

IN THE COURT OF THE SUB-DIVISIONAL JUDICIAL MAGISTRATE,
BHUBANESWAR

PRESENT:

Sri D.R. Sahoo, L.L.M.

S.D.J.M, Bhubaneswar.

C.T Case No-4926/2013

Trial No- 69/2014

Date of argument: 14.08.2014

Date of Judgment: 16.08.2014

STATE.....Prosecution

Versus

Pathani Sahoo @ Nayak, aged about 30 years , S/o. Manguli Sahoo, Vill- Ujala Gopinathpur, P.S. Tangi, Dist- Khurda, At/Pr- Kelabasti, Airfield, Dist-Khurda.

.....Accused .

Offence under Sections 448/323/294/427/354/506/379 of Indian Penal Code

Counsel for the Prosecution: APP, Bhubaneswar.

Counsel for the defence Sri P.K. Mohanty (SDC), Bhubaneswar

J U D G M E N T

The above named accused stands charged for committing offences punishable U/s. **448/323/294/427/354/506/379** of I.P.C.

2. The prosecution case in brief is that:

On 18. 12.2013 at about 4. P.M, the accused came to the house of the informant in absence of her husband and drag her wearing saree and assaulted her, destroyed her house hold articles and took away Rs. 200/-. When the informant protested the accused, threatened her to kill and abused her in obscene languages. Being aggrieved the informant lodged FIR at the Police Station and after due investigation police submitted charge sheet U/s **448/323/294/427/354/506/379** I.P.C .subsequently

charges were framed thereunder to which the accused plead not guilty claimed for trial. Hence this trial.

3. The plea of the defence is one of complete denial and false implication.

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

i) *Whether on 08.12.2013 at about 4.00P.M the accused criminally trespassed into the house of the informant so as to commit the offence punishable U/s. 448 of IPC ?*

ii) *Whether on the aforesaid date and time the accused voluntarily caused hurt to the informant without any provocation so as to commit the offence punishable under section 323 of IPC?*

iii) *Whether on the aforesaid date and time the accused uttered obscene words at or near a public place thereby caused annoyance to others so as to commit the offence punishable under section 294 of IPC?*

iv) *Whether on the aforesaid date and time the accused damaged the house articles of the informant and committed mischief punishable U/s 427 of IPC*

v) *Whether on the aforesaid date and time the accused applied criminal force on the informant, intending to outraged her modesty and thereby committed the offence punishable U/s. 354 of IPC ?*

vi) *Whether on the said date and time the accused took away Rs.200/- from the informant and thereby committed the offence punishable U/S 379 of IPC ?*

vii) *Whether on the aforesaid date and time the accused criminally intimidated the informant with an intention to cause alarm in her mind and thereby committed offence punishable U/s. 506 of IPC ?*

5. In order to prove its case prosecution has examine as many as five witnesses out of whom P.W.1 Naba Kishore Pradhan and P.W.3 Batu

Nayak are independent witnesses. P.W.2 is the I.O. of this case. P.W.4 Lili Mohapatra is the informant and P.W.5 Udaya Mohapatra is her husband. On the other hand, Pathani Sahoo @ Nayak has adduced evidence as D.W.1. Prosecution has exhibited FIR as Ext.2 and signature of the informant as Ext. 2/1. Ext.1 is the endorsement of the I.O. on the FIR directing the I.O. to take up investigation .

6. While evaluating the evidence on record it is ascertained that only P.W.4 Lili Mohapatra has stated about the occurrence and her husband Udaya Mohapatra (P.W.5) has supported her but occurrence witness P.W.1 and P.W. 3 did not support the prosecution case. Most importantly, the informant , P.W.4 in her cross-examination has stated that some persons were present at the spot and have seen the occurrence and she cannot tell their name. Her husband was not present and has not seen the occurrence. Although allegation has been made against the accused regarding committing theft of Rs.2,00/- from the informant, nothing has been seized from the accused and stated he has not seized any money from the accused.

7. Most importantly , the independent witnesses P.W.1 and P.W.3 to whom the prosecution has examined as occurrence witnesses have not supported the prosecution case and both P.W.1 and P.W.3 have stated they do not know anything about the case. In such facts and circumstances, the prosecution case seems to be not believable and as per the criminal jurisprudence no persons can be punished on presumption. As such this court holds that the prosecution has failed to establish its case beyond all reasonable doubt and accordingly the accused is found not guilty U/s. 448/323/294/427/354/506/379/34 of IPC and he is acquitted there from as per the provision U/s.248 (1) Cr.P.C. He be set at liberty forthwith. His bail bond stands cancelled.

Enter the case as a mistake of fact.

S.D.J.M., Bhubaneswar.

Typed to my dictation, corrected by me and pronounced the judgment in the open Court today given under my hand and seal this the 16th day of August, 2014.

S.D.J.M., Bhubaneswar.

List of witnesses examined on behalf of the prosecution:

- P.W.1: Naba Kishore Pradhan
- P.W.2: Bidyadhar Sahoo.
- P.W.3: Batu Nayak.
- P.W.4: Lili Mohapatra.
- P.W.5: Udaya Mohapatra.

List of witnesses examined on behalf of the defence:

D.W.1: Pathani Sahoo @ Nayak.

List of Exts. marked on behalf of the prosecution:

- Ext.1: the endorsement of the I.O. on the FIR directing the I.O. to take up investigation.
- Ext.2: FIR.
- Ext.2/1: Signature of P.W.4 on it.

List of Exts. marked on behalf of the defence:

N I L

S.D.J.M., Bhubaneswar.