

In the court of the Special Judicial Magistrate, Khurda

Present ; Shri S.K.Padhy, LL.B.,  
Special Judicial Magistrate,  
Khurda.

Date of conclusion of argument; 18.8.2014  
Date of judgment 18.8.2014

G.R Case No. 411/12  
T. R No. 31/14

State

Versus

1. Trinath Lenka age 38 years  
S/o Late Tareswar Lenka
2. Smt. Amuli Lenka age 26 years  
W/o Trinath Lenka
3. Papu @ Pratap Mansingh age 22 years  
S/o Dibakar Mansingh  
all are of village Bodapokharia,  
P.S Nirakarpur, Dist. Khurda.  
Accused persons.

Counsel

For the prosecution  
For the defence

Shri B.K.Praharaj, A.P.P., Khurda.  
Shri N.K.Nayak and associates,  
Advocates, Khurda.

Offence u/s 341/294/323/34 of the Indian Penal Code

J U D G M E N T

1. The above named accused persons stand prosecuted for the offences punishable u/s 341/294/323/34 of the Indian Penal Code.

2. Prosecution case is that the informant, her husband, her brother in-law and his family were living in a single house since last ten to twelve years. Her elder brother-in-law separated her family due to disabled of her husband in an accident and did not give them any thing from the parental property. Borrowing money from the village people she was managing the family and the treatment of her husband. When the village people asked them for repayment of the loan amount borrowed by them, her husband decided to sell a portion of his parental property. Accordingly on 24.3.12 at 8 a.m while her husband was discussing with her mother-in law about the matter the above named accused persons abused in obscene words and assaulted laying him on the ground. When she tried to rescue her husband they also assaulted her by means of fist blows and kicks and threatened to kill them in life.

The informant reported the matter at the P.S and basing on her report a case registered and after completion of the investigation charge sheet u/s 341/294/323/34 of the I.P.C was submitted against the above named accused persons. Hence this case.

3. The recording of the statement of the accused persons is dispensed with as no incriminating material was found against them in the evidence of the prosecution case.

4. Now the points for determination of this case are as follows;-

- i) Whether on the relevant date, time and place the accused persons in furtherance of their common intention had wrongfully restrained the informant and her husband and not allowed them to proceed in the direction which they had right to proceed.
- ii) Whether on the relevant date, time and place the accused persons had voluntarily caused hurt to them and they were medically treated.
- iii) Whether on the relevant date, time and place the accused persons had abused the informant and her husband in obscene words causing annoyance to them and others at or near a public place.

5. In order to prove its case prosecution examined only the informant and her husband as P.W 1 and 2 and declined the rest of the charge sheeted witnesses since the informant and her husband admitted compromise with the accused persons and the informant stated she does not want to proceed further in this case. F.I.R. and the signature of P.W 1 are marked as Ext. 1 to 1/1. Defence examined none on its behalf.

6. According to the informant about two years back at about 10 to 12 noon there was exchange of words between them due to some family matters but later they all compromised the matter between themselves and pulling on well. She further stated that she does not want to proceed further in this case and proves her report Ext. 1 and Ext. 1/1 is her signature 1. P.W 2, the husband of the informant also deposed in the same manner. It is admitted that both the parties are belong to one family and there was some ill feeling between them regarding the distribution of the paternal property. Later they have compromised the ill feeling between themselves and pulling on well. The informant also stated she does not want proceed further in this case. Law is well settled and pronounced in many judicial principle that F.I.R is not the substantial piece of evidence and it can only be used for the purpose of contradiction and corroboration of matters thereof. In the case at hand the informant herself does not support the prosecution version. Hence, in view of the above evidence on record I am of the opinion that there is no evidence on record for commission of the alleged crime by the present accused persons and prosecution has failed to prove the alleged offence u/s 341/294/323/34 of the I.P.C against the accused persons beyond all reasonable doubt.

7. In the result the accused persons are held not guilty u/s 341/294/323/34 of the I.P.C. They are, therefore acquitted u/s 255(i) of the Cr.P.C.

8. They be set at liberty forthwith and discharged from his bail bonds.

9. The seized property be returned to the persons from whom seized after four months of the appeal period is over.

10. Enter this case as mistake of fact

Special Judicial Magistrate, Khurda.

This judgment is typed by me and pronounced in the open court this the 18th day of August 2014.

Special Judicial Magistrate, Khurda.

List of witnesses examined for the prosecution

P.W 1 Smt. Reena Lenka, informant

P.W 2 Ullash Lenka.

List of witnesses examined for the defence

None

List of documents admitted in evidence for the prosecution

Ext. 1 F.I.R

Ext. 1/1 Signature of P.W 1

List of documents admitted for the defence for the defence.

Nil

List of M.Os admitted in evidence for the prosecution/ defence.

Nil.

Special Judicial Magistrate, Khurda.

