

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, BANPUR.

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

Date of argument : 04.08.2014

Date of Judgment. : 13.08.2014

G.R. No. 11/2005  
T.R. No. 112/2005

State

.....Prosecution.

-Versus-

1. Megha @ Meghanad Swain, aged about 60 years,  
S/o Late Nilamani Swain.
2. Meghanad Maharana, aged about 60 years,  
S/o Khali Maharana.  
Both are of Vill: Meghambaripatna, P.S: Banpur, Dist: Khurda.
3. Bapi Mishra, aged about 36 years, S/o Sivaprasad Mishra.  
Vill: Mangarajpur, P.S: Banpur, Dist: Khurda

..... Accused Persons.

Offence: Under Sections 341/323/325/34 of the I.P.C.

For the Prosecution. :Sri Jaladhar Pradhan, APP.

For the Defence. :Sri P.K.Patajoshi & others.

J U D G M E N T.

01. The accused persons stand prosecution for the offence punishable Under Sections 341/323/325/34 of the Indian Penal Code.

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

One Krushna Chandra Pradhan appeared before the I.I.C., Banpur P.S with a written report alleging therein that on 12<sup>th</sup> day of January, 2005 at about 7pm when he returned from Mangarajpur on the Banpur- Balugaon road singing a song all of a sudden the accused persons in furtherance of their common intention wrongfully restrained him and assaulted him by fist blows and lathi as a result he sustained injury on his person.

Upon such report P.S. Case No. 09/2005 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.

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

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

- Whether on 12.01.2005 at 7pm the accused persons in furtherance of their common intention wrongfully restrained the informant in which he had right to proceed?
- Whether on the same date, time and place of occurrence the accused persons in furtherance of their common intention voluntarily caused hurt to the informant?
- Whether on the same date, time and place of occurrence the accused persons in furtherance of their common intention voluntarily caused grievous hurt by means of a thenga?

05. In order to prove its case, prosecution has examined as many as two witnesses in its favour where as defence has examined none. Both are independent witnesses to the occurrence.

06. This is a case U/s 341/323/325/34 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.Ws.1 & 2 deposed that they do not know anything about this case. The learned APP also put leading questions u/s 154 of the Evidence Act to P.W.1 but nothing was brought out from the evidence of P.W.1 to corroborate the prosecution story.

Hence considering the above evidence on record 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. 341/323/325/34 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.

No order is passed regarding the seized property as nothing has been seized in this case.

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 13<sup>th</sup> day of August, 2014.

Judicial Magistrate First Class,  
Banpur

List of witnesses examined for Prosecution.

PW.1            Gouranga Pradhan

PW.2            Ramesh Pradhan

List of witnesses examined for defence.

None.

List of Exhibits marked for Prosecution.

Nil

List of Exhibits marked for defence.

Nil.

List of MOs marked for Prosecution.

Nil.

Judicial Magistrate First Class,  
Banpur