

IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE,
BHUBANESWAR.

Present:-

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

CRIMINAL TRIAL NO. 320 OF 2013

(Arising out of Bhubaneswar Mancheswar PS Case
No. 28/2003, corresponding to GR Case No-399 of
2003, committed by the SDJM, Bhubaneswar)

Date of argument- 13.11.2014

Date of Judgment- 17.11.2014

S t a t e -

Subash Panda, aged about 46 years, S/o:Prahallad Pana of
village: Rasulgarh, P.S. Mancheswar, Dist: Khurda.
....Accused.

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

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

Offence Under Sections :147/148/294/323/325/307/427/506/149 of
Indian Penal Code.

J U D G M E N T

The aforesaid accused has faced his trial being
charged U/s. 147/148/294/323/325/307/427/506/149 of Indian Penal Code
(hereinafter referred as 'I.P.C.').

2. The case of the prosecution in short is that: on 30.1.2003 at about
12 noon the informant had lodged a written report before the IIC,
Mancheswar P.S., Bhubaneswar informing that on the previous day
Sukanta Baliarasingh and one Papu belonging to village-Rasulgarh were
sitting in Balighat area. They had a quarrel with Bula Pradhan of village
Pandara. For the same matter on 30.1.2003 at about 11 AM the accused

persons named in the FIR numbering 18 persons including the present accused Subash Ch. Panda had formed an unlawful assembly being armed with deadly weapons like sword, iron rod, Tenta, bhujali, axe, Katuri etc. and arrived in village-Pandara. Thereafter, they had damaged the betel shop of Kanhu Charan Swain and Bishnu Das and the cycle repairing shop of Narendra Behera and tiffin shop of Bishnu Das. Due to the assault of the accused persons, Karaunakar Subudhi had sustained lacerated injury. He also sustained fracture of his right hand. The accused and his associates had pelted stones causing injuries to the person who were present there. They abused the villagers of the informant in obscene language and threatened them to commit murder. Acting on the FIR, the case was registered and the investigation was taken up. During course of investigation of this case, the IO had arrested some of the accused persons and forwarded them to the court, seized the weapon of offence, sent the injured persons to medical for medical examination, received the injury report, and on completion of investigation submitted Chargesheet against the accused persons including the present accused U/s.147/148/294/323/325/307/427/506/149 of I.P.C. Hence, this case.

The case as against the present accused was split up for which he alone has faced trial in 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 on dtd.30.1.2003 at about 11 AM at village: Pandara, the present accused and his associates had formed an unlawful assembly ?

ii) Whether on on the same date, time and place the present accused and his associates being the members of an

unlawful assembly were armed with deadly weapon like bhujali, Katuri etc.?

iii) Whether on the same date, time and place the accused alongwith his associates in furtherance of their common object had voluntarily caused hurt to the injured persons belonging to the informant side?

iv) Whether on the same date, time and place the accused alongwith his associates in furtherance of their common object had abused the villagers of Pandara in obscene words in public place causing annoyance to them and to others?

v) Whether on the same date, time and place the accused alongwith his associates in furtherance of their common object have committed mischief by damaging the betel shop of Kanhu Charan Swain and Narendra Behera and and tiffin shop of Bishnu Das ?

vi) Whether on the same date, time and place the accused alongwith his associates in furtherance of their common object had voluntarily caused grievous hurt to the injured Karunakar Subudhi

vii) Whether on the same date, time and place the accused alongwith his associates in furtherance of their common object had assaulted Karunakar Subudhi and other villagers in such a manner they had the intention to cause their death, and thereby they had attempted to commit their death?

Viii) Whether on the same date, time and place the accused alongwith his associates in furtherance of their

common object have committed criminal intimidation by threatening the informant, the injured persons, and the villagers of Pandara causing alarm to them and to others?

5. In order to prove its case, prosecution has examined as many as 10 nos. of witnesses, which include the informant, the injured and some person who are aggrieved with the accused persons. Similarly Ext.1, Ext.1/1, Ext.2/2 and Ext.2/1 are marked which include the FIR and the signature appearing on the body of the seizure list. The rest prosecution witnesses are declined.

On the other hand, no witnesses is examined on behalf of the accused. No MO is marked in this case by either side. Defence has not exhibited any documentary evidence.

6. The P.W.1 who belongs to the case village has deposed to have no knowledge regarding the facts of this case. He has expressed his ignorance relating to this case.

The P.W.2, Santosh Behera, the P.W.3 Binod Kumar Sahu, P.W.4 Lingaraj Sahu, P.W.5-Bhagaban Behera, P.W.6-Mahendra Bhoi, P.W.7-Trilochan Subudhi, P.W.8 Karunakar Subudhi, P.W.9-Dushasan Khataua and P.W.10 Sushant Pradhan who belongs to the spot village and affected by the accused persons have all expressed their ignorance about the subject matter of the case. According to them, they have no knowledge regarding the facts of this case. The informant who has been examined as P.W.2 has not stated anything in his examination-in-chief to substantiate the facts of this case. Rather his cross-examination indicates that no such occurrence took place. Although, he has identified his signature appearing on the FIR, his cross-examination reveals that as per the dictation of the police he has written down the FIR. The injured persons of this case have not stated anything about the occurrence. Even Karunakar Subudhi who

had sustained grievous hurt has not at all supported the case of the prosecution in any manner. All the witnesses were subjected to volley of leading questions by the Ld. Addl. PP U/s.154 of I.E.Act but not a single witness has whispered anything incriminating against the accused to reveal the complicity in order to prove the case of the prosecution in any manner. In other words, there is absolutely no oral evidence coming from the mouth of the informant or the injured persons or any other witnesses to make out a case against the accused persons, nor there is any corroboration to the case of the prosecution in any manner.

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 Subash Panda U/s.147/148/294/323/325/307/427/506/149 of I.P.C beyond all reasonable doubt, and he is found not guilty thereunder, and acquitted U/s.235(1) of Cr.P.C and he be set at liberty.

The seized articles be destroyed after four months of the appeal period is over, in case the case is not pending against any other accused person or as per the direction of the Appellate court in case of appeal.

Addl. Sessions Judge, Bhubaneswar.

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

my signature and seal of this Court.

Addl. Sessions Judge, Bhubaneswar.

List of witnesses examined for the prosecution

P.W.1 : Prakash Kumar @ Nilu Bhanja
P.W.2 : Santosh Behera
P.W.3 : Binod Kumar Sahu
P.W.4 : Lingaraj Sahu
P.W.5 : Bhagaban Behera
P.W.6 : Mahendra Bhoi
P.W.7 : Trilochan Subudhi
P.W.8 : Karaunakar Subudhi
P.W.9 : Dushashan Khatua
P.W.10 : Sushanta Pradhan

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.2 in Ext.1
Ext.2 : Signature of P.W.3 appearing on the seizure list
Ext.2/1 :Signature of P.W.4 appearing on the seizure list

List of Exts. Marked on behalf of the defence

Nil.

Addl. Sessions Judge, Bhubaneswar.