

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.35/132/12/14**Code No.4149/14**

(Arising out of GR.2443/08 corresponding to Balipatna PS Case No.46/08)

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

Niranjan Samantray, aged about 40 years,
S/o-Late Budhanath Samantaroy
At-Amankudgada PS:Balipatna, Dist:khurda

Ranjit Samantray, aged about 40 years,
S/o Niranjan Samantray
At-Amankudgada PS:Balipatna, Dist:khurda

Sanjit Samantray, aged about 33 years
S/o-Niranjan Samantray
At-Amankudgada PS:Balipatna, Dist:khurda

Amulya Ku.Samantray, aged about 38years,
S/o-Niranjan Samantray
At-Amankudgada PS:Balipatna, Dist:khurda

..... Accused persons

OFFENCE U/S.341,323,324,294,307,506//34 I.P.C

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

Counsel for the Defence : Sri R.K.Khuntia &Sudhir Ku.Mohapatra,Adv.,BBSR.

Date of argument: 5.2.15

Date of judgment: 7.215

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.341,323,294,324,307,506/34 IPC.

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

Accused Niranjan Samantray is the paternal uncle of Banabihari Samantray, the informant (pw.6) in the present case. Other three accused persons are sons of accused Niranjan Sahoo. On 18.5.08 at about 7 pm while Banabihari Samantray

(pw.6) and his son Somyajit Samantray (pw.7) were going to Banamalipur bajar by motorcycle, on their way near the house of Sibaprasad Samantray (pw.2) the accused persons obstructed them by standing in front of their motorcycle the accused Ranjit Samantray suddenly caught hold the shirt of Banabihari Samantray (pw.6) & dragging him on road gave two slaps whereas accused Niranjan Samantray and Sanjeet Samantray abused pw.6 in obscene words. While Niranjan Samantray and Sanjeeb Samantray were abusing at pw.6 accused Amulya Samantray gave neck push to pw.6 as a result pw.6 fell down on the road. Accused Amulya also caught the backside of the head of pw.6 by a bhujali causing serious bleeding injury. PW>6 became senseless. Somyajit Samantray (pw.7) called the villagers namely Ranjeet Mohapatra(pw.1), Gynaranjan Mohapatra (pw.5) and many others and with their assistance pw.7 admitted his father(pw.6) at Athantar medical, Balipatna. The further prosecution allegations against the accused persons is that prior to the alleged date of occurrence there was dispute in between the family of pw.6 and the accused family on a piece of land. On 22.5.08 pw.6 had lodged a complaint case bearing no.1CC 2508/08 against the accused persons in the court of Ld.SDJM,BBSR & Ld.SDJM has been pleased to send the said complaint petition to the OIC, Balipatna PS U/s.210 CrPC for registration and investigation of this case. On the basis of direction of the Ld.SDJM,BBSR,Balipatna PS Case No.46 dtd 2.6.08 was registered U/s.341,323,324,294,307,506/34 IPC against the accused persons. Investigation was undertaken there of. After completion of investigation police submitted charge sheet against the above named four accused persons for the aforesaid offences. 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 18.5.08 at about 7 pm on Amankuda, Banamalipur village road in front of the house of Sibaprasad Samantray the accused persons, in furtherance of their common intention wrongfully restrained Banabihari Samantray (pw.6) and his son Somyajit (pw.7) while they both were going from their village Amankuda to Banamalipur Bajar?

ii) Whether on the alleged date, time and at place of occurrence the accused persons ,in furtherance of their common intention caused annoyance to others by abusing in obscene

words towards Banabihari Samantray (pw.6) in or near a public place?

iii) Whether on the alleged date, time and at place the accused persons, in furtherance of their common intention voluntarily caused hurt to Banabihari Samantray?

iv) Whether on the alleged date, time and at place the accused persons in furtherance of their common intention, caused hurt to Banabihari Samantray by means of bhujali, an instrument of cutting which is likely to cause death.?

v) Whether on the alleged date, time and at place the accused persons, in furtherance of their common intention attempted to commit murder to Banabihari Samantray (pw.6) by means of bhujali?

vi) Whether on the alleged date, time and at place of occurrence the accused persons, in furtherance of their common intention had given threat to Banabihari Samantray (pw.6) with intents to cause alarm to his person?

5. To establish this case against the accused persons the prosecution has examined seven witnesses on its side including the informant (pw.6) & his son (pw.7). PW.2 was a witness in front of whose house the alleged occurrence took place. PW.4 is the doctor who had medically examined Banabihari Samantray. PW.1,3,5 were the witnesses to the occurrence. On the other hand defence adduced no evidence on its side.

6. According to the prosecution pws.1,3,5 were the eyewitnesses to the alleged occurrence and the alleged occurrence had taken place in front of the house of pw.4. Reading the evidence of pws.1,2,3,5 it is seen that in their evidence before the court they denied to have their any knowledge about the occurrence. Hence, these four witnesses did not support to the case of the prosecution. PW.6 himself is the informant and pw.7 is the son of pw.6. After carefully reading the evidence of pws. 6 & 7 it is seen that their evidence discloses that there was a hot discussion in between them and the accused persons on the issue of division of their paternal property but their evidence does not disclose that the accused persons conjointly wrongfully restrained them; caused annoyance to others by using obscene words at them on the public road; voluntarily causing hurt; assaulted Banabihari Samantray causing injuries on his person attempted to commit murder to pw.6 by using bhujali and had given threat to pw.6 with intents to cause alarm to his person. Both pws.6 & 7 who are the most important witnesses for the success of prosecution case have categorically stated in their cross examination that except hot discussions in between them and the accused persons no onward situation was committed by the

accused persons towards them. From the aforesaid evidence of pw.6 & 7 it is clear that they have not implicated the accused persons with the commission of alleged offences. PW.4 is the doctor who had medically examined pw.6 and accordingly has given his injury report (Ext.1) after receipt of injury requisitions from Balipatna PS in favour of Banabihari s Samantray (pw.6). PW.4 is not a witness to the fact. Therefore, the evidence of pw.4 noway, hence the prosecution to entangle the accused persons with the commission of alleged offences except the evidence of pw.1 to 7 prosecution has no other evidence in this case. Considering the prosecution evidence available on record I am of the view that prosecution has failed to connect the accused persons with the commission of alleged offences..

In the result, I hold the accused persons are not guilty for the offences punishable U/s.341,294,323,324,307,506/34 IPC & acquit them therefrom U/s.235(1) Cr.P.C.. The accused persons are on court bail. They be discharged from their respective bail bonds.

AC.J.M-ASJ,BBSR

The judgment is dictated,corrected and pronounced by me in the open court today i.e. on 7th 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 Samantray
pw.3	Trilochan Roy
pw.4	Birajashankar Rath
pw.5	Gynaranjan Mohapatra
pw.6	Banabihari Samantray
pw.7	Soumyajit Samantray

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

None.

List of exhibits marked for prosecution.

Ext.1	Medical examination report of injured Banabihari Samantray
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.

Nil.

List of M.Os.

Nil

AC.J.M-ASJ,BBSR

