

IN THE COURT OF THE ADDL. SESSIONS JUDGE-CUM-SPECIAL JUDGE(CBI), COURT NO.IV,BHUBANESWAR.

P R E S E N T : Shri S.K.Mishra, O.S.J.S.,
Addl. Sessions Judge-cum-
Special Judge (CBI), Court No.IV,
Bhubaneswar.

C.T.No.39 of 2016

(Arising out of C.T. Case No.5429 of 2015
corresponding to Shree Lingaraj P.S.Case No.219
dt.23.11.2015).

S T A T E Prosecution

-Versus-

Ganesh Moharana, aged about 20 years,
S/o.Aparti Moharana, resident of Hata Sahi,
Old Town, PS-Shree Lingaraj, Bhubaneswar,
District-Khurda.

.... Accused.
(ON BAIL).

For the Prosecution : Sri S.K.Barik, Addl.P.P.

For accused persons : Sri A.K.Chand &
Associates,Advocates.

Date of argument : 20.2.2016

Date of judgment : 23.2.2016

Offences under Sections- 341, 294, 323, 307 & 506 of IPC.

J U D G M E N T

1. The above named accused stood charged for committing the offences punishable u/ss. 341, 294, 323, 307 & 506 of IPC.

2. Briefly stated the prosecution case is that on 23.11.2015 at about 12.30 PM the accused throttled the neck of the son of the informant in order to kill him and seeing this, the wife of the informant came and rescued her son. Then the accused abused and threatened to kill her husband (the informant) and to break his backbone. The accused further threatened that if they will report the matter at the Police Station, he will kill their family

members. Basing on the report of the informant, a case u/ss.341, 294, 323, 307 & 506 of IPC was registered and investigation was taken up. During investigation, the informant and the witnesses were examined. The IO visited the spot. The son of the informant was medically examined on police requisition. The accused was arrested and forwarded to the Court. After completion of investigation, charge-sheet u/s. 341, 294, 323, 307 & 506 of IPC was submitted against the accused.

3. Defence plea is one of complete denial and false implication.

4. Prosecution has examined 4(four) witnesses whereas the defence has examined none.

5. The points for determination are:

(i) Whether on 23.11.2015 at about 12.30 PM in the house of the informant at Hatasahi, Old Town, the accused wrongfully restrained the son of the informant?

(ii) Whether on the above date, time and place the accused uttered obscene language near a public place causing annoyance to others?

(iii) Whether on the above date, time and place the accused voluntarily caused hurt to the son of the informant?

(iv) Whether on the above date, time and place the accused throttled the neck of the son of the informant with such intention and under such circumstances that if the accused had caused his death, he would have been guilty of murder ?

(v) That, on the above date, time and place the accused committed criminal intimidation by threatening the family members of the informant with intent to cause alarm to them?

6. PW-1 is the informant. PWs-2,3 and 4 are the family members of the informant. The prosecution has declined to examine the rest charge-sheeted witnesses. All the above witnesses have not stated anything regarding involvement of the accused persons in the alleged occurrence. They have also not stated regarding any threatening given to the

son, wife and family members of the informant by the accused. PWs-2, 3 and 4 have stated that they do not know anything about the occurrence since the matter has been amicably settled between both the sides.

7. PW-1 the informant has stated that the incident took place about three months back, one day at about 11.30 AM in their house situated at Hatasahi, Old Town. He has further stated that while he was at his shop, the accused had quarreled with his wife and son and assaulted his son. He also stated that the said facts were disclosed to him by his wife, after his return to their house, so, he lodged the FIR vide Ext.1.

8. During cross-examination, PW-1 stated that the matter has been amicably settled between both the sides and he has not witnessed the occurrence. He has further stated that the contents of the FIR have been scribed by his wife, but she has neither signed nor has given any endorsement to that effect. He has further deposed that his son had not sustained any injury.

9. In fact, the above named prosecution witnesses have not stated regarding presence of the accused at the spot at the time of the alleged occurrence. They have also not stated that the accused had abused or threatened the wife and family members of the informant. They are also completely silent regarding any assault on the son of the informant. They have not stated that the accused had caused any hurt or had attempted to kill him. They have not stated that the accused had restrained the son of the informant from proceeding in any particular direction, to which he had right to go. Nothing has been elicited from their mouth implicating the accused in the alleged offences. Although PWs-2, 3 and 4 were asked leading questions by the prosecution u/s.154 Evidence Act, but

nothing has been elicited from them to implicate the accused in the alleged offences.

10. From the evidence on record as discussed above, it emerges that the informant (PW-1) and his wife (PW-2), who are the vital witness of this case, have not uttered anything implicating the accused with the alleged offences. There is also no evidence on record that the accused wrongfully restrained the son of the informant and voluntarily caused hurt to him. The prosecution has also failed to prove that the accused had throttled the neck of the son of the informant and thereby attempted to commit his murder. The prosecution has also failed to prove that the accused had criminally intimidated him and family members of the informant.

11. Therefore, after analyzing the evidence on record and for the reasons discussed above, this Court finds that the prosecution has failed to prove commission of the alleged offences punishable under Sections- 341, 294, 323, 307 & 506 of IPC by the accused.

12. In the result, the accused is found not guilty of the offences punishable under Sections-341, 294, 323, 307 & 506 of IPC. The accused is acquitted u/s.235(1) of Cr.P.C. and is set at liberty. His bail bond is cancelled and surety is discharged. No order regarding disposal of material object is required to be passed, as there is no material object.

Enter this case as mistake of facts.

Addl. Sessions Judge-cum- Special Judge
(CBI), Court No.IV, Bhubaneswar.

The judgment is typed to my dictation and corrected by me and pronounced to-day on this 23rd day of February, 2016 given under my hand and seal of this Court.

Addl. Sessions Judge-cum- Special Judge
(CBI), Court No.IV, Bhubaneswar.

List of witnesses examined for the prosecution :

PW-1 Sankar Moharana.
PW-2 Pritilata Moharana.
PW-3 Binodini Moharana.
PW-4 Reshma Moharana.

List of witnesses examined for the defence :-

Nil.

List of exhibits marked for the prosecution :-

Ext.1 FIR.
Ext.1/1 Signature of PW-1 in Ext.1.
Ext.2 Signature of PW-1 in injury report.
Ext.2/1 Injury Report (with consent of both sides).

List of exhibits marked for the defence :-

Nil.

List of M.Os. marked for the prosecution :-

Nil.

List of M.Os. marked for the defence :-

Nil.

Addl. Sessions Judge-cum- Special Judge
(CBI), Court No.IV, Bhubaneswar.