

IN THE COURT OF THE ACJM-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.28/88/14**Code No.4140/14**

(Arising out of 703/13 corresponding to Balipatna PS Case No.35/13)

S T A T E

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Prosecution.

.....Versus.....

Jatadhari Bhuyan, aged about 32 years,
S/o-Narayan Bhuyan,
At-Badagada Uparasahi, PS:Badagada,Dist:Khurda

Lituna@Pravat Bhuyan, aged about 35 years,
S/o Narayan Bhuyan
At-Kalinga Basti, Badagada, PS:Badagada, Dist:khurda

Pratap @Patia Sahu, aged about 22 years
S/o-Ramendra Sahu
At-Badagada Uparasahi, PS:Badagada,Dist:Khurda

..... Accused persons

OFFENCE U/S.341,323,307/34 I.P.C

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

Counsel for the Defence : Smt.Priti Jyoshna Nath & others,Adv.,BBSR

Date of argument: 5.2.15

Date of judgment: 9.2.15

J U D G M E N T

1. In this case the above named four accused persons jointly stand charged for commission of the offence punishable U/s.341,323,307/34 IPC.
2. The prosecution case, in short, is that:
Sankar Moharana (pw.3) had lodged a written FIR (Ext.1) on 20.2.13 at 2 pm at Badagada PS alleging therein that on the same date while he along with his other four friends had arranged a feast in Kalinga Basti of Badagada Brit Colony. While he and his friends were going to take their launch by that time the accused persons

came there, assaulted him with sword and hamour and kicks with leg to him causing injuries on his person. It is further alleged by him that prior to the occurrence there was enmity in between him and the accused persons and out of that grudge the accused persons had assaulted him. On the basis of the said written report (Ext.1) Badagada PS Case No.35 dtd 20.2.13 U/s.341,323,307/34 IPC was registered. Investigation was undertaken there of. After completion of investigation police submitted charge sheet against the above named three accused persons for U/s.341,323,307/34 IPC. before the court of Ld.SDJM,BBSR to face their trial in the court of law. The case was committed to the court of sessions & subsequently this case was transferred to this court for 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 are as follows:

i) Whether on 20.2.13 at Kalinga Basti,Badagada Brit Colony the accused persons in furtherance of their common intention wrongfully restrained Sankar Moharana (pw.3)?

ii) Whether on the alleged date, time and at place the accused persons ,in furtherance of their common intention voluntarily caused hurt to Sankar Moharana(pw.3)?

iii) Whether on the alleged date, time and at place the accused persons ,in furtherance of their common intention had attempted to commit murder to Sankar Moharana (pw.3) by means of bhujali & hamour?

5. To further its case prosecution has examined as many as three witnesses including the informant(pw.3). The other two witnesses were alleged to be the occurrence witnesses. On the other hand defence has adduced no evidence on its side.

6. As per the prosecution case pws.1 & 2 were alleged to be the eye witnesses

to the occurrence and they both were party to the alleged feast but they both in their evidence before the court denied to have their any knowledge about the incident. Thus the eye witnesses to the incident in question examined in this case did not support to the prosecution's version. PW.3 is the informant himself. Though the informant (pw.3) in his evidence corroborated to the story narrated in the FIR (Ext.2) but he has not implicated the present accused persons with the commission of the alleged occurrence. This witness has categorically in his cross examination has stated that the present accused persons were not responsible for his injuries. This witness has also in his evidence stated that he himself had not scribed the FIR and he can not say the name of the scriber who had scribed the FIR (Ext.2). It is further seen from his evidence that he himself had not gone into the FIR (Ext.2) nor the person who had scribed the FIR had read over and explained the contents of the FIR before him. It is also seen from his evidence that he has good relation with the accused persons. The aforesaid evidence of pw.3 does not connect the present accused persons with the commission of alleged occurrence. Besides Pws.1 to 3 prosecution has no other evidence against the accused persons. Considering the entire prosecution evidence available on record I am of the view that the prosecution case is of no evidence against the accused persons and as such the accused persons are entitled to be acquitted.

In the result, I hold the accused persons are not guilty for the offences punishable U/s.341,323,307/34 IPC & acquit them therefrom U/s.235(1) Cr.P.C.. The accused persons are on court bail as such they be discharged from their respective bail bonds.

AC.J.M-ASJ,BBSR

The seized articles like iron rod & iron hamour be confiscated to the State 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 9th February,2015 under my hand and seal of this court.

AC.J.M-ASJ,BBSR

List of P.ws. Examined for prosecution.

P.w.1	Ranjit Ku.Mohapatra
P.w.2	Sibaprasad Samantroy
pw.3	Trilochan Roy
pw.4	Birajashankar Rath
pw.5	Gynaranjan Mohapatra
pw.6	Banabihari Samantroy
pw.7	Soumyajit Samantroy

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

None.

List of exhibits marked for prosecution.

Ext.1	Medical examination report of injured Banabihari Samantroy
Ext.1/1	Signature of pw.4 in Ext.1
Ext.2.	Complain petition
Ext.2/1	Signature of pw.6

List of exhibits marked for defence.

N i l.

List of M.Os.

Nil

AC.J.M-ASJ,BBSR

