

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, BANPUR.

Present. : Miss Sarmistha Dash, LLB.,  
Judicial Magistrate First Class,  
Banpur

Date of argument : 02.09.2014

Date of Judgment. : 08.09.2014

G.R. No. 109/2003

T.R. No. 701/2003

State

.....Prosecution.

-Versus-

1. Rama Chandra Parida, aged about 62 years,  
S/o Sanatana Parida.
2. Kushna Parida, aged about 34 years,  
S/o Rama Chandra Parida.

Both are of Vill: Binjhala, P.S:Banpur. .... Accused Persons .

---

Offence: Under Section 294/324/325/354/379/34 of the I.P.C.

---

For the Prosecution. :Sri J.Pradhan, APP.

For the Defence. :Sri G.S.Sarangi & others.

J U D G M E N T.

01. The accused persons stand charged for the offence punishable Under Sections 294/324/325/354/379/34 of the Indian Penal Code.

02. The case of the prosecution in brief runs thus:

One Srimati Sabita Sahoo of Binjhala appeared before the I.I.C., Banpur P.S with a written report alleging therein that on 12.04.2003 at 12am taking advantage in the absence of her husband the accused persons entered into her house being armed with a katuri. The accused Rama Parida abused her by saying “GHODAGEHI RAJANITI KARUCHHU BAHARA LOKANKU

GHAITA KARUCHHU”. When she protested the accused Rama Parida tried to drag her, she shouted. Hearing her sought the family member of her reached at the spot and tried to rescue her the accused Krushna Sahu dealt blows by means of katuri to Rabindra Sahoo. The accused Rama Parida also dealt a kick blow to the waste of her mother in-law. The accused Rama Parida also took away her one attach containing Rs.5000/-, one necklace, one gold chain and five pairs of gold ring.

Upon such report P.S. Case No. 62/2003 was registered and investigation was carried out and after completion of investigation as prima facie evidence is well made out against the accused persons, the I.O. submitted charge sheet against them. Hence this trial.

During the course of trial, both the parties filed a joint compromise petition praying to compound the offences. Accordingly the offence U/s 448/341/323/506 of I.P.C. have been compounded in view of the provisions laid down U/s.320 (8) of Cr.P.C. and now the accused persons are facing their trial for the offence U/s 324/325/294/354/379/34 of I.P.C.

03. The plea of defence is one of complete denial and false implication.

04. The point for determination in this case emerges as follows:

- (i) Whether on 12.04.2003 at 12am the accused persons in furtherance of their common intention abused the informant in obscene language in or near public place causing annoyance to others?
- (ii) Whether on the alleged date, time and place of occurrence the accused persons in furtherance of their common intention voluntarily caused grievous hurt by means of a katuri to one Rabindra Sahoo which used a weapon of offence ?

- (iii) Whether on the alleged date, time and place of occurrence the accused persons in furtherance of their common intention voluntarily caused grievous hurt to the informant's mother in-law?
- (iv) Whether on the alleged date, time and place of occurrence the accused persons in furtherance of their common intention assaulted or used criminal force to the informant to outrage her modesty?
- (v) Whether on the alleged date, time and place of occurrence the accused persons in furtherance of their common intention committed theft of one watch containing containing Rs.5000/-, one necklace, one gold chain and five pairs of gold ring?

05. In order to prove its case, prosecution has examined as many as three witnesses in its favour where as defence has examined none. Out of which PW.1 is the informant, P.W.2 is the victim of this case. P.W.3 is mother in-law of the informant.

06. This is a case U/s 324/325/294/354/379/34 of the I.P.C. In order to substantiate the case against the accused persons, it is necessary to scrutinize the case of prosecution. During course of trial P.W.1 who is the informant of this case deposed that due to minor dispute she lodged the F.I.R which is marked as Ext.1 and Ext.1/1 is her signature. She also deposed that now matter has been settled in between them so she does not want to proceed further with the case. P.W.2 deposed that he does not know anything about this case. P.W.3 deposed that now the matter has been settled between them.

Hence considering the above evidence on record and the recent development of the fact of mutual settlement of the matter I am of the opinion that prosecution has miserably failed to prove its case beyond all reasonable doubt. In the result, the accused persons are found not guilty for the offence U/s. 324/325/294/354/379/34 of the I.P.C. and acquitted thereof U/s.248 (1) of Cr.P.C. They be set at liberty and discharged from their bail bonds.

The seized materials, if any be destroyed after four months of the appeal period, if no appeal is preferred and if preferred be dealt as per the order of the appellate court.

Enter the case as mistake of fact.

Judicial Magistrate First Class,  
Banpur.

This judgment typed to my dictation, corrected by me and pronounced in the open court, given under my hand and seal of this court, this the 8<sup>th</sup> day of September, 2014.

Judicial Magistrate First Class,  
Banpur

List of witnesses examined for Prosecution.

PW.1 Sabita Sahoo

PW.2 Rabindra Sahoo

P.W.3 Rangabati Sahoo

List of witnesses examined for defence.

None.

List of Exhibits marked for Prosecution.

Ext.1. F.I.R.

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

List of Exhibits marked for defence.

Nil.

List of MOs marked for Prosecution.

Nil.

Judicial Magistrate First Class,  
Banpur