

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLLP No.32 of 2016

State of Orissa

.....

Appellant
Mr. Sk. Zafrulla, ASC

-Versus-

Mani Saunta

.....

Respondent

CORAM:

**JUSTICE C.R. DASH
JUSTICE SAVITRI RATHO**

ORDER
17.02.2022

Order No.

05.

1. This matter is taken up through Hybrid Arrangement (Virtual/ Physical Mode).
2. Heard.
3. The present petition has been filed for grant of leave to appeal in a case of acquittal under Section 302 IPC. The case is entirely based on circumstantial evidence. The circumstances are:-
 - (i) The accused had necessary motive to kill the deceased, as he had given threatening to the deceased in the evening of the occurrence day suspecting her to have practiced sorcery over his grand-son and killed him;
 - (ii) Recovery/discovery of a sickle and blood stained clothes of the accused at the instance of the accused relevant under Section 27 of the Evidence Act;

(iii) The accused had fled from his village soon after the occurrence.

4. We perused the impugned Judgment carefully and thoroughly. It is found that, P.W.4 is the witness so far as the first circumstance is concerned. The other witnesses namely, P.Ws.1, 2, 6 & 7 have testified that the deceased was practicing sorcery.

5. The prosecution has failed to prove the proximate time between the death of the grand-son of the accused and the incident of murder. It is there on record that the deceased had applied black magic on other villagers too and had killed some of them. In such a situation, motive cannot be attributed to the accused alone, as there were others in the village, who had suffered in the hands of the deceased according to their blind faith.

6. So far as the second circumstance is concerned, P.Ws.5 & 10 are the principal witnesses, but they had deviated from the prosecution case in their cross-examination. After the aforesaid two circumstances failed, the third circumstance alone is inconsequential, as absconding cannot be taken as an incriminatory fact in each and every case.

7. In our merited consideration, therefore, there is no infirmity in the impugned Judgment and the leave sought for is rejected.

8. Accordingly, the CRLLP is dismissed.

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C.R. Dash, J.

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Savitri Ratho, J.

Subha



