

(2024) 07 OHC CK 0052
In the Orissa High Court
Case No : Criminal Appeal No. 81 Of 1998

Raia Naik @ Rabi Naik

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 16-07-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 394(2)
Indian Penal Code, 1860 — Section 302

Citation : (2024) 07 OHC CK 0052

Hon'ble Judges : S.K. Sahoo, J;Chittaranjan Dash, J

Bench : Division Bench

Advocate : Nayan Behari Das, R.K Tripathy

Final Decision : Disposed Of

Judgement

1. The Appellant has preferred CRA No.81 of 1998 challenging the impugned judgment and order dated 19.01.1998 passed by the learned Sessions Judge, Dhenkanal-Angul, Dhenkanal in Sessions Trial No.46-D of 1996 in which he was found guilty under Section 302 of the Indian Penal Code and sentenced to undergo Imprisonment for life.

2. As per the order dated 01.07.2024, the learned counsel for the State has obtained the instructions from the I.I.C., Bhubana Police Station dated 15.07.2024 to the effect that the Appellant Raia @ Rabi Naik died in the year 2005. The written instructions received from the State is taken on record.

3. Section 394(2) Cr.P.C indicates that except the appeal from a sentence of fine, every other appeal preferred under Chapter XXIX of the Code shall finally abate on the death of the Appellant. The proviso to section 394(2) of the Cr.P.C empowers the Appellate Court to grant leave to continue the appeal in case any of the near relatives files an application within 30 days of the death of the Appellant to continue the appeal and in that case the appeal shall not abate, if leave is granted by the Appellate Court. In the case in hand, no such application

being filed, the appeal stands abated.

4. Accordingly, the CRA is disposed of..

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