

## 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.29-135-14****Code No.4139/14**

(Arising out of CT.4375/13 corresponding to Nayapalli P.S. Case No.347/13)

S T A T E ..... Prosecution.

.....Versus.....

Md. Jamarati, aged about 41 years,  
S/o. Late Md. Ali Akabar,  
At- Iskon Basti, PS:Nayapalli, PS:Khurda

..... Accused person

OFFENCE U/S.341,294,307/34 I.P.C

Counsel for the prosecution : Sri P.Pattnaik. Addl.P.P, BBSR

Counsel for the Defence : Sri Prasanna Ku. Pattnaik,S.D.C, BBSR.

Date of argument: 15.9.14Date of judgment: 16.9.14**J U D G M E N T**

1. In this case the accused named above stands charged for the offence punishable  
U/s.307 I.P.C

2. The prosecution case, in short, is that:

On 12.11.13 at 9 am Md.Ali Akbar, S/o-Late Ramjan Mian at Iskon Basti, IRC Village ( dead) lodged a written report (Ext.2) at Nayapalli PS alleging there in that on the same date during morning hour at about 5.10 am his son Md. Jumurati came holding a knife gave threat to murder him and assaulted him with the said knife on his back causing bleeding injuries. He raised shout. His son Jamurati went away running. About half an hour thereafter his son came again with a katari and assaulted to his mother(informant's wife) But pw.1 sustained no injury on her person as the said katari has no edge. On the basis of the said written report (Ext.2) Nayapalli PS Case No.347 dtd. 12.11.13 U/s.307 IPC was registered against the accused . Investigation was undertaken thereof. During the course of investigation the IO (pw.3) examined the informant, wife of the informant and other witnesses in this case, issued injury requisitions (ext.3) in favour of the informant for his medical examination, visited the spot and prepared the spot map (Ext.4) and seized one steel looking knife with plastic handle from the possession of the accused on his production in presence of tyhe witnesses namely Sukanta Khuntia and Trilochan Sahoo under seizure list Ext.1/1, received the injury report (Ext.3/2) of the injured and after completion of investigation submitted charge sheet against the present accused U/s.307

I.P.C before the court of the Ld.SDJM,BBSR to face his trial in the court of law. Subsequently this case was transferred to this court for disposal according to law.

3. The case of the defence is one of complete denial to the prosecution allegations and false implication.
4. The points for determination in this case are as follows:
  - i) Whether on 12.11.13 during morning hour the accused attempted to commit murder his father Md. Ali Akbar and mother (pw.1) with knife and katari ?
5. To establish its case prosecution examined three witnesses including the wife of the informant (pw.1) and the IO (pw.3) . PW.2 was one of the seizure witnesses. On the other hand defence adduced no evidence on its side.
6. Md. Ali Akbar is the informant in this case, who happens to be the father of the accused. The informant could not be examined in this case as he died in the course of trial. PW.1 is the wife of the informant & also happens to be the mother of the accused . As per the FIR (Ext.2) she was one of the victim in this case. FIR reveals that the accused had not assaulted his father Md. Aliakbar with a knife on his back but about half an hour thereafter assaulted pw.1 with a katari . As per the evidence of pw.1 it discloses that the accused was not earning anything & was always watching TV. Her husband asked the accused several times to earn for sustaining of the family. On this there was exchange of words in between her husband-informant and her son (accused). In order to bring the accused in right way her husband lodged a FIR against her son (accused). This much she has stated about this. The prosecution with the leave of the court declared pw.1 hostile and got permission to put leading questions to this witness but prosecution could not able to elicit anything from the mouth of pw.1 in order to connect the accused with the alleged offence U/s.307 IPC. Ext.1/1 is the seizure list. From the evidence of the IO (pw.3) and Ext.1/1 it reveals that Trilochan Sahu (pw.2) was one of the witness to the seizure in respect of knife seized by pw.3 from the accused but this witness in his evidence denied to have seized anything in his presence but admitted his signature on the seizure list (Ext.1/1) which he had given at the instance of the police. Therefore, PW.2 also did not support the prosecution regarding the factum of the seizure of the knife seized under seizure list Et.1/1. Besides pw.1 no other witnesses of the occurrence has been examined in this case. PW.3 is the IO. He was not an eye witness to the occurrence. What he has stated in this court he has stated the same basing on he evidence collected from the witnesses in the course of the investigation. In the absence of the evidence of the seizure witnesses, the sole corroborated testimony of pw.3 with regard to the factum of seizure of knife on seizure list (Ext.1/1) is not sufficient to arrive at a conclusion that, the knife seized under Ext.1/1 was recovered from the possession of the accused on his production.

Considering the prosecution evidence available on record and in view of my aforesaid discussion I am of the considered opinion that the prosecution has failed to bring home the charge U/s.307 IPC against the accused and as such the accused is entitled to be acquitted.

In the result, I hold the accused not guilty for the offences punishable U/s.307 IPC and

acquit him therefrom U/s.235(1) Cr.P.C. The accused is in jail custody. He be set at liberty forthwith, if his further detention is not required in any other case.

AC.J.M-ASJ,BBSR

The knife seized under seizure list (Ext.1/1) be destroyed four months after the appeal period is over, if there would be no appeal.

AC.J.M-ASJ,BBSR

The judgment is dictated,corrected and pronounced by me in the open court today i.e. on 16<sup>th</sup> September, 2014 under my hand and seal of this court.

AC.J.M-ASJ,BBSR

List of P.ws. Examined for prosecution.

P.w.1 Rajia @ Rajana Khatoon  
P.w.2 Trilochan Sahoo  
P.w.3 Dinabandhu Sabara

List of D. W.s. Examined for defence.

None.

List of exhibits marked for prosecution.

Ext.1 Signature of PW.2 in seizure list dtd.12.11.13  
Ext.2 Written FIR  
Ext.2/1 Endorsement & signature of Arup Ku. Kanungo, IIC in Ext.2  
Ext.2/2 Formal FIR  
Ext.2/3 Signature of Arup Kanungo, IIC in Ext.2/2  
Ext.3 Injury Requisition of injured Md. Akbar Ali  
Ext.3/1 Signature of pw.3 in Ext.3  
Ext.4 Spot map  
Ext.4/1 Signature of pw.3 in Ext.4  
Ext.1/7 Seizure list dtd. 12.11.13  
Ext.1/2 Signature of pw.3 in Ext.1/1  
Ext.1/3 Signature of Sukanta khuntia in Ext.1/1  
Ext.3/2 Injury Report of injured Md. Akbar Ali.

List of exhibits marked for defence.

N i l.

List of M.Os.

Nil

AC.J.M-ASJ,BBSR