

CASE NO.:
Appeal (crl.) 938-939 of 1998

PETITIONER:
STATE OF ORISSA

RESPONDENT:
NIRANJAN MOHAPATRA & ORS.

DATE OF JUDGMENT: 03/02/2005

BENCH:
B.P. SINGH & B.N. SRIKRISHNA

JUDGMENT:
J U D G M E N T

B.P.Singh, J.

We have heard counsel for the parties.

This is an appeal against the judgment and order of the High Court of Orissa, Cuttack in Criminal Appeal Nos.149 and 221 of 1994 dated 24th September, 1997. The High Court by its impugned judgment and order allowed both the appeals and acquitted the respondents of all the charges levelled against them. Earlier, the appellants had been convicted by the trial court under Sections 498A and 304B IPC and sentenced to undergo rigorous imprisonment for two years under Section 498A and 7 years under Section 304B IPC. However, the appellants in Criminal Appeal No.221/1994 who are respondent 3 and 4 before us were released on probation under Section 4 of the Probation of Offenders Act. As earlier noticed, the High Court by its impugned judgment and order has acquitted all of them of the charges levelled against them.

We have heard counsel for the parties and we have also perused the records placed before us. We find ourselves in agreement with the High Court that so far as the allegations relating to the offence under Section 498A is concerned, the prosecution has not been able to establish its case against the respondents. The High Court has considered the evidence on record and we find no reason to interfere with the finding of fact recorded by the High Court. So far as the offence under Section 304B is concerned, there is no evidence to suggest that soon before the occurrence the deceased was subjected to torture and harassment. In the absence of any such evidence, conviction under Section 304B cannot be sustained. Even the medical evidence on record is rather ambiguous.

We are, therefore, of the considered opinion that the High Court has recorded the order of acquittal based on the evidence on record and on proper appreciation of such evidence. We, therefore, find no merit in the appeals and the same are accordingly dismissed.

JUDIS