IN THE HIGH COURT OF ORISSA, CUTTACK

JCRLA NO.67 OF 2008

An appeal from judgment and order dated 23.02.2007 passed by the Sessions Judge, Sambalpur in S.T. Case No.71 of 2004.

Sampada Patra ..... Appellant

-Versus-

State of Odisha ..... Respondent

For Appellant: - Miss Deepali Mahapatra
Advocate

For Respondent: - Mr. Priyabrata Tripathy
Addl. Standing Counsel

P R E S E N T:

THE HONOURABLE MR. JUSTICE S.K.SAHOO

AND

THE HONOURABLE MR. JUSTICE S.K. MISHRA

Date of Hearing and Judgment: 11.01.2024

By the Bench: The appellant Sampada Patra faced trial in the Court of learned Sessions Judge, Sambalpur in S.T. Case No.71 of 2004 along with the co-accused Nakula Rana for commission of offence punishable under section 302 read with section 34 of the Indian Penal Code (hereinafter 'I.P.C.') on the accusation that on

14.08.2023 at about 8 p.m. in the Hirakud Rice Mill Colony, Hirakud, in the district of Sambalpur, in furtherance of their common intention, they committed murder of Budhuram Kerketta (hereinafter 'the deceased').

Though the learned trial Court acquitted the co-accused Nakul Rana of the charge under section 302/34 of the I.P.C., but found the appellant guilty under section 302/34 of the I.P.C. and sentenced him to undergo imprisonment for life.

Prosecution Case:

2. The prosecution case, as per the first information report (hereinafter 'F.I.R.') (Ext.5) lodged by Marram Kerketta (P.W.1), the widow of the deceased on 15.08.2003 before the O.I.C. of Ainthapalli Police Station, in short, is that she along with her deceased husband were staying in the Hirakud Rice Mill Colony and they were tending bullocks for sustaining their livelihood. On 14.08.2003, in the night at about 8 p.m., P.W.1 returned from her work in the Mill and by that time the deceased had already cooked food. Both P.W.1 and the deceased took their dinner. While they were taking their dinner, the appellant, who was staying in the neighborhood, started vomiting in front of the house of the deceased. P.W.1 was cleaning her utensils after the dinner at that time. The deceased asked P.W.1 as to

who had vomited in front of their house to which P.W.1 replied that it was the appellant Sampad Rana who vomited in front of their house. At that point of time, the appellant was sitting in front of his house. The deceased confronted him as to why he had vomited, to which the appellant told "old man, old man" to the deceased. When the deceased cautioned the appellant not to say so, the appellant assaulted the deceased by means of a lathi. P.W.1 tried to intervene but she was also assaulted by the appellant. At that point of time, the co-accused Nakula Rana arrived at the spot and tried to separate them and then he threw bricks on the deceased for which the deceased sustained injury on his legs. P.W.1 left the scene of occurrence and proceeded towards the chowk but since it was raining heavily, she returned home and at that point of time, the deceased asked her to provide some water and accordingly, P.W.1 gave him water and after taking some water, the deceased died at about 10 p.m. in the night. When P.W.1 cried, other persons of the locality came and they suggested P.W.1 to report the matter in the police station and accordingly, P.W.1 gave oral before P.W.11 Suresh Kumar Das, the O.I.C. of Ainthapali Police Station on 15.08.2003 at about 3 a.m., which was reduced to writing by P.W.11 and it was read over and explained to P.W.1 and after she admitted the same to be correct, her thumb impression was taken on such

report, which was treated as F.I.R. and accordingly, Ainthapali P.S. Case No.168 dated 15.08.2003 was registered under section 302 of I.P.C. against the appellant.

P.W.11 himself took up investigation of the case. During the course of investigation, he examined the informant (P.W.1) and other witnesses, visited the spot, seized the bamboo lathi and some broken pieces of brick and half shirt of the appellant under seizure list Ext.6. The inquest over the dead body was held in presence of the witnesses and the inquest report (Ext.7) was prepared and then the dead body was dispatched to V.S.S. Medical College & Hospital, Burla for post mortem examination being escorted by constables. After the post mortem examination, the wearing apparels of the deceased were produced before the I.O., which were seized as per seizure list Ext.1. The appellant was arrested on 16.08.2003 and he was forwarded to Court on 17.08.2003. On 01.09.2003, the I.O. (P.W.11) made a query to the doctor, who conducted the post mortem examination to ascertain if the death of the deceased could be caused by the bamboo lathi (M.O.I) and broken piece of brick (M.O.III) and on 16.10.2003, he received the post mortem examination report so also the answer to his query. On 16.10.2003 itself, P.W.11 handed over the charge of the

investigation to the Circle Inspector of Police, Sadar, Sambalpur (P.W.9), who wrote a letter to the R.I., Sambalpur to demarcate the spot after measurement and obtain the report from the R.I. On completion of the investigation, P.W.9 submitted charge sheet only against the appellant Sampada Patra under section 302 of I.P.C. on 15.11.2003.

Framing of Charges:

3. The case of the appellant was committed to the Court of Session and on 31.08.2004 charge was framed under section 302 of I.P.C. against the appellant, who pleaded not guilty and claimed to be tried. The informant was examined as P.W.1 and her son was examined as P.W.2 and both these witnesses were also cross-examined and discharged on 10th November, 2004. After examination of these two witnesses, on the very day, the learned Public Prosecutor filed a petition under section 319 of Cr.P.C. for adding the co-accused Nakula Rana to face trial along with the appellant and on 03.12.2004, the petition filed by the learned Public Prosecutor was allowed and the co-accused Nakul Rana was arrayed as an accused and he faced trial along with the appellant and charge was framed against both the appellants on 02.12.2005 under section 302 read with section 34 of I.P.C., to which both of them pleaded not guilty and claimed to be tried.

Prosecution Witnesses, Exhibits & Material Objects:

4. During course of the trial, in order to prove its case, the prosecution examined as many as eleven witnesses.

P.W.1 Marram Kerketta is the widow of the deceased and also the informant in this case. She is an eye witness to the occurrence. She is also a witness to the preparation of inquest report.

P.W.2 Madhab Kerketta is the son of the deceased who stated that on the relevant day, the appellant vomited in front of their house to which the deceased protested. Due to such protest, the appellant abused the deceased. He further stated that both the appellant as well as the co-accused Nakula Rana dragged the deceased and assaulted him by means of a lathi. He also stated that when the informant, his younger brother and he himself tried to intervene, the appellant and the co-accused assaulted them as well.

P.W.3 Ganesh Banchhor is resident of the Mill premises where the occurrence happened. He is a witness to the preparation of the inquest report vide Ext.7.

P.W.4 Santanu Kumar Behera was working as a constable in Ainthapali police station and he is a witness to the seizure of the command certificate, a rose-coloured check towel and a brass ring as per seizure list Ext.1.

P.W.5 Raman Ranjan Mishra was working as a constable in Ainthapali police station and he is a witness to the seizure of the wearing apparels of the deceased, the command certificate and a brass ring as per seizure list Ext.1.

P.W.6 Dhananjaya Dora was attached to Sambalpur Sadar Tahasil as a Revenue Inspector. He, on police requisition, visited the spot and took measurement of the place of the occurrence. He also prepared the sketch map of the spot. He proved his report vide Ext.2 and the sketch map vide Ext.2/2.

P.W.7 Dr. Abhiram Behera was posted as the Assistant Professor, F.M. & T., V.S.S. Medical College and Hospital, Burla. He, on police requisition, conducted post mortem examination over the dead body of the deceased and proved his report vide Ext.3. He also provided answer to the query raised by the I.O. vide Ext.4.

P.W.8 Uchhab Behera was a resident of the colony where the incident occurred and he was working as a labourer at

the Hirakud Rice Mill. However, he denied having any knowledge about the cause of the death of the deceased and he also stated that he had not seen the appellant and the co-accused assaulting the deceased. He was subsequently declared hostile by the prosecution.

P.W.9 Subash Chandra Sahu was posted as the Circle Inspector of Police, Sadar, Sambalpur. He took over the charge of investigation of the case from P.W.11 on 16.10.2003. On completion of the investigation, he submitted charge sheet against the appellant.

P.W.10 Tanu Dalei was working as a labourer in Hirakud Rice Mill and was staying in the colony where the incident took place. He is a witness to the preparation of the inquest report vide Ext.7. However, he stated that he neither knew the appellant nor the deceased. He was declared hostile by the prosecution.

P.W.11 Suresh Kumar Das was working as the Officer in-Charge of Ainthapali police station. Upon receipt of oral report from the informant (P.W.1), he registered the F.I.R. He is the initial investigating officer of this case. Subsequently, on

16.10.2003, he handed over the charge of investigation to P.W.9.

The prosecution also exhibited eight documents. Ext.1 is the seizure list, Ext.2 is the report of the R.I., Ext.2/2 is the sketch map, Ext.3 is the post mortem report, Ext.4 is the examination report of weapon, Ext.5 is the F.I.R., Ext.6 is the seizure list, Ext.7 is the inquest report and Ext.8 is the dead body challan.

The prosecution also proved four material objects. M.O.I is the bamboo lathi, M.O.II is the gamuchha, M.O.III is the brick and M.O.IV is the white check shirt.

Defence Plea:

5. The defence plea of the appellant was one of denial and it is further pleaded that there was a quarrel between the deceased and the appellant including physical tussle and in course of such tussle, the deceased fell down on the heap of stones and sustained injuries and that a false case has been foisted against him.

Findings of the Trial Court:

6. The learned trial Court, after assessing the oral as well as documentary evidence on record, came to hold that since P.W.1 and P.W.2, the two eye-witnesses have not implicated the co-accused Nakul Rana in their earliest statements before the I.O. (P.W.11), their evidence that the said co-accused dragged the deceased and assaulted him with lathi cannot be believed and since the learned trial Court found no other evidence appearing against the co-accused Nakul Rana, he was acquitted of the charge. The learned trial Court, however, on the basis of the eye-witnesses' account of P.Ws.1 & 2 held that their evidence to be consistent regarding the assault by the appellant and that the defence plea that there was a tussle between the appellant and the deceased and the deceased fell down on the heap of stones and sustained injury cannot be believed at all. The learned trial Court also took into account that the death of the deceased was due to assault by the appellant by means of lathi, which caused internal injury like rupture of liver and spleen and accordingly, held him guilty under section 302 of I.P.C.

Contentions of the Parties:

7. Ms. Deepali Mahapatra, learned counsel appearing for the appellant contended that since the two eye-witnesses, i.e., P.Ws.1 & 2 have not stated anything against the co-accused Nakul Rana in their previous statements recorded by the police and implicated him for the first time during the trial and the learned trial Court has disbelieved their evidence so far as the implication of the co-accused Nakul Rana is concerned, those two witnesses cannot be said to be absolutely reliable witnesses. Moreover, those witnesses are closely related to the deceased and therefore, false implication of the appellant cannot be ruled out. The learned counsel submitted that it has come on record that there were big heap of stones lying in front of the house of the deceased and it has further come on record that the deceased fell down and the doctor also stated that except one injury, all other injuries sustained by the deceased were possible on account of the fall and therefore, the evidence of these two eye-witnesses are not sufficient to hold the appellant guilty under section 302 of I.P.C. It is further argued that from the post mortem report, it appears that only one blow was given on the left side back on 11th and 12th ribs, on account of which there was rupture of liver and spleen. It was submitted that since

there was no previous enmity between the appellant and the deceased and all of a sudden, the occurrence took place as the appellant vomited in front of the house of the deceased while the latter was taking food, to which the deceased objected, in such scenario the case would fall within the exception 4 to section 300 of I.P.C. and it may be a case under section 304 Part-II of I.P.C. She further argued that the appellant was taken into judicial custody on 17.08.2003 and during the trial, he was never released on bail and after filing of this appeal, he was granted bail as per order dated 15.07.2011 and as such, he has remained in custody for seven years and eleven months and since the occurrence in question took place in the year 2003 and more than twenty years have already passed and the appellant is enjoying liberty for more than twelve years, even if this Court held the appellant guilty under section 304 Part-II of I.P.C., the sentence be reduced to the period already undergone.

Mr. Priyabrata Tripathy, learned Additional Standing Counsel for the State, on the other hand, supported the impugned judgment and argued that the learned trial Court has separated the grain from the chaff and since the co-accused Nakul Rana was implicated for the first time during evidence of P.W.1 and P.W.2 and there was no previous statements of these

two witnesses implicating him before the police, the learned trial Court has rightly acquitted the said co-accused Nakul Rana. However, the evidence of these two eye-witnesses is consistent so far as the implication of the appellant is concerned and the assault made by the appellant is getting corroboration from the medical evidence, which was adduced by the doctor (P.W.7), who has stated that there was a parallel bruise on the left side back on 11th and 12th ribs and the death was on account of shock and hemorrhage due to rupture of the liver and spleen and the injury was sufficient to cause death in ordinary course of nature. The learned trial Court has also took into account the fact that the doctor examined the lathi (M.O.I) seized from the spot and gave his opinion that the injury on the deceased was possible by such lathi and the manner in which the assault has been made, the part of the body on which the assault was made and the impact of the assault on the deceased, it brings the case within the purview of section 302 of I.P.C. and therefore, the appeal should be dismissed.

Whether the deceased met with a homicidal death?:

8. Adverting to the contentions raised by the learned counsel for the respective parties, let us first analyze the evidence on record as to how far the prosecution has established that the deceased met with a homicidal death. Apart from the

inquest report (Ext.7), it appears that P.W.7, who was the Assistant Professor, F.M. & T., V.S.S. Medical College and Hospital, Burla, on 15.08.2003, conducted the post mortem examination and he noticed the following external injuries:

> i) Parallel bruise of size 10 cm. in length present on the left side of the back on 11th and 12th ribs;
>
> ii) Contusion of size 5 cm. x 7 cm. on the epigastric region;
>
> iii) Lacerated wound on great toe right of size 1 cm. x 1 cm. x ½ cm. on the dorsal aspect of foot;
>
> iv) Lacerated wound of size ½ cm. x ½ cm. x ¼ cm. present on third toe (left).

P.W. 7 also opined that all the injuries were ante mortem in nature and could be caused by a hard and blunt object like stick. The cause of death was due to shock and hemorrhage arising due to rupture of liver and spleen. It was also opined that the injuries found on the body of the deceased were sufficient to cause death in ordinary course of nature. Learned counsel for the appellant has also not challenged the homicidal death of the deceased. Therefore, in view of the available material on record, particularly, the inquest report (Ext.7), the post mortem report (Ext.3) and the evidence of the

doctor (P.W.7), we are of the view that the learned trial Court has rightly come to the conclusion that the deceased met with a homicidal death.

Whether the eye witnesses account of P.Ws.1 & 2 are trustworthy and can be acted upon?:

9. Out of two eye-witnesses to the occurrence, P.W.1 is the widow of the deceased and P.W.2 is the son of the deceased. Though they are closely related to the deceased but close relationship cannot be a ground to discard the evidence of these witnesses inasmuch as related witnesses are not necessarily interested witnesses and they are not likely to spare the real culprit and implicate an innocent person falsely. The Hon'ble Supreme Court in the case of **Vijendra Singh -Vrs.- State of U.P., reported in (2017) 11 Supreme Court Cases 129** has succinctly differentiated between the terms 'interested witness' and 'related witness' in the following words:

> "31….It is worthy to note that there is a distinction between a witness who is related and an interested witness. A relative is a natural witness. The Court in **Kartik Malhar v. State of Bihar : (1996) 1 SCC 614** has opined that a close relative who is a natural witness cannot be regarded as an interested witness, for the term

> "interested" postulates that the witness must have some interest in having the accused, somehow or the other, convicted for some animus or for some other reason."

[Emphasis supplied]

In the instant case, P.W.1 and P.W.2 being respectively the wife and son of the deceased are 'related witnesses'. However, for that reason they cannot*, per se*, be held as 'interested witnesses'. There is no evidence on record that the said witnesses had any enmity with the appellant for which they were determined to implicate him in the crime at any cost. Therefore, in absence of any such evidence, we are convinced that the evidence of P.Ws.1 & 2 should be discarded only because they were the close relatives of the deceased.

The evidence of P.W.1 and P.W.2 has no doubt been disbelieved in part so far as they implicated the co-accused Nakul Rana in the crime. However, this Court cannot lose sight of the categorization of witnesses on the basis of their reliability. The witnesses are generally categorized into three types, i.e., **(i)** the witnesses who are wholly reliable; **(ii)** the witnesses who are wholly unreliable; and **(iii)** the witnesses who are neither wholly reliable nor wholly unreliable. As far as the first category is concerned, while appreciating their evidence, the Court faces no

difficulties. Once a witness is accepted as wholly reliable then such statement/evidence of a solitary witness can form basis of a conviction. Secondly, the witness, who is wholly unreliable, his entire evidence can be discarded. But in case of witness, who is neither wholly reliable nor wholly unreliable, it is the duty of the Court to assess the evidence and separate the chaff from the grain. As a rule of prudence the Court while appreciating the witness, who is neither wholly reliable nor wholly unreliable, it is better to look into other attending circumstances and corroboration before proceeding to convict the accused. The Hon'ble Supreme Court in the recent case of **Balaram -Vrs.- State of Madhya Pradesh, reported in (2023) SCC OnLine SC 1468** has held as follows:

> "11. It is well settled, as laid down in a locus classicus case of **Vedivelu Thevar v. State of Madras**, there are three types of witnesses, which are
>
> (i) wholly reliable,
> (ii) wholly unreliable, and
> (iii) neither wholly reliable nor wholly unereliable.
>
> 12. The law laid down in **Vedivelu Thevar** (supra) is consistently followed by this Court in a catena of judgments. It can thus be seen that,

> there are three types of witnesses. If the witness is wholly reliable, there is no difficulty inasmuch as relying on even the solitary testimony of such a witness conviction could be based. Again, there is no difficulty in the case of wholly unreliable witnesses inasmuch as his/her testimony is to be totally discarded. It is only in the case of the third category of witnesses which is partly reliable and partly unreliable that the Court faces the difficulty. The Court is required to separate the chaff from the grain to find out the true genesis of the incident."
>
> **[Emphasis supplied]**

In our humble view, both the witnesses, P.Ws.1 & 2 come within the third category, inasmuch as their implication so far as the co-accused Nakul Rana is concerned has been disbelieved by the learned trial Court. P.W.1 has stated that on 14.08.2003, she returned home at about 8 p.m. after working in Hirakud Rice Mill and she served food to her children and thereafter she herself and the deceased took food. She further stated that while the deceased was taking food, the appellant Sampad vomited near their house, to which the deceased objected and she also protested. At this, the appellant brought out a lathi to assault the deceased. The co-accused Nakul Rana dragged the deceased and then both the accused assaulted the

deceased by means of lathi all over his body. She further stated that the accused persons also assaulted her and her children and the deceased sustained serious injuries, as a result of such assault, she went towards Remed Chhak to call the police but returned back as she did not find any police personnel and then the deceased asked her provide some water and after taking water, he succumbed. She is not only the informant but also identified the bamboo (M.O.I) to be a weapon with which the appellant assaulted the deceased.

By highlighting the narrations made in the F.I.R. so also in the previous statement of P.W.1, the learned defence counsel has proved the contradiction that she is implicating the co-accused Nakul Rana for the first time in Court as an assailant of the deceased. In the cross-examination, P.W.1 has stated that at the time of occurrence, big heap of stones were lying in front of his house and the occurrence took place near the heap of stones. She further stated that after the appellant vomited near her house, the deceased and the appellant abused each other in obscene language. P.W.2 has also stated about the assault on the deceased by both the accused persons and the contradictions have been proved by the learned defence counsel by confronting his previous statement regarding non-implication of the co-

accused Nakul Rana in the previous statement and proving the same through the Investigating Officer. Though P.W.1 and P.W.2 have stated that during the course of occurrence, they were also assaulted but no medical evidence has been adduced and no charge has also been framed in that respect. Therefore, the evidence of these two witnesses that the accused persons also assaulted them is not acceptable.

Though learned counsel for the appellant contended that the evidence given by P.W.1 and P.W.2 earlier while the appellant was alone facing trial is contradictory to the evidence adduced by both of them when the appellant faced trial along with the co-accused, but strangely no such contradiction has been proved in accordance with law. If there is any contradiction between the two statements in view of section 145 of the Evidence Act, it was the duty of the learned defence counsel to bring the same to the attention of both these witnesses so that they would have got a chance to explain it. When a witness resiles from his previous statement made in the Court, the only requirement of law is that the witness is to be confronted with his previous statement made before the Court as provided in section 145 of the Indian Evidence Act, 1872. Since P.W.1 and P.W.2 were not confronted with their statements recorded by the

Court during trial when the appellant was alone facing the trial to prove the contradiction nor such evidence were marked for the purpose of contradiction, such evidence cannot be look into for any purpose much less to discredit the testimony of P.W.1 and P.W.2 and the prosecution version.

Whether the appellant is liable for commission of murder or culpable homicide not amounting to murder?:

10. It appears that there was no previous enmity between the appellant and the deceased, who are neighbours. The occurrence took place all of a sudden when the appellant vomited in front of the house of the deceased while the latter was taking food along with his wife (P.W.1) in the night. The evidence has come on record that not only the deceased protested the appellant but thereafter they abused each other. Though it is stated that lathi blows were given to the deceased, but we find from the medical evidence that only injury no.1 was possible by lathi and all other injuries were possible due to fall. It appears from the evidence on record that there was a heap of stones in front of the house of the deceased and the occurrence took place near the heap of stones and the deceased fell down after lathi blow was given to him. Therefore, the contention of

the learned counsel for the appellant that only one blow has been given by the appellant is acceptable.

In the background of the case when there was no premeditation and the occurrence happened all of a sudden and since the appellant has given only one blow during the quarrel, that to on the left side back of the deceased on the 11th and 12th ribs, which unfortunately caused rupture of liver and spleen, we are of the view that the complicity of the appellant squarely falls within the ambit of exception 4 to section 300 of I.P.C., and therefore, the learned trial Court was not justified in convicting the appellant under section 302 of I.P.C and the case would come within the purview of section 304 Part-II of I.P.C. Accordingly, the conviction of the appellant is altered from section 302 of I.P.C. to one under section 304 Part-II of I.P.C.

Whether the trial Court was justified in convicting the appellant U/s. 302/34 of the I.P.C.?:

11. Section 34 of the I.P.C. speaks about acts done by several persons in furtherance of common intention. The provision reads as follows:

> "When a criminal act is done by several persons in furtherance of the common intention of all,

each of such persons is liable for that act in the same manner as if it were done by him alone."

The terms which need to be highlighted in the above provision are 'several persons' and 'common intention'. The pre-condition to apply section 34 of the I.P.C. is that the alleged act ought to have been done by several persons, i.e. at least, by two or more persons. Further, the said persons must act in furtherance of 'common intention' to do an act. Therefore, when an act is proved to done by a single individual and no evidence could be adduced that any other person was involved in forming the common intention; it would be fallacious to apply the provision under section 34 of the I.P.C. The Hon'ble Supreme Court in the case of **Jasdeep Singh -Vrs.- State of Punjab, reported in (2022) 2 Supreme Court Cases 545** has lucidly explained the true purport of section 34 of the I.P.C. in the following lines:

"22. It is a team effort akin to a game of football involving several positions manned by many, such as defender, mid-fielder, striker, and a keeper. A striker may hit the target, while a keeper may stop an attack. The consequence of the match, either a win or a loss, is borne by all the players, though they may have their distinct roles. A goal scored or saved may be the final

> act, but the result is what matters. As against the specific individuals who had impacted more, the result is shared between the players. The same logic is the foundation of Section 34 IPC which creates shared liability on those who shared the common intention to commit the crime."

In the case in hand, when the learned trial Court recorded the finding that the co-accused Nakula Rana is not liable for the offence alleged and deemed it appropriate to acquit him of the charge under section 302/34 of the I.P.C., it is surprising why and how the learned trial Court convicted the appellant under section 302 read with section 34 of the I.P.C. when the appellant is admitted to be the only assailant, there could not have been any possibility of 'common intention'. Thus, the Court erred in convicting the appellant under section 302/34 of the I.P.C.

Sentence:

12. Since we have altered the conviction of the appellant to one under section 304 Part-II of the I.P.C., it is to be considered what appropriate sentence is to be imposed on him.

It appears that the appellant was taken into judicial custody on 17.08.2003 and during the trial, he was never

released on bail and after filing of this appeal, he was granted bail on 15.07.2011 and thus, he has remained in judicial custody for seven years and eleven months and more than twenty years have passed in the meantime since the date of occurrence and the appellant has enjoyed the liberty for more than twelve years.

In such a scenario, while convicting the appellant under section 304 Part-II of the I.P.C., we sentence him to the period already undergone.

Accordingly, the JCRLA is partly allowed.

Before parting with the case, we place on record our appreciation for Ms. Deepali Mohapatra, learned counsel for the appellant for rendering valuable assistance to this Court in reaching the aforesaid decision. We also acknowledge the contributions of Mr. Priyabrata Tripathy, learned Addl. Standing Counsel for ably and meticulously presenting the case on behalf of the State.

.....
S.K. Sahoo, J.

.....
S. K. Mishra, J.