

IN THE COURT OF THE ADDL.C.J.M-ASJ, B H U B A N E S W A R.

Present:
Sri P.L.Satpathy,LL.B.,
Addl.C.J.M-ASJ,Bhubaneswar.

C.T.CASE NO.52/248/13

Code No.3991/2014

Arising out of CT. Case No.198/13 corresponding to Infocity PS Case No.3/13)

S T A T E

-Versus-

1. Alok Ku. Mohapatra, aged about 26 years, S/o Sri Brundaban Mohapatra,
At- N/6-167, IRC Village, Nayapalli, BBSR
2. Basanta Ku. Roy, aged about 42 years, S/o Late Pravat Ku. Roy
At- N/5-261, IRC Village, Nayapalli, BBSR
3. Manoj Ku. Mohanty, aged about 31 years, S/o Govinda Ch. Mohapatra
At- N/4-986, IRC Village, PS: Nayapalli, BBSR
4. Biswajit Rout, aged about 31 years, S/o- Dibakar Rout
At-Block No.42-F/250, Nayapalli, BBSR

.....

Accused persons.

OFFENCE U/S.341,323,294,307,354/34 I.P.C

Counsel for the prosecution : Sri P.Pattnaik, Addl.P.P, Bhubaneswar.

Counsel for the defence : SidharthaDas &Associates, Advs, BBSR.

Date of argument: 18.8.14

Date of judgment: 19.8.14

J U D G M E N T

1. In this case the the four accused persons named above jointly stand charged for commission of offences punishable U/s.341/323/294/307/354/34 IPC

2. Shortly stated, the prosecution case is that :

On 13.1.13 at 9.45 pm Surat Bhuian, the owner cum Principal of Greenland Public School, Mangalpur, Dist: Jajpur lodged a written FIR (Ext.5) at Infocity PS, BBSR alleging there in that on 13.1.13 he along with 53 students of the school of class-I to IV , parents of the students and some staffs of the school had come to Sikharachandi area, BBSR for picnic. It was then at 2.30 pm while their picnic was going on a group of antisocial under the influence of liquor threw away the containers of their dishes and outraged the modesty of the ladies personnel of his group by pulling and pushing them and abused in obscene words towards them. When he and the other staffs of his school as well as the parents of the students raised protest , the accused persons named above with intents murder them

assaulted him and PW.3,4,5 and 6 with split wood (katha phalia) causing severe injuries on their persons. On the basis of the FIR Infocity PS case No.03 dtd. 13.1.13 U/s.341/323/307/354/34 IPC was registered against Alok, Dalu, Balia and others. Investigation was undertaken thereof. During the course of investigation the informant along with other witnesses were examined, the injured persons namely Duryodhan Mallick (pw.1), Pramod Bhuyan(pw.4), Trilochan Bhanja (pw.3), Kailash Ch. Samal (pw.6) were send to KIMS hospital with injury requisitions (Ext.1 to 4). Occurrence spot was visited by the IO. Wearing apparel of Trilochan Bhanja(pw.3) and pw.4 were seized under seizure list Ext.6 and 7, injury reports (Exts.1/1,2/1,3/1,,4/1 were received and after closure of usual investigation police submitted charge sheet against the above named accused persons U/s.341/323/294/307/354/34 IPC to face their trial in the court of law. The case was committed to the court of Sessions for it's disposal according to law.

3. The case of the defence is one of completely denial to the prosecution allegations and false implications.

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

I) Whether on 13.1.13 at about 2.30 pm at Sikharachandi area the accused persons wrongfully restrained the informant (pw.2) & others of his group ?

ii) Whether on the alleged date, time and at place the accused persons in furtherance of their common intention voluntarily caused hurt to pw.2 to 6 ?

iii) Whether on the alleged date, time and at place the accused persons in furtherance of their common intention caused annoyance to others by using obscene words in public place ?

iv) Whether on the alleged date, time and at place the accused persons in furtherance of their common intention attempted to commit murder to pw.3,4,5 and 6 by assaulting them severely with split wood causing serious injury ?

v) Whether on the alleged date, time and at place the accused persons in furtherance of their common intention outraged the modesty of the ladies personnel of the picnic group of pw.2 by pulling and pushing them ?

5. To prove its case, prosecution has examined as many as six witnesses in all. Pw.2 is the informant. PW.3,4,5 & 6 are alleged to be the injured in this case. PW.1 is the doctor who on police requisition examined the injured (pw.3,4,5 & 6) on the basis of injury requisitions of pw.1 to 4 send by Infocity PS and after clinical examination submitted injury reports (Exts. 1/1,2/1,3/1,4/1) On the other hand defence has examined no witness on its side. The facts which are not disputed in this case are that the informant is the owner cum principal of Greenland Public School, Mangalpur, Jajpur. On 13.1.13 pw.2 along with his students of the school, the parents of the students and the staffs of the school have come to Sikharachandi area for picnic. It is also not disputed that during the course of picnic some anti socials persons assaulted them with split wood causing injuries on their person and outraged the modesty of the ladies personnel of the picnic group of pw.2 It is also not

disputed that the anti socials under the influence of liquor had used vulgar languages towards them. It is also not disputed that during the course of said occurrence pws. 3,4,5 and 6 had sustained injuries on their persons and in the course of investigation police had seized the wearing apparel of pws. 3 and 4.

6. Now the only question for consideration is as to whether the anti socials who had committed the alleged occurrence in this case were none-the else but were the present accused persons. The accused persons from the very beginning of the case have been denying any complicity with the alleged occurrence. To connect the present accused persons with the alleged commission of offence prosecution have examined as many as six witnesses including the doctor who had examined the injured. PW.3 to 6. The evidence of pw.1, the doctor who had clinically examined the injured pw.3,4,5 and 6 is not required for discussion as there is no dispute regarding the injuries found by the doctor (pw.1) on the persons of pw.3,4,5 and 6.. It is the admitted fact that prosecution had not made any evidence with regard to the offence U/s.341 IPC To prove the offence U/s.354 IPC no ladies personnel of picnic group of pw.2 have been examined though pw.3 have stated that the anti socials had used obscene words to them but they had not disclosed the particular verbatism used by them . Therefore in the absence of particular verbatism the omnibus statement of pw.3 to 6 that said anti socials had used obscene words is not sufficient to hold the accused persons guilt U/s.294 IPC PW.2 to 6 were the witnesses to the fact. Their evidence before the court clearly indicates that they do not know the present accused persons in this case. They have also categorically stated in their evidence that they can not identify the persons those who had committed the alleged crime on 13.1.13 at te alleged occurrence place. PW.2 to 6 have not implicated the complicity of the present accused persons with the alleged occurrence in this case. The doctor is not the witness to the occurrence. The IO of this case has also not examined.. No weapon of offence had been seized in this case. The seized wearing apparels of pw.3 and 4 have also not been produced before the court during the trial. FIR (Ext.5) is not a substantive piece of evidence , it can be only used for the purpose of corroboration and contradictions with the maker there of. Pw.2 being the maker of FIR (Ext.5) has not corroborated the FIR story with regard to the complicity of the accused persons in this case and as such prosecution can not take the benefit out of the Fir with regard to the complicity of the accused persons is concerned. Besides PW.1 to 6 prosecution has no other evidence against the accused persons. The evidence of the prosecution available on case record do not connect the present accused persons with the commission of the alleged offences and as such prosecution has failed to prove its case against the accused persons. Therefore, the accused persons are entitled to be acquitted from the charges level led against them.

In the result, I hold the accused persons are not guilty for commission of offence U/s.341,323,294,307,354/34 I.P.C and acquit them therefrom U/s.235(1)CrPC. The accused

persons are on court bail and as such they be discharged from their bail bonds.

Addl.C.J.M-A.S.J,Bhubaneswar.

The seized articles , the T-shirt seized under seizure list Ext.6 and the banion seized under seizure list Ext.7 in connection with this case be destroyed after four months of the appeal period is over, if there would be no appeal.

Addl.C.J.M-A.S.J,Bhubaneswar.

The judgment is dictated,corrected and pronounced by me in the open court today i.e. on 19th day of August, 2014 under my hand and seal of this court.

Addl.C.J.M-A.S.J,Bhubaneswar.

List of P.ws. examined for prosecution.

P.w.1	Dr.Nandakishore Bal
P.w.2	Surath Bhuyan
P.w.3	Trilochan Bhanja
P.W.4	Pramod Bhuyan
P.W.5	Kailash Ch.Samal
P.W.6	Duryodhan Mallick

List of D.ws.examined for defence.

None.

List of exhibits marked for prosecution.

Ext.1	Injury requisition of injured Duryodhan Mallick
Ext.1/1	Medical examination report of Duryodhan Mallick
Ext.1/2	Signature of pw.1 in Ext.1/1
Ext. 2	Injury requisition of injured Pramod Ku. Bhuyan
Ext.2/1	Medical examination report of injured Pramod Bhuyan
Ext.2/1	Signature of pw.1 in Ext.2/1
Ext.3	Injury requisition of injured Trilochan Bhanja
Ext.3/1	Medical examination of injured Trilochan Bhanja
Ext.3/2	Signature of pw.1 in Ext.3/1
Ext.4	Injury Requisition of injured Kailash Ch. Samal
Ext.4/1	Medical examination of injured Kailash Ch. Samal
Ext.4/2	Signature of pw.1 in Ext.4/1
Ext.5	Written FIR.
Ext.5/1	Signature of PW2 in Ext.5
Ext.6	Seizure list
Ext.6/1	Signature of pw.3 in Ext.6
Ext.7	Seizure list dtd. 13.1.13 at 10 pm
Ext.7/1	Signature of pw.4 in Ext.7

List of exhibits marked for defence.

Ext.A	Injury requisition of injured Accused Alok Ku. Mohapatra
Ext.A/1	Medical examination report of Accused Alok Ku. Mohapatra
Ext.A/2.	Signature of pw.1 in Ext.A/1.

List of M.Os.

N i l.

Addl.C.J.M-A.S.J,Bhubaneswar.

