

State of Orissa Vs. Sibanarayan Panda and Nine ors.

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Court : Orissa

Decided On : Jan-14-1985

Reported in : 1985(I)OLR132

Judge : B.K. Behera, J.

Acts : [Evidence Act, 1872](#) - Sections 133

Appeal No. : Government Appeal No. 18 of 1980

Appellant : State of Orissa

Respondent : Sibanarayan Panda and Nine ors.

Advocate for Def. : R.C. Ram, B. Sahoo, P. Palit and A.K. Padhi

Advocate for Pet/Ap. : R.K. Patra, Addl. Govt. Adv.

Disposition : Appeal dismissed

Judgement :

B.K. Behera, J.

1. Upon hearing the learned Addl. Govt. Adv. and the learned counsel for the respondents, I find no case for interference in this appeal against acquittal directed against the judgment and order passed by the learned Assistant Sessions Judge, Dhenkanal, acquitting the respondents who figured as the accused persons in the

trial Court being charged under Section 395 of the Indian Penal Code for commission of dacoity in the house of Rejendramohan Naik (P. W. 3) in village Ranipal in the district of Dhenkanal by causing injuries to the inmates of the house and using deadly weapons in the course of which cash and other articles had been removed, as alleged, from the house, as with regard to the complicity of the respondents, the prosecution had depended only on the evidence of Lodha alias Nodha Raut (P. W. 12), who had figured as the approver and some other items of circumstantial evidence which could only corroborate the evidence with regard to the commission of the crime, but not with regard to the criminals and for good reasons, the learned Assistant Sessions Judge had rejected the evidence of the approver as unworthy of acceptance. and in addition, he had not implicated any of the respondents other than the respondent Lingaraj Jena in his evidence with regard to an act said to have been committed by this respondent not during the commission of the offence, but thereafter and the evidence of an approver, before acceptance and being acted upon, must be corroborated in material particulars and qua each accused and there was no evidence corroborating his.

2. The appeal fails and is dismissed.

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