

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, BANPUR.

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

Date of argument. : 29.10.2014

Date of Judgment. : 30.10.2014

G.R. No. 12/2006  
T.R. No. 314/2006

State

.....Prosecution.

-Versus-

1. Prasanta Behera @ Mitu Behera, aged about 32 years,  
S/o Giridhari Behera.

2. Prasan Behera @ Litu Behera, aged about 29 years,  
S/o Giridhari Behera.

Both are of Vill: Badahantuada Court sahi,  
P.S: Banpur, Dist: Khurda.

..... Accused persons.

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Offence: Under Sections 341/323/506/34 of the I.P.C.

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

For the Defence. :Sri K.C. Pradhan & others.

J U D G M E N T.

01. The accused persons stand prosecuted for the offence punishable Under Sections 341/294/506/34 of the Indian Penal Code.

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

One Bibhutibhusan Baliarsingh appeared before the I.I.C. Banpur P.S alleging therein that on 14.01.2006 at 7 am the accused persons abused his cousin brother in obscene languages. On 15.01.2006 in the morning hour when the accused persons unload the black earth on the road the informant

protested them but the accused persons also abused him in obscene language and threatened to kill him.

Upon such report P.S. Case No.8(8)/2006 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:

- (i) Whether on 15.01.2006 at morning the accused persons in furtherance of their common intention wrongfully restrained the informant from proceeding in a certain direction in which he had right to proceed?
- (ii) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention abused the informant in obscene language in or near public place causing annoyance to others?
- (iii) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention committed criminal intimidation and caused alarm to him?

5. In order to prove its case, prosecution has examined as many as three P.Ws in its favour where as defence has examined none. Out of which P.W.3 is the informant, P.W.1 is the M.O and P.W.2 is an independent witness to the occurrence.

06. This is a case U/s 341/294/506/34 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.3 deposed that due to minor dispute he lodged the FIR which is marked as Ext.2 and admitted his signature

marked as Ext.2/1. He also deposed that now the alleged matter has been settled between them so he does not want to proceed in this case any more. P.W.2 also deposed that now the alleged matter has been settled between them so they do not want to proceed in this case any more.

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.341/294/506/34 of the I.P.C. and acquitted thereof U/s.255 (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 is typed to my dictation, corrected by me and pronounced in the open court, given under my hand and seal of this court, this the 30<sup>th</sup> day of October, 2014.

Judicial Magistrate First Class,  
Banpur

List of witnesses examined for Prosecution.

P.W.1 Prabodh Kumar Pal.  
P.W.2 Bichhanda Jena.  
P.W.3 Bibhuti Bhusan Baliarsingh.

List of witnesses examined for defence.

None.

List of Exhibits marked for Prosecution.

Ext.1 Injury report.  
Ext.1/1 Signature of P.W.1 on Ext.1  
Ext.2 F.I.R.  
Ext.2/1 Signature of P.W.3 on Ext.1.

List of Exhibits marked for defence.

Nil.

List of MOs marked for Prosecution.

Nil.

Judicial Magistrate First Class,  
Banpur