

IN THE COURT OF THE ADDL.C.J.M-ASJ, B H U B A N E S W A R.

Present:  
Sri P.L.Satpathy,LL.B.,  
Addl.C.J.M-ASJ,Bhubaneswar.

**C.T.CASE NO.14/60 /14**

Code No.3730/14

Arising out of G.R. Case No.197/12 corresponding to Airfield PS Case No.12/12)

**S T A T E**

**-Versus-**

Chitaranjan Paikroy @ Bapi, aged about 41 years, S/o Ganesh Paikroy

At: Balabhadrapur, PS: Airfield, Dist: Khurda

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Accused person.

OFFENCE U/S.294,509,506,307 IPC

Counsel for the prosecution : Addl.P.P, Bhubaneswar.

Counsel for the defence : Sri D.D.J. Rath, Advs, BBSR.

Date of argument: 28.8.14

Date of judgment: 30.8.14

**J U D G M E N T**

1. In this case the accused named above stands charged for commission of offences punishable U/s.294,509,506,307 IPC..

2. Shortly stated, the prosecution case is that :

The alleged occurrence took place on 23.1.12. PW.1 is the informant who is the cousin brother of the accused. It was then at about 4.45 pm , the female members of the family of pw.1 were returning to house after attending pre-marital function of a person of their village the accused who was then sitting on the village danda abused the female members of pw.1 in obscene words and also exhibited his bare body to them. PW.1 who was then sitting on the village danda in front of his house situated at village Balabhadrapur raised protest about it. The accused abused pw.1 in filthy languages. Later the accused went inside of his house and brought a match box tried to set fire to the house of pw.1 . PW.1 again protested the accused. On this the accused went inside his house again and came out with an axe saying pw.1 such as " SALA KU AJI JIBANARE MARIDEBI" dealt axe blow on the head of pw.1 from his backside causing

severe bleeding injury. On the same date at 5.15 pm pw.1 lodged a written FIR (Ext.1) at Airfield PS, BBSR. On the basis of the said FIR Girijasankar Mohapatra, IIC registered PS Case No.12 dtd. 23.1.12 U/s.294,506,307 IPC against the accused and entrusted this case to Sri Bharat Ch. Sahu, ASI of police (pw.8) for investigation. During the course of investigation pw.8 examined the informant and other witnesses, send the injured (pw.1) with injury requisition (Ext.4) to Capital hospital, BBSR for medical examination, seized blood stained banion from pw.1 on his production vide seizure list Ext.2/3, seized the weapon of the offence i.e an axe from the houe of accused under seizure list Ext.3/2, visited the spot and prepared the spot map (Ext.5), send the seized articles under seizure list Ext.2/3 &3/4.to SFSL vide Ext.6, received the injury report in favour of the injured (Ext.4/2) and arrested the accused and forwarded him to the court. After completion of investigation pw.8 submitted charge sheet against the accused U/s.294,509,506,307 IPC to face his trial in the court of law. Subsequently the case was committed to the court of sessions and later transferred to this court for it's disposal according to law.

3. The case of the defence is one of completely denial to the prosecution allegations and false implications.

4. The points for determination in this case is as follows:

i) Whether on 23.1.12 at around 4.45 pm on the village danda of village Balabhadrapur under Airfield PS the accused caused annoyance to others by using obscene words towards the female members of the family of PW.1 and also towards pw.1. ?

ii) Whether on the alleged date, time & at place the accused insulted the modesty of the female members of the family of pw.1 by exhibiting his bare body towards them. ?

iii) Whether on the alleged date, time and at place of occurrence the accused persons attempted to commit murder to pw.1 by assaulting him with an axe on his head causing bleeding injury ?

iv) Whether on the alleged date, time and at place of occurrence the accused had given threat to pw.1 with an intention of causing alarm to his person?

5. To establish its case, prosecution has examined as many as 8 witnesses, in all, including the informant-cum-victim injured pw.1 and the IO of this case (pw.8. PW.6 is the son of pw.1. PW.5,6 and 7 are the seizure witnesses . PW.2,3 & 4 are the witnesses to the occurrence. On the other hand defence adduced no evidence on its side. PW.1 is the informant cum injured himself in his evidence, has not stated against the accused before the court. It is seen from his evidence that due to severe road accident he has lost his memory. Pws, 2,3,4 were alleged to be the witnesses to the occurrence have denied in their evidence to have their any knowledge about the occurrence. PW.8 is

the IO of this case, in his evidence he has stated that he had seized a blood stained banion from pw.1 on his production under seizure list (Ext.2/3) in presence of pws 5 & 7. It is also seen from the evidence of pw.8 that he had seized the weapon of the offence i.e an axe from the house of the accused in presence of pw.5 and 6 under seizure list Ext.3/2. Out of the seizure witnesses PW.6 is the son of the informant. He has categorically stated that he had not seen seizure of axe from the house of the accused rather his evidence goes to show that police had taken his signature on a paper saying that they have seized an axe, the evidence also goes to show that the place where he had signed on Ext.3/2, except police no other persons were present. If the evidence of pw.6 is accepted as proof the evidence of pw.8 that he had seized an axe from the house in presence of pw.6 can not be believed as true. If in this circumstance one is believed another will be disbelieved and vice-versa. PW.6 is the son of the injured has also not stated anything about the occurrence. PW.5 & 6 have also not supported to the IO(pw.8) with regard to his evidence about the seizure of blood stained banion from pw.1 on his is production. Not a single female member of the family of pw.1 examined in this case by the prosecution that the accused had abused towards them and the accused had shown his bare body towards them with a purpose to insult their modesty. The doctor who had medically examined the injured (pw.1) has also not examined in this case. The IO himself is not a witness to the occurrence. FIR is not a substantive piece of evidence, it can only be used for the purpose of corroboration and contradiction with the maker thereof. Here in the instant case as per the prosecution's version pw.1 is the maker of the FIR (Ext.1) When pw.1 in his evidence does not corroborate the FIR story the prosecution cannot take any benefit out of the said FIR against the accused. Besides the evidence of pws 1 to 8 prosecution has no other evidence against the accused. Taking the entire evidence led by the prosecution in this case I am of the considered view that the prosecution has failed to establish its case against the accused beyond all reasonable doubt and as such the accused is entitled to be acquitted.

In the result, I hold the accused not guilty for commission of offence punishable U/s.294,509,506,307 IPC and acquit him U/s.235(1)CrPC. The accused is on court bail and as such he be discharged from his bail bonds.

Addl.C.J.M-A.S.J,Bhubaneswar.

The zimanama (ext.8) is hereby can-celled.

Addl.C.J.M-A.S.J,Bhubaneswar.

The judgment is dictated, corrected and pronounced by me in the open court today

i.e. on 30<sup>th</sup> day of August, 2014 under my hand and seal of this court.

Addl.C.J.M-A.S.J,Bhubaneswar.

List of P.ws. examined for prosecution.

P.w.1	Pramod paikroy
P.w.2	Minaketan Jena
P.w.3	Ashok Pattnaik
P.W.4	Bimal Shankar pattnaik
P.W.5	Prasant Paikroy
P.W.6	Dibyanjan Paikroy
p.w 7	Hemanta Ku. Behera
P.W.8	Bharat Ch. Samal

List of D.ws.examined for defence.

None.

List of exhibits marked for prosecution.

Ext.1	FIR
Ext.1/1	Signature of p.w.1 in Ext.1
Ext.2	Signature of p.w.1 in seizure list dtd.23.1.12 at 8.35 pm
Ext.2/1	Signature of p.w.5 in seizure list
Ext.3	Signature of p.w.5 in seizure list
Ext.3/1	Signature of p.w.6 in seizure list
Ext.2/2	Signature of pw..7 in seizure list
Ext.1/2	Endorsement & signature of GS Chakravarty in Ext.1
Ext.1/3	Formal FIR
Ext.1/4	Signature of G.S.Chakravarty in Ext.1/3.
Ext.4	Injury Requisition
Ext.4/1	Signature of p.w.8 in Ext.4
Ext.5	Spot Map
Ext.5/1	Signature of pw.8 in Ext.5
Ext.3/2	Seizure list
Ext.3/3	Signature of pw.8 in Ext.3/2
Ext.2/3	Seizure list dtd. 23.1.12 at 8.35 pm
Ext.2/4	Signature of pw.8 in Ext.2/3
Ext.4/2	Medical examination report
Ext.6	Forwarding letter to SFSL
Ext.6/1	Signature of pw.8 in Ext.6

List of exhibits marked for defence.

N i l.

List of M.Os.

N i l.

Addl.C.J.M-A.S.J,Bhubaneswar.

