

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, BANPUR.

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

Date of argument. : 16.10. 2014

Date of Judgment. : 20.10. 2014

G.R. No. 318/2006

T.R. No. 242/2007

State

.....Prosecution.

-Versus-

1. Sankar Behera, aged about 42 years, S/o Late Jhulia Behera.
2. Chhabi Behera, aged about 40 years. S/o Late Jhulia Behera.
3. Kabi Behera, aged about 37 years, S/o Late Jhulia Behera.
4. Baina Behera, aged about 35 years, S/o Late Jhulia Behera.
5. Makara Behera, aged about 32 years, S/o Sankar Behera.

All are of Vill: Harikundabaradi, P.S: Banpur, Dist: Khurda.

..... Accused persons.

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Offence: Under Sections 341/323/294/325/354/506/34 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 341/323/294/325/354/506/34 of the Indian Penal Code.

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

One Golakha Pradhan appeared before the O.I.C Nachuni O.P. lodged a written report alleging therein that on 11.10.2006 at about 1 pm he had been to jungle with his herd for grazing. At that time the accused Sankar Behera came with his buffalo and allowed the buffalo to enter into the pond

which is situated in front of his house. Seeing this the informant's wife protested the accused Sankar Behera and told him that they are using the water. But all the accused persons abused her in obscene languages by saying “GHODAGEHI BEDHIE GANDIMAREI KAHINKI BESI CHHODIHOUCHHU” dragged her and by pulling her saree gave fist and kick blows to her. At that time he reached at the spot and protested the accused persons but the accused persons also abused him in obscene languages and dealt thenga blows to his head and left hand as a result he sustained bleeding injuries.

Upon such report P.S. Case No.214/2006 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 11<sup>th</sup> day of October,2006 at 8.30pm at Harikunda Baradi the accused persons in furtherance of their common intention wrongfully restrained the informant and his wife from proceeding in a certain direction in which they had right to proceed?

(ii) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention voluntarily caused hurt to the informant and his wife?

(iii) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention abused the informant and his wife in obscene language in or near public place causing annoyance to others?

(iv) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention voluntarily caused grievous hurt to the informant and his wife?

(v) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention assaulted or used criminal force to the informant's wife to outrage her modesty?

(vi) Whether on the aforesaid date, time and place 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 five P.Ws in its favour where as defence has examined none. P.W.3 is the informant and rest of the P.Ws are independent witnesses to the occurrence .

06. This is a case U/s 341/323/294/325/354/506/34 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 the informant of this case deposed that due to minor dispute he lodged the F.I.R. which is marked as Ext.1 and admitted his signature as Ext.1/1. He also deposed that now the matter has been settled between them so he does not want to proceed with the case. P.Ws 1,2,4 & 5 deposed that they do not know anything about this case.

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 found not guilty for the offence U/s. 341/323/294/325/354/506/34 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.

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 20<sup>th</sup> day of October, 2014.

Judicial Magistrate First Class,  
Banpur

List of witnesses examined for Prosecution.

PW.1        Kalia Baral  
P.W.2        Bansidhar Palei.  
P.W.3        Golakha Pradhan  
P.W.4        Lata Pradhan  
P.W.5        Bachha Palei

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.3 on Ext.1.

List of Exhibits marked for defence.

Nil.

List of MOs marked for Prosecution.

Nil.

Judicial Magistrate First Class,  
Banpur

