

IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE,
BHUBANESWAR.

Present:-

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

CRIMINAL TRIAL NO. 184 OF 2014
(Arising out of Bhubaneswar Mahila PS
Case No. 198/2013, corresponding
to CT Case No-2999/ of 2013, committed
by the SDJM, Bhubaneswar)

Date of argument- 15.12.2014

Date of Judgment- 17.12.2014

S t a t e -

Mohan Das, S/o: Late Baishnaba Das of village: Balijhari,
P.S.Kanpur, Dist: Cuttack, AT present: Tareni Mandir Basti
near Saheed Nagar Label crossing, Bhubaneswar.

....Accused.

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

Advocate for Accused :Shri S.Swain and others, ADVs.

Offence Under Sections :341/323/307/354/506/34 of
Indian Penal Code .

J U D G M E N T

The aforesaid accused namely: Mohan
Das has faced his trial being charged U/s.
341/323/307/354/506/34 of Indian Penal Code (hereinafter
referred as 'I.P.C.').

2. The case of the prosecution in short is that: on
dtd.11.5.2014 at about 4.30 PM inside Tareni temple
premises located at level crossing area of Sahidnagar,
while Samir Samantaray, Srichandan Bahalia, Bipin Das
were playing cards, at that time, without the notice of
Samir Samantaray, one Bipin Das @ Kanhu had removed

the money-purse from the pocket of Samir Samantaray. Lateron he came to know about it and challenged Bipin Samantaray as a result of which there was exchange of words in between them. At that time accused Mohan Das being armed with an iron rod assaulted Samir Samantaray on different parts of his body causing injury. After Samir fell down on the ground, Sricharan Bahalia intervened into the matter and tried to pacify the matter,, accused Mohan picked up a stone and assaulted on his head causing injury, and he fell down on the ground. His associate Bipin being armed with sword had assaulted by giving three to four blow to Sricharan Bahalia causing bleeding injury. While the informant who is the mother of injured Samir had intervened, the culprits had tussled with her affecting her modesty, and threatened to face dire consequence. So, finding no other alternative, the informant had lodged a written report before the IIC, Sahid Nagar P.S on the same day, basing on which the case was registered and the investigation was taken up. During course of investigation of this case, the accused was arrested alongwith his brother Bipin Das and they were forwarded to the court on dtd.12.5.2014. The IO of this case had recorded the statement of the informant and witnesses U/s.161 of Cr.P.C, and on completion of investigation, he submitted chargesheet against the accused persons U/s. 341/323/307/354/506/34 of I.P.C. However, the accused Mohan Das was committed to the court of Sessions in this case and the case record was received by this court on transfer from the Court of District and Sessions Judge, Bhubaneswar. Accordingly, charge framed and he has

faced trial as per law.

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 on dtd.11.5.2014 at about 4.30 PM near Tareni temple, Sahid near Level crossing area, accused Mohan Das by sharing the common intention with his accomplice namely: Bipin Das had wrongfully restrained the informant Rina Samantaray, injured Samir Samantaray and Sricharan Bahalia by preventing them from proceeding in direction in which they had a right to proceed?

ii) Whether on the above noted date, time and place by sharing his common intention with his accomplice Bipin Das the accused had voluntarily caused hurt to Samir and Sricharan Bahalia?

iii) Whether on the same date, time and place the accused by sharing his common intention with his accomplice Bipin Das had dealt stone blow on the head of Sricharan Bahalia, and caused hurt to him by means of sword, and thereby they had attempted to cause their murder?

iv) Whether on the same date, time and place, the accused by sharing his common intention with his accomplice Bipin Das had threatened the informant as well as to the

injured Samir and Sricharan Bahalia to face dire consequence causing alarm to them?

iv) Whether on the same date, time and place the accused by sharing his common intention with his accomplice Bipin Das had used criminal force by dragging the informant Rina Samantaray who is a woman, intending to outrage her modesty?

5. In order to prove it's case, prosecution has examined as many as 5 nos. of witnesses. Ext.1 and Ext.1/1 are marked which include the FIR and signature on the FIR. On the other hand no documentary evidence is adduced on behalf of the accused. No MO is marked on behalf of either side. The statement of the accused is dispensed with due to lack of incriminating circumstance on record.

6. During evidence, the injured who has been examined as P.W.1 has stated that on dtd.11.5.2014 at about 2 PM to 3 PM while he himself alongwith others were playing cards near the temple at Sahid Nagar adjacent to the level crossing, a money purse of Samir Das was missing, and there was exchange of words among themselves. They searched for the purse and the matter was informed to P.S. But the informant has not narrated the FIR story in any manner, nor he has stated anything incriminating against the present accused. The witness was subjected to volley of leading questions U/s.154 of I.E.Act by the prosecution. But he has not whispered anything against the accused. His cross-examination indicates that the matter has already been amicably

settled, and she is not interested to proceed further in the case.

The P.W.2, and the P.W.3 have not supported the case of the prosecution in any manner since they have expressed their ignorance about the case.

The P.W.4 who is the informant of this case has identified the accused who was standing in the dock, but he has revealed his ignorance about the facts of this case. He has admitted his signature appearing in the FIR. But his cross-examination discloses that she is not the scribe of the FIR, and she is not aware regarding the contents of the FIR. She has further stated that the FIR was not read over nor explained to her.

The P.W.5 Samir Samantaray has simply stated to have not known anything about the case. This witness was thoroughly subjected to a volley of leading questions U/s.154 of I.E.Act by the prosecution. But insptie of efforts made by the Ld. APP, the P.W.5 has not stated anything incriminating against the accused nor he has stated relating to the FIR story. His cross-examination indicates that the IO has not examined him nor he was assaulted by the accused.

7. It is found that the informant as well as the other two injured persons i.e. P.W.1 and P.W.5 have not at all supported the case of the prosecution in any manner nor they have given corroboration to the prosecution story. In this case. Nothing has been seized by the IO, nor any medical examination was conducted in respect of the injured persons.

8) As a result, considering the aforesaid facts and

circumstances, and finding that there is absolutely no oral and documentary evidence against the accused persons, for that prosecution has miserably failed to prove its case against the accused beyond all reasonable doubt. Accordingly, he is found not guilty U/s. 341/323/307/354/506/34 and he is acquitted thereunder as per provision 235(1), Cr. P. C. He be set at liberty forthwith.

Addl. Sessions Judge, Bhubaneswar.

Typed to my dictation, corrected by me and pronounced in the open Court today this the 17th day of December, 2014 given under my signature and seal of this Court.

Addl. Sessions Judge, Bhubaneswar.

List of witnesses examined for the prosecution

P.W.1 Sricharan Bahalia
P.W.2 Sania Biswal
P.W.3 Smt. Basanti Mallick
P.W.4 Rina Samantaray
P.W.5 Samir Samantaray

List of witness examined for the defence

Nil

List of exhibits marked for the prosecution

Ext.1 FIR
Ext.1/1 Signature of P.W.4 on Ext. 1

List of Exts. Marked on behalf of the defence

Nil.

List of M.Os marked on behalf of the prosecution

Nil

List of M.Os marked on behalf of the defence

Addl. Sessions Judge, Bhubaneswar.