

**IN THE COURT OF THE ADDL.SESIONS JUDGE,  
BHUBANESWAR**

Present:

Shri A.C.Behera, B.A.(Hons),LL.B.  
Addl. Sessions Judge,  
Bhubaneswar.

**C.T.Case No.71/233 of 2014**

(Arising out of C.T.No.992 of 2014 corresponding to  
Tamando P.S. Case No.31/dtd.16.03.2014 committed by the  
learned S.D.J.M., Bhubaneswar)

Dated, this the 19<sup>th</sup> day of January, 2015

The State of Odisha.

..... Complainant.

-Vrs.-

Sanjaya @ Nandu Routray, aged 21 years,  
S/o. Sri Jagabandhu Routray of  
Vill.Ransinghpur, P.S.Tamando,  
Dist.Khurda

..... Accused person

Counsel for the Prosecution : Sri P.K.Mishra, Addl.P.P.

Counsel for the accused person : Sri R.C.Baral & his  
associate Advocates.

Date of Argument :16.01.2015

Date of Judgment :19.01.2015

**Offence U/s.341, 323, 354, 324, 294, 506 & 307 I.P.C**

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

The sole accused has been charged U/s. 341, 323, 354, 324,  
294, 506 and 307 of the I.P.C.

2.The case of the prosecution against the accused basing upon the story narrated in the F.I.R that, on dtd.15.03.2014 night at about 10 P.M the husband of the informant i.e. Benudhar Jena had moved to the house of one Gaura Bira of his village Ransinghpur to return his bicycle. At that time, the accused reached there and abused him (Benudhar Jena) in obscene languages by saying that, what for, he (Benudhar Jena) had assaulted one Dillip Jena yesterday and saying so, he (accused) brought out a bamboo plank from the thatched roof of Goura Bira and assaulted on the head and other parts of Benudhar Jena by giving repeated blows causing bleeding injuries. For which, he (Benudhar Jena) fell down on the ground being senseless. Hearing the above incident, the wife of Benudhar Jena i.e. Kabita Jena came to the spot in order to rescue her husband and seeing her, accused abused her (Kabita Jena) in obscene languages by saying “Bedhi Ghodagehi” and dragged her wearing saree. He (accused) also threatened her and her husband Benudhar Jena to kill, if they will report about the incident to the police. Then the accused fled away from there seeing the witnesses namely Satyabhama Jena and others.

3.After the departure of the accused from the spot, Kabita Jena, took her injured husband Benudhar Jena to her house in that night i.e. on 15.03.2014 and thereafter on its next day i.e. on 16.03.2014, she (Kabita Jena) lodged F.I.R against the accused before the IIC Tamando Police Station by putting her signature thereon vide Ext.1.

4. Basing upon such F.I.R, the IIC Tamando P.S registered Tamando P.S.Case No.31 dtd.16.03.2014 against the accused and directed S.I. A.Sethi to take up the investigation of the case.

5. On being directed by the IIC, the S.I. A.Sethi proceeded with the investigation of the case. During investigation, he examined the informant and her injured husband Benudhar Jena, sent the injured Benudhar Jena through requisition for his medical examination and accordingly he (Benudhar Jena) was medically examined. He (I.O.) arrested the accused, forwarded him to the court and received the injury report of the injured Benudhar Jena vide Ext.2 and examined other witnesses. Then after completing investigation, he (I.O.) submitted charge sheet on dtd.27.04.2014 U/s.341, 294, 323, 354, 506 and 307 of the I.P.C against the accused vide C.S.No.19.

6. Accordingly, after commitment, the accused is facing this sessions trial having been charged with the offences U/s. 341, 294, 323, 354, 506 and 307 of the I.P.C.

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

8. In order to substantiate the aforesaid charges against the accused, prosecution has examined altogether five nos of witnesses. But, the defence has examined none on its behalf.

9. Out of the five witnesses of the prosecution, P.Ws.1 and 3 are the informant and her husband respectively. The said P.Ws.1 and 3 are the victims of the alleged incident as per the story of the

prosecution. Among them, P.W.3 is the injured. The rest three witnesses i.e. P.Ws.2, 4 and 5 are the co-villagers of the accused and the victims. Out of them (P.Ws.2, 4 and 5), P.W.2 (Satyabhama Jena) is a direct eye witness to the alleged incident as stated in the F.I.R.

10. Basing upon the aforesaid story of the prosecution with alleged criminal charges U/s.341, 294, 323, 354, 506 and 307 of the I.P.C against the accused and the plea of the defence, the following points are required to be determined for just decision of the case and the said points are :-

- (i) Whether on dtd.15.03.2014 at about 10 P.M, the accused had voluntarily caused hurt on Benudhar Jena of his village Ransinghpur near the house of Gaura Bira by assaulting through a split bamboo and had attempted to kill him after wrongfully restraining him there ?
- (ii) Whether on dtd.15.03.2014 at about 10 P.M, the accused had assaulted and had outraged the modesty of the informant Kabita Jena near the house of Gaura Bira of village Ransinghpur ?
- (iii) Whether on dtd.15.03.2014 at about 10 P.M., the accused had abused to the informant and her husband in obscene languages near the house of Gaura Bira of village Ransinghpur causing annoyance to others and had criminally intimidated them by giving threat ?

11.The above three points fixed for determination are covering all the aforesaid offences U/s.341, 294, 323, 354, 506 and 307 of the I.P.C in which, the accused has been charged with.

12.So, in order to have a better appreciation and so also for just decision of the case, all the above three points fixed for determination are hereby taken up analogously for their discussions, as the above three points are inter-linked having ample nexus with each other according to the factual matrix of this case at hand.

13.This is a very peculiar nature of case, in which both the alleged victims of this case i.e. P.Ws. 1 and 3 (informant and her husband i.e. Kabita Jena and Benudhar Jena) have turned hostile to the prosecution. Accordingly, the victims of the alleged incident i.e. P.Ws. 1 and 3 have given complete good-bye to the accused from the alleged incident by stating specifically in their respective evidence that, the accused is in no way connected with the injuries of the P.W.3 as per injury report vide Ext.2. They have also stated that, the accused had not made any sort of misdeed with the victim (P.W.1) in any manner. Because, P.W.1 (informant-cum-victim) has deposed in her evidence by stating that, the accused had no contribution or relation with the injury on her husband. She (P.W.1) has not uttered or whispered a single word in her entire evidence about any obstruction, abuse or assault by the accused either to her husband or to herself (P.W.1) in any manner at any point of time. She (P.W.1) has also not deposed anything against the accused about the pulling out of her saree by him (accused).

Likewise, the husband of the P.W.1 i.e. P.W.3 (Benudhar Jena, victim-cum-injured) has deposed in his evidence by stating that, he had sustained injury by falling on a bamboo plank due to the push and pull between the two groups of his village. He can not say the name of the person, who pushed him from the group. The injury on his head and other parts of his body are not the outcome of any assault of anybody through any weapon. But the said injuries were due to his fall. The accused is in no way connected with the injuries on his person. He (P.W.3) had not stated anything before the police implicating/connecting the accused in any manner with his injuries. He has good relationship with the accused as before and they both the family are pulling well in the village having visiting terms with each other. He is not at all interested to prosecute the case further against the accused, as the accused Sanjaya Routray is in no way liable or responsible for the injuries on his person. The police had initiated this case against the accused only due to village party faction but not for any other reason.

The other witnesses i.e. P.Ws. 2, 4 and 5 including the so-called eye witnesses to the alleged incident i.e. P.W.2 have not at all implicated the accused with the alleged incident as stated in the F.I.R in their respective evidences. Accordingly none of the witnesses of the prosecution out of five has supported the story of the prosecution.

14.As stated above, when there is no material in the record on behalf of the prosecution either through oral or through documentary evidence to implicate the accused with the alleged incident, then at this juncture, there is no other alternative but to

hold that, prosecution has not at all become able to establish any of the aforesaid charges U/s.341, 294, 323, 354, 506 and 307 of the I.P.C against the accused in any manner.

15. On analysis of the facts and circumstances of the case as per the discussions and observations made above, an irresistible conclusion is hereby drawn that, prosecution has become complete failure to establish the aforesaid charges U/s.341, 294, 323, 354, 506 and 307 of the I.P.C against the accused. For which, I found the accused not guilty with the aforesaid charges U/s.341, 294, 323, 354, 506 and 307 of the I.P.C. Accordingly, he (accused, Sanjaya @ Nandu Routray, who is absent today in the court and is allowed to be represented through his lawyer U/s.317(1) of the Cr.P.C due to his sudden illness ground) is acquitted U/s.235(I) of the Cr.P.C from the charges U/s.341, 294, 323, 354, 506 and 307 of the I.P.C due to complete failure of the prosecution to prove any one of the aforesaid offences against him through any legally admissible evidence. So, the accused is directed to be set at liberty forthwith.

16. The seized articles if any be destroyed four months after the appeal period is over, if no appeal is preferred. But in case of appeal, as per the direction of the Hon'ble Appellate Court.

Pronounced the judgment in open Court today on this the 19<sup>th</sup> day of January, 2015 under my seal and signature.

Dictated & corrected by me

Addl. Sessions Judge,BBSR

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List of witnesses examined for the prosecution:

P.W.1                      Kabita Jena  
P.W.2.                      Satyabhama Jena  
P.W.3.                      Benudhar Jena  
P.W.4.                      Babuli Behera  
P.W.5.                      Siba @ Sankar Behera.

List of witnesses examined for the defence:

N i l

List of documents marked on behalf of prosecution:

Ext.1.                      Signature of the informant on the F.I.R  
Ext.2.                      Injury report of the injured Benudhar Jena

List of documents marked on behalf of defence:

N i l

List of M.O. on behalf of prosecution:

N i l

List of M.O. on behalf of defence:

Nil

Addl. Sessions Judge,  
Bhubaneswar.

