



CRIMINAL APPEAL NO. OF 2023
(arising out of SLP(CRL.) No. 3961 of 2023)

SARATHI BANICHOR

APPELLANT(S)

VERSUS

STATE OF ORISSA

RESPONDENT(S)

O R D E R

Leave granted.

Vide the impugned judgment dated 06.05.2022, the High Court has sustained the conviction of the appellant - Sarathi Banichor under Section 302 of the Indian Penal Code, 1860¹ for having committed murder of Krushna Banichor. The appellant - Sarathi Banichor has been sentenced to rigorous imprisonment for life with a fine of Rs. 10,000/- (Rupees Ten Thousand Only), and in default, undergo additional rigorous imprisonment for two years.

Having heard learned counsel for the parties, we are of the view that the conviction of the appellant - Sarathi Banichor should be converted from one under Section 302 of the IPC to that under Section 304 Part-I of the IPC. We have formed our opinion after having gone into the motive and the reason as to why the occurrence had taken place. There was a bereavement/death in the family and money had to be collected for funeral expenses etc. Suggestions were also exchanged with regard to the sale of land. A single blow

1 "IPC", for short.

VERDICTUM.IN

was given by the appellant - Sarathi Banichor, which resulted in the death of Krushna Banichor. The appellant - Sarathi Banichor, as well as the deceased - Krushna Banichor, belong to the *Adivasi* tribe.

The appellant - Sarathi Banichor has already suffered actual incarceration for over six years. The occurrence is of the year 2005. It is stated at the Bar that the appellant - Sarathi Banichor is not involved in any other case.

In view of the aforesaid peculiar facts, we direct that the sentence undergone by the appellant - Sarathi Banichor would be adequate substantive punishment/sentence for the offence under Part-I of Section 304 of the IPC. However, the appellant - Sarathi Banichor will pay a fine of Rs.5,000/- (Rupees Five Thousand Only) and in case of default of payment of fine, will undergo a simple imprisonment for one month.

The impugned judgment is set aside and the appeal is partly allowed and disposed of in the above terms.

Pending application(s), if any, shall stand disposed of.

.....J.
(SANJIV KHANNA)

.....J.
(S.V.N. BHATTI)

NEW DELHI;
OCTOBER 30, 2023.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (Crl.) No. 3961/2023

(Arising out of impugned final judgment and order dated 06-05-2022 in JCRLA No. 79/2006 passed by the High Court of Orissa at Cuttack)

SARATHI BANICHOR

Petitioner(s)

VERSUS

STATE OF ORISSA

Respondent(s)

(IA No.48496/2023-EXEMPTION FROM FILING O.T.)

Date : 30-10-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Petitioner(s)

Ms. Aparna Jha, AOR
Mr. Abhishek Yadav, Adv.
Ms. Priyanka Mathur, Adv.
Ms. Ipsita Behura, Adv.
Ms. Jessie Kurian, Adv.
Ms. Pooja Singh, Adv.
Ms. Geeta Verma, Adv.
Ms. Ruby Mohd. Wasim, Adv.

For Respondent(s)

Mr. Shovan Mishra, AOR
Ms. Bipasa Tripathy, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is partly allowed and disposed of in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(DEEPAK GUGLANI)
AR-cum-PS

(R.S. NARAYANAN)
ASSISTANT REGISTRAR

(signed order is placed on the file)