

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLLP No.34 of 2016

State of Orissa

.....

Appellant

Mr. J. Katikia, AGA

-Versus-

Banamali @ Jatia Das

.....

Respondent

CORAM:

JUSTICE C.R. DASH

JUSTICE SAVITRI RATHO

ORDER

17.02.2022

Order No.

04.

1. This matter is taken up through Hybrid Arrangement (Virtual/ Physical Mode).
2. Heard.
3. This is a petition to grant leave in a case of acquittal under Sections 304-B, 302, 306 IPC, though the respondent has been convicted under Section 498-A IPC read with Section- 4 of the D.P. Act.
4. In this case, the prosecution has examined thirteen witnesses to prove the charge. The prosecution, however, did not examine Dr. Prafulla Chandra Das, who was treating the deceased, when she was undergoing treatment in the hospital, after receiving burn injury.
5. It is the settled law that, if the prosecution fails to adduce evidence of any relevant witness, the defence can call him as a defence witness before criticizing the prosecution for not examining the said witness.

6. In the present case, the defence has chosen the right path and has examined Dr. Prafulla Chandra Das as D.W.2. From the evidence of D.W.2, it is clear that, the deceased has stated before him that, she sustained burn injury accidentally in course of cooking and she has never implicated the accused in her statement.

7. We also perused the evidence of other witnesses and the impugned Judgment.

8. In our merited consideration, there is no infirmity in the impugned Judgment.

9. Accordingly, the leave sought for is rejected and the CRLLP is dismissed.

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C.R. Dash, J.

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Savitri Ratho, J.





