accused guilty under Sections 448, 354 and 509 of the I.P.C. and convict him thereunder. He is, however, acquitted of the charge under Section 3(1)(xi) of the Act.”

6. Being aggrieved by the judgment of conviction and order of sentence passed by the learned Special Judge, Koraput, at Jeypore, the present appeal has been preferred by the appellants.

7. At the outset, learned counsel for the appellant submitted that in so far as the conviction recorded against the appellant is concerned, he would not press the appeal and would confine his arguments only to the quantum of sentence imposed. It is submitted that the incident dates back to the year 1995, and at that time, the appellant was forty-five years of age. Presently, he is in his late seventies and has been leading a respectable and dignified life along with his family. The appellant has no criminal antecedents, and no other case of a similar or any other nature is pending against him. Over the years, he has remained well integrated into society and has maintained a settled family life. It is urged that sending him back to custody after such a long passage of time would serve no useful penological purpose and would instead be counter-productive, casting an unnecessary stigma not only upon him but also upon his family members, particularly when there is no allegation of any repeat offence or non-compliance with law thereafter.

8. While analyzing the evidence on record, I find no reason to differ from the findings returned by the learned trial Court, as reproduced above, and hence affirm the conviction recorded against the appellant for the offences under Sections 448/354/509 of the I.P.C. However, coming to the question of sentence, it appears that the learned trial Court had awarded R.I. for two months for the offence under Section 448 of the I.P.C., further R.I. for two months for the offence under Section 354 of the I.P.C., and S.I. for one month for the offence under Section 509 of the I.P.C., directing that the sentences under Sections 458 and 354 of I.P.C. to run concurrently. It is submitted that the appellant has already undergone a period of fifteen days in custody. Considering the fact that the incident occurred three decades ago, and the appellant is now in his late seventies, has no other criminal involvement, and has lived a reformed and socially respectable life since then, I am inclined to take a lenient view. Accordingly, while affirming the conviction, the substantive sentences imposed by the learned trial Court are reduced to the period the appellant already undergone.

9. Accordingly, the Criminal Appeal is partly allowed.