

IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE,
BHUBANESWAR.

Present:-

Shri M. K. Mishra, LL. B,
Addl. Sessions Judge, Bhubaneswar.

CRIMINAL TRIAL NO. 171 OF 2014
(Arising out of Bhubaneswar Mahila PS Case No.
114/2010, corresponding to GR Case No-2927 of
2010, committed by the JMFC(O), Bhubaneswar)

Date of argument- 28.10.2014
Date of Judgment- 31.10.2014

S t a t e -

- V e r s u s -

Satyabhama Panda, aged about years, W/o: Sanjay Ku.
Panda of Tala Sahi, Kapileswar, PS: Lingaraj, Dist:
Khurda.

....Accused.

Advocate for the prosecution :Shri Asok Kumar Pattnyak, Addl.P. P

Advocate for Accused :Shri P.K.Swain and assts. ADVs.

Offence Under Sections :498-A/307/ 323 of Indian Penal Code.

J U D G M E N T

The aforesaid accused has faced his trial being charged U/s. 498-A/307/323 of Indian Penal Code (hereinafter referred as 'I.P.C.').

2. The case of the prosecution in short is that: the informant Sugyni Manjari Panda is the wife of one Dhananjaya Panda of Talashi, Kpilaeswar, Bhubaneswar. The husband of the informant is the younger

brother of one Sanjay Panda. The accused Satyabhama Panda is the wife of Sanjaya Panda. The accused and her husband and the informant and her husband and their family members were residing in the same house. It is alleged in the FIR that on 9.8.2010 at about 8 AM while the informant was bathing, the accused had assaulted her using a stone. While the husband of the informant intervened, she was rescued. However, during the process, the informant had sustained injuries on her person for which she was shifted to Municipality Hospital at Bhubaneswar. Prior to that she was taken to P.S. After her treatment on the same day, she lodged a written FIR before the IIC, Mahila P.S, Bhubaneswar. It is further alleged in the FIR that the informant was subjected to torture and cruelty on demand of dowry by the accused and the family members of her inlaws. Accordingly, the IIC, Mahila P.S, Bhubaneswar had registered P.S.Case No-114/2010 U/s.498-A/307/34 of I.P.C and Section 4 of the D.P. Act. During course of investigation of this case, the IO had arrested the accused and forwarded her to the court, recorded the statement of the informant and other witnesses, visited the spot , seized one piece of stone from the possession of the accused and prepared the seizure list, issued injury requisition for the medical examination of the injured informant, received the injury report from the Medical Officer, Bhubaneswar Municipal Corporation Hospital and on completion of investigation of this case submitted Chargesheet against the accused U/s.498-A/323 of I.P.C. However, Ld. SDJM, Bhubaneswar has taken cognizance U/s.498-A/307/323 of I.P.C and the case was committed to the court of Sessions. Charge was framed accordingly against the accused. Hence, this case.

3. The plea of the defence is that of complete denial of the prosecution story.

4. Points for determination in this case are:
- i) Whether since 15th July, 2004 till the date of occurrence i.e. 9.8.2010, the accused being the sister-in-law of the complainant had subjected the complainant who is a woman to cruelty both mentally and physically in order to coerce her to procure further dowry ?
 - ii) Whether on dtd.9.8.2010, at about 8 AM in the dwelling house of the informant and the accused, located in Talasahi, Kapileswar, Bhubaneswar the accused had assaulted the informant by means of a stone on her head with the intention of knowledge that by such assault it could have caused death of the informant?
 - iii) Whether on the same date, time and place, the accused has voluntarily caused hurt on the person of the informant by assaulting her by using a stone?

5. In order to prove it's case, prosecution has examined as many as 5 nos. of witnesses, out of whom, P.W.1 is the informant, P.W.2 and the P.W.3 are the relevant witnesses, the P.W.4 is the husband of the informant, the P.W.5 belongs to the case locality. The rest prosecution witnesses have been declined considering the nature of the evidence of the injured informant and other witnesses.

On the other hand, no witnesses is examined on behalf of the accused. Prosecution has exhibited the FIR under Ext.1 and the signature of the witnesses under Ext.2 series and the medical examination report of the informant under Ext.3. No MO is marked in this case by either side. Defence has not exhibited any documentary evidence.

6. The informant who has been examined as P.W.1 has stated that the accused happens to be the wife of the brother of her husband. According

to her evidence at the time of the occurrence while she had trampled in the process she fell down on the ground and sustained injury on his forehead. She admitted to have lodged the FIR. But during her cross-examination, she has stated that as per the instruction of the police, she had scribed the FIR without knowing its contents, as her mental condition at that time was not conducive, and that as per the dictation of the police, she had prepared the FIR.

The P.W.2 who belongs to the case locality has expressed his ignorance about the case.

The P.W.3 who is the father of the informant has stated to have not remember anything about this case.

The P.W.4, the husband of the injured informant and the P.W.5 who belongs to the case locality have expressed their ignorance about the facts of this case.

The P.W.1 to P.W.5 were all subjected to a volley of leading questions by the prosecution U/s.154 of Indian Evidence Act. But nothing came from the mouth of these witnesses which could be of any help to the case of prosecution story. The informant has completely resiled from the contents of the FIR.

7) Under the circumstance, the case of the prosecution has neither been corroborated, nor proved in any manner, as a result of which I feel that the case of the prosecution is extremely weak and there is no iota of evidence against the accused. In view of the aforesaid facts and circumstance of this case, and taking into consideration the oral and documentary evidence on record, I am of the opinion that prosecution has miserably failed to prove its case against the accused U/s.498-A/307/323 of I.P.C beyond all reasonable doubt, and the accused is found not guilty thereunder, and acquitted U/s.235(1) of Cr.P.C and she be set at liberty.

The seized articles if any be destroyed after four months of the appeal period is over in case of no appeal, in case of appeal the same be dealt with as per the decision of the appellate court.

Addl. Sessions Judge, Bhubaneswar.

Typed to my dictation, corrected by me and pronounced in the open Court today this the 31st day of October, 2014 given under my signature and seal of this Court.

Addl. Sessions Judge, Bhubaneswar.

List of witnesses examined for the prosecution

P.W.1 : Smt. Sugyani Manjari Panda
P.W.2 : Bindu Malia
P.W.3 : Niranjan Bastia
P.W.4 : Dhananjaya Panda
P.W.5 : Manoranjan Malia

List of witness examined for the defence

Nil

List of exhibits marked for the prosecution

Ext.1 : FIR
Ex.1/1 :Signature of P.W.1 in Ext.1
Ext.2 : Signature of P.W.4 on the seizure list
Ext.2/1 :Signature of P.W.5 on the seizure list

List of Exts. Marked on behalf of the defence

Nil.

Addl. Sessions Judge, Bhubaneswar.

