



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.647 of 2013

CNR NO. ODHC010295002013

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

Nanu @ Bhaktahari Behera

Petitioner

-versus-

State of Odisha

Opposite Party

For Petitioner

: Mr. S.K. Bhanjadeo, Advocate

For Opposite Party

: Mr. M.R. Mohanty, AGA

CORAM:

JUSTICE V. NARASINGH

DATE OF FINAL HEARING : 06.05.2026

DATE OF JUDGMENT : 06.08.2026

V. Narasingh, J. Heard learned counsel for the
Petitioner and learned AGA for the State.

1. This Criminal Revision has been filed
assailing the Judgment dated 04.07.2013 passed
by the learned Addl. Sessions Judge, Baripada,
Mayurbhanj, in Criminal Appeal No. 1/5 of 2013
affirming the judgement of conviction and
sentence dated 16.01.2013 passed by the learned



Asst. Sessions Judge Baripada, Mayurbhanj, in S.T. Case No.59/125 of 2010 arising out of G.R. Case No.365 of 2010 (T.C. No.608/10) qua the Petitioner for commission of offence under Section 324¹ of IPC, directing him to undergo R.I. for a period of two years and to pay a fine of Rs.5000/- (Rupees Five Thousand only), in default, to undergo R.I. for a period of six months and in respect of the commission of offence under Section 323², he was directed to undergo R.I. for a period of six months and to pay a fine of Rs.1000/- (One Thousand Only), in default, to undergo R.I. for a period of two months.

2. The prosecution case, in brief, is that on 18.04.2010 at about 8 A.M, when the informant was returning to his house with kerosene from Bijipur, near the house of one Kartika Chandra

¹**324. Voluntarily causing hurt by dangerous weapons or means.**—Whoever, except in the case provided for by Section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

²**323. Punishment for voluntarily causing hurt.**—Whoever, except in the case provided for by Section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.



Behera, the accused restrained the informant, Biswambar (informant-P.W.1), abused him in filthy language and also demanded repayment of money. The accused caught hold of the informant's neck and dragged him. The informant ran towards his house. The accused chased after him with a bhujali to kill him. Fortunately, the informant escaped. But, the accused caught hold of the informant's wife, Brundabati Behera (injured- P.W.8) and outraged her modesty by dragging her saree and assaulted her with 7/8 blows using a bhujali, with the intention to kill her due to which she sustained bleeding injuries and fell down. After assaulting the said injured, the accused fled away. The injured was shifted to the hospital for her treatment. Thereafter, the informant- Husband lodged an FIR at Baisinga P.S. under P.S. Case No. 45, and after completion of the investigation, a charge-sheet was filed under Sections 341/354/323/294/324/307/506 of I.P.C.

3. To drive home the charge, the prosecution examined 15 witnesses, of whom the P.W.1 is the informant, P.W.3 is the elder brother of the informant, P.W.8 is the wife of the informant and



the injured, P.Ws.6 to 13 are seizure witnesses, P.W.12 and P.W.15 are doctors and P.W.14 is the investigating officer.

Several documents were adduced and marked as Exts. 1 to 11/1 on behalf of the prosecution and one saree, saya, blouse and Bhujali were adduced as M.O.I to M.O.IV.

Neither oral nor documentary evidence was adduced on behalf of the defense.

4. On consideration of the materials on record, the Trial Court convicted and sentenced the Petitioner under Section 324 of IPC and directed him to undergo R.I. for a period of two years and to pay a fine of Rs.5000/- (Rupees Five Thousand only), in default, to undergo R.I. for a period of six months and in respect of the commission of offence under Section 323, he was directed to undergo R.I. for a period of six months and to pay a fine of Rs.1000/- (One Thousand Only), in default, to undergo R.I. for a period of two months.

On appeal being preferred, the Appellate Court did not find any infirmity in the appreciation of evidence and affirmed the conviction and the



sentence imposed. Assailing the same, the present Criminal Revision has been filed.

5. It is submitted by the learned counsel for the Petitioner that the appreciation of evidence by the Trial Court as well as the Appellate Court is ex facie perverse so as to warrant interference by this Court in exercise of its revisional jurisdiction, notwithstanding, the contours of exercise of such jurisdiction.

6. Learned counsel for the state opposes such prayer and submits that there is no infirmity in the judgment of the Appellate Court warranting interference.

7. This Court is not oblivious to the scope of interference while exercising revisional jurisdiction and since the allegation of perverse appreciation cannot be adjudicated without analysing the evidence on record, for such limited purpose this Court considers it appropriate to scan the evidence.

8. On careful scrutiny of the evidence on record and considering the rival submissions, this Court does not find any infirmity in the appreciation of evidence by the Appellate Court in affirming the conviction and sentence so as to



warrant interference in this Criminal Revision and accordingly, the conviction and sentence as passed by the Appellate Court is hereby affirmed.

9. On the question of sentence, taking into account that the incident took place in the year 2010 and that the Petitioner is aged about 45 years, and taking a cue from the judgment of the Apex Court in the case of ***Chellammal and anr. V. State represented by the Inspector of Police, 2025 SCC OnLine SC 870***, this Court is persuaded to hold that the benefit of the Probation of Offenders Act, 1958 (hereinafter referred to as the P.O. Act) can be extended to the Petitioner, since ex facie the sentence prescribed for the offence being two years does not suffer from the disqualification as envisaged under Section 4(1)³ of the Act, 1958.

10. Accordingly, the benefit of the P.O. Act is extended and this Court directs that Petitioner be released on probation under Section 4³ of the

³**4. Power of court to release certain offenders on probation of good conduct.—**

(1) When any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him at once to any punishment direct that he be released on his entering



P.O. Act, on conditions to be settled by the Trial Court.

11. It is further directed that the Petitioner shall pay compensation of Rs.6000/- to the injured and failing which, the same shall entail action in accordance with procedure laid down under Section 5⁴ of the P.O. Act.

into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the court may direct, and in the meantime to keep the peace and be of good behaviour:

Provided that the court shall not direct such release of an offender unless it is satisfied that the offender or his surety, if any, has a fixed place of abode or regular occupation in the place over which the court exercises jurisdiction or in which the offender is likely to live during the period for which he enters into the bond.

(2) Before making any order under sub-section (1), the court shall take into consideration the report, if any, of the probation officer concerned in relation to the case.

(3) When an order under sub-section (1) is made, the court may, if it is of opinion that in the interests of the offender and of the public it is expedient so to do, in addition pass a supervision order directing that the offender shall remain under the supervision of a probation officer named in the order during such period, not being less than one year, as may be specified therein, and may in such supervision order impose such conditions as it deems necessary for the due supervision of the offender.

(4) The court making a supervision order under sub-section (3) shall require the offender, before he is released, to enter into a bond, with or without sureties, to observe the conditions specified in such order and such additional conditions with respect to residence, abstention from intoxicants or any other matter as the court may, having regard to the particular circumstances, consider fit to impose for preventing a repetition of the same offence or a commission of other offences by the offender.

(5) The court making a supervision order under sub-section (3) shall explain to the offender the terms and conditions of the order and shall forthwith furnish one copy of the supervision order to each of the offenders, the sureties, if any, and the probation officer concerned.

⁴5. Power of court to require released offenders to pay compensation and costs.—(1) The court directing the release of an offender under Section 3 or Section 4, may, if it thinks fit, make at the same time a further order directing him to pay—

(a) such compensation as the court thinks reasonable for loss or injury caused to any person by the commission of the offence; and



12. In this context, it is apt to note that, so far as Section 5(2)⁴ of the P.O. Act is concerned, in the event of default in payment of the amount ordered under Section 5(1)⁴ of the said Act, the amount shall be recovered as a fine in accordance with the provisions of Sections 386/387 of the Code.

It is further clarified that the "Code" herein refers to the Code of Criminal Procedure, 1898, which corresponds to Sections 461⁵/462⁶ of

(b) such costs of the proceedings as the court thinks reasonable.

(2) The amount ordered to be paid under sub-section (1) may be recovered as a fine in accordance with the provisions of Section 386 and 387 of the Code.

(3) A civil court trying any suit, arising out of the same matter for which the offender is prosecuted, shall take into account any amount paid or recovered as compensation under sub-section (1) in awarding damages.

⁵461. Warrant for levy of fine.—(1) When an offender has been sentenced to pay a fine, but no such payment has been made, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may—

(a) issue a warrant for the levy of the amount by attachment and sale of any movable property belonging to the offender;

(b) issue a warrant to the Collector of the district, authorising him to realise the amount as arrears of land revenue from the movable or immovable property, or both, of the defaulter:

Provided that, if the sentence directs that in default of payment of the fine, the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless, for special reasons to be recorded in writing, it considers it necessary so to do, or unless it has made an order for the payment of expenses or compensation out of the fine under Section 395.

(2) The State Government may make rules regulating the manner in which warrants under clause (a) of sub-section (1) are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.

(3) Where the Court issues a warrant to the Collector under clause (b) of sub-section (1), the Collector shall realise the amount in accordance with the law relating to recovery of arrears of land revenue, as if such warrant were a certificate issued under such law:



Bharatiya Nyaya Suraksha Sanhita, 2023
(Sections 421 and 422 of the Code of Criminal
Procedure, 1973).

13. The Criminal Revision is accordingly disposed
of.

(V. Narasingh)
Judge

*Orissa High Court, Cuttack,
Dated the 6th August, 2026/Ayesha
06.08.2026/Uploaded*

Provided that no such warrant shall be executed by the arrest or
detention in prison of the offender.

462. Effect of such warrant.—A warrant issued under clause (a) of
sub-section (1) of Section 461 by any Court may be executed within the
local jurisdiction of such Court, and it shall authorise the attachment and
sale of any such property outside such jurisdiction, when it is endorsed
by the District Magistrate within whose local jurisdiction such property is
found.

Signature Not Verified

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Signed by: AYESHA ROUT
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 06-Aug-2026 20:26:36