THE HIGH COURT OF ORISSA AT CUTTACK

JCRLA No.71 of 2025

CNR No. ODHC010335462025

(In the matter of an application under Section 374(2) of the Criminal Procedure Code read with Section 415 (2) of BNSS, 2023)

Gourahari Mahanta @ Goura Mahanta ……. ***Appellant***

-Versus-

State of Odisha ……. ***Respondent***

For the Appellant : Ms. Sasmita Nanda, Advocate

For the Respondent : Mr. Udit Ranjan Jena, AGA

CORAM:

THE HONOURABLE SHRI JUSTICE SIBO SANKAR MISHRA

Date of Hearing: 14.10.2026 :: Date of Judgment: 31.10.2026

S.S. Mishra, J. The present jail criminal appeal is directed against the judgment of conviction and order of sentence dated 26.03.2025 passed by the learned Additional Sessions Judge, Champua, Keonjhar, in S.T. Case No.23 of 2021, arising out of G.R. Case No.78 of 2021, corresponding to Champua P.S. Case No.32 dated 06.03.2021, whereby

the respondent-accused, Gourahari Mahanta @ Goura Mahanta, was convicted for the offence punishable under Section 304 Part-I of the Indian Penal Code (hereinafter referred to as "the IPC") and sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.10,000/-, in default to undergo further rigorous imprisonment for six months. The learned trial Court, however, acquitted the respondent of the charge under Section 302 of the IPC by holding that the prosecution had established the offence of culpable homicide not amounting to murder under Section 304 Part-I of the IPC.

2. Heard Ms. Sasmita Nanda, learned counsel appearing for the appellant and Mr. U.R. Jena, learned Additional Government Advocate for the State.

3. The prosecution case, in brief, is that on 06.03.2021 at about 8.20 P.M., a quarrel took place between the respondent and the deceased, Lipun Mahanta, near the bus stand square of village Kodagadia Laxmi Sahi under Champua Police Station. During the course of the quarrel, the respondent assaulted the deceased with a sharp-cutting weapon, causing injuries to his body, as a result of which he fell down. The deceased was

immediately shifted to the hospital at Champua in a pickup van, where the attending doctor declared him dead. On the basis of the written report lodged by Purna Chandra Mahanta, the father of the deceased, Champua P.S. Case No.32 dated 06.03.2021 was registered under Section 302 of the IPC and investigation was taken up.

Upon completion of investigation, charge-sheet was submitted against the respondent under Section 302 of the IPC, and the case was committed to the Court of Session for trial.

4. In order to establish its case, the prosecution examined nineteen witnesses and proved the relevant documentary evidence. P.W.3, the informant and father of the deceased, P.W.4, the mother of the deceased, and P.W.13, the wife of the deceased. P.W.5, Puspamanjari Mahanta, was the material eyewitness to the occurrence. The medical officers were P.W.12 and P.W.15. P.W.19 was the Investigating Officer. The accused denied the allegations and pleaded false implication.

5. Upon appreciation of the evidence on record, the learned trial Court held that the death of the deceased was homicidal in nature and that the evidence of P.W.5, the eyewitness, was reliable and trustworthy.

The Court also took note of the recovery of the weapons pursuant to the disclosure made by the respondent during investigation. However, on consideration of the circumstances surrounding the occurrence, particularly the evidence that a quarrel was in progress between the respondent and the deceased immediately before the assault, the learned trial Court concluded that the prosecution had not established the requisite intention to bring the act within the ambit of murder under Section 300 of the IPC, but the Court held that the offence fell under Section 304 Part-I of the IPC and accordingly convicted the respondent thereunder. Relevant part of the said judgment is reproduced hereunder:-

> *"A fight is a combat between two or more persons whether with or without weapons. It is not possible to enunciate any general rule as to what shall be deemed, to be sudden quarrel. It is a question of fact and whether a quarrel is sudden or not must necessarily depend upon the proved facts of each case. In the present case, there was no cogent evidence adduced by prosecution to show that the accused had premeditation to kill the deceased. Rather the evidence of P.W.5 discloses that prior to assault on deceased by the accused there was quarrel in between them. There are also no circumstances which suggest that the accused has taken any undue advantage or acted in cruel or unusual manner. There is no evidence on record to establish the motive of the accused to commit the alleged offence. The*

unfortunate alleged incident seems to have erupted at the spur of the moment as there were heated arguments exchanged between the deceased and accused and the unfortunate incident took place in the heat of passion upon a sudden quarrel without any premeditation. The accused did not take undue advantage or act in a cruel or unusual manner and in a fit of rage during the quarrel, the accused attacked the deceased.

11. In view of the aforementioned discussions, after applying the broad guidelines laid down by the Hon'ble Supreme Court in the afore-mentioned cases and having regard to the totality of the evidences on record the conclusion is ineluctable that the attending circumstances enwombing the alleged incident, strongly dispels the possibility that the accused harboured an intention to kill the deceased and the evidence adduced by the prosecution falls short of bringing the case within the ambit of Section 300 of I.P.C. and the offence committed by the accused is covered by Section 304 Part I of I.P.C. Hence, it is proved that the case U/s.304 Part-I of I.P.C is made out against the accused in this case instead of U/s.302, I.P.C. Hence, prosecution is able to prove the case U/s.304 Part- I, of I.P.C. for causing death of deceased Lipun Mahanta beyond all reasonable doubt.

12. In the result, the accused Gourahari Mahanta @ Goura Mahanta is found guilty of the offences punishable U/s 304 Part-I of I.P.C. and accordingly he is convicted thereunder."

6. Being aggrieved by the judgment of conviction and order of sentence passed by the learned trial Court, the present appeal has been preferred by the appellant.

7. The matter has been considered in the context of the challenge to the sentence. Learned counsel appearing for the appellant has not assailed the conviction recorded by the learned trial Court under Section 304 Part-I of the IPC. Accordingly, the conviction of the appellant is not under challenge in the present proceedings, and the consideration is confined to the question of sentence, particularly in view of the period of incarceration already undergone by him.

8. It is evident from the materials placed on record that the respondent was taken into custody on 07.03.2021 and that, as stated, he has undergone a total period of imprisonment of four years and eleven months. The sentence imposed by the learned trial Court was rigorous imprisonment for five years. Thus, the period of incarceration already undergone by the respondent is substantially equivalent to the substantive sentence imposed upon him.

9. The occurrence took place in the course of a quarrel and that the offence proved was culpable homicide not amounting to murder under Section 304 Part-I of the IPC. The respondent was about 73 years of age at the time of the trial, and the learned trial Court recorded that he had no criminal antecedent. The period of incarceration already undergone is also a relevant consideration in determining whether any further substantive imprisonment is necessary in the facts and circumstances of the case.

10. Having regard to the nature of the occurrence, the findings recorded by the learned trial Court, the absence of any challenge to the conviction, the age and antecedents of the respondent as noted in the impugned judgment, and, more particularly, the fact that he has already undergone imprisonment for four years and eleven months against the substantive sentence of five years, this Court is of the considered view that the ends of justice would be adequately served by modifying the substantive sentence to the period already undergone.

11. Accordingly, the conviction of the appellant, Gourahari Mahanta @ Goura Mahanta, under Section 304 Part-I of the IPC is affirmed.

However, the substantive sentence of rigorous imprisonment for five years imposed by the learned Additional Sessions Judge, Champua, Keonjhar, in S.T. Case No.23 of 2021, vide judgment dated 26.03.2025, is modified to the period of imprisonment already undergone by the appellant. The bail bond stands discharged. The appellant shall be released from the jail custody forthwith in case he is not required in any other case. The Registry is directed to communicate this judgment to the concerned Jail authority.

12. With the above observations and directions, the Jail Criminal Appeal is partly allowed.

(S.S. Mishra)
Judge

The High Court of Orissa, Cuttack
Dated the 31st October, 2026/ Subhasis Mohanty

Signature Not Verified
Digitally Signed
Signed by: SUBHASIS MOHANTY
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 03-Nov-2026 12:54:24