

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, BANPUR.

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

Date of argument. : 27.10. 2014

Date of Judgment. : 31.10. 2014

G.R. No. 332/1998

T.R. No. 209/2000

State

.....Prosecution.

-Versus-

1. Sarat Baral, aged about 50 years, S/o Hajari Baral.
2. Bidesi Dalabehera, aged about 36 years, S/o Duryodhan Dalabehera.
3. Santosh Dalabehera, aged about 33 years, S/o Jalandhara Dalabehera.
4. Rama Chandra Barala, aged about 45 years, S/o Dasarathi Behera.
5. Babaji Baral aged about 48 years, S/o Hajari Baral.

..... Accused persons.

Offence: Under Sections 341/323/294/354/324/34 of the I.P.C.

For the Prosecution. :Sri Jaladhar Pradhan, APP.

For the Defence. :Sri B.K. Muduli & others.

J U D G M E N T.

01. The accused persons stand charged for the offence punishable Under Sections 341/323/294/354/324/34 of the Indian Penal Code.

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

On 20.11.1998 one Ananda Kumar Pradhan lodged a written report before the I.I.C, Banpur P.S that on the alleged date while he was returning to his house the accused persons obstructed his way in front of the library and abused him in obscene language. They snatched away a sickle from his hand and assaulted to his hand and shoulder in it. When his mother

tried to rescue him the accused persons also abused her and assaulted her left hand and leg by means of a sickle.

Upon such report P.S. Case No.210/1998 was registered and investigation was carried out and after completion of investigation as prima facie evidence is well made out against the accused, the I.O. submitted charge sheet against him. 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 20.11.1998 at 1 pm at Library house of village Ekadalia 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, voluntarily caused hurt to the informant?

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

(v) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common voluntarily caused grievous hurt by means of a sickle?

5. In order to prove its case, prosecution has examined as many as four P.Ws in its favour where as defence has examined none. Out of them P.W.3 is the informant , P.W.2 is the injured and P.W.3 is and rest of the P.Ws are independent witnesses to the occurrence .P.W.1 is the M.O and P.W.4 is an is an occurrence witness.

06. On perusal of the evidence available on record it is found that the informant in his evidence stated that on the alleged date the accused persons obstructed his way and assaulted him by means of a sickle on his back side, so he sustained injury on the back side then he lodged the F.I.R. He proved the FIR vide Ext.3 and his signature marked as Ext.3/1. He said that the accused persons assaulted him by fist and kick blows so he sustained swelling injury on his body in 10 to 15 places. The accused persons also assaulted his brother Binod Pradhan by fist and kick blows. Hearing the shout his uncle father and mother came there the accused persons assaulted them. He also stated that his ganji was sustained with blood and he show it to police. P.W.2 the mother as well as injured of this case in her evidence has stated hat on the alleged date the informant was returning from paddy field near the pond all the accused persons surrounded him then accused Prasana Dalabeheraa snatched away the sickle from the informant and assaulted to his back side and shoulder causing bleeding injury. Being tried to save him the accused Babaji gave a push to her as a result she fell down then the accused Prasana assaulted her by that sickle. P.W.1 the M.O of this case in her evidence stated that on 20.11. she examined one Ranju Pradhan on police requisition and found (i)Superficial cut injury of size 7cm X 0.25 cm X epidermic dip present over Pasteur lateral and antero medical aspects of left forearm of below upward direction 8 cm below the left elbow joint. (ii) superficial cut 7

cm X 0.25 cm X epidermic dip situated over antero lateral aspect of right leg 10 cm below tibia tubercity the direction is found below upwards and opined that the injuries are simple in nature by causing sharp cutting weapons but it can possible by self infliction. She also examined Ananda Pradhan and found one incise wound superficial injury of size 6 cm X 0.5 cm X skin dip situated over the middle part of the point of Upper part of left scapula and opined that the injuries are simple in nature and caused by sharp cutting weapons possible by self infliction. So she said that such type of injury can be possible by fall or self infliction. P.W.4 pleaded his complete ignorance about this case.

7. On careful scrutinization there exist a large number of discrepancies in the evidence of witnesses. The informant in his FIR stated that the accused assaulted his on his left side fore arm and assaulted his mother on her left hand and left leg. But during her cross examination he remained silent in assault to his mother. He said that the accused persons assaulted his brother Binod Pradhan. This fact was not mentioned in his FIR and the said Binod Pradhan was not cited as C.S.W nor examined by the doctor. Even though his mother also did not utter a single word about the assault to Binod Pradhan. Apart from that though it is alleged by the informant that the accused persons assaulted his mother and his mother was examined by doctor but surprisingly he remained silent about any assault to his mother. He said that the accused persons assaulted him by means of a sickle due to which he sustained injuries 10 to 15 places of his body but surprisingly the mother of the informant who examined as P.W.2 only stated that the accused persons assaulted her by means of sickle. The injury report of Ananda Pradhan show that there was superficial injury on the left scapula but it was quite different from the injuries as described by the informant. P.W.2

the injured of this case deposed that the accused persons assaulted her on his left hand and left leg by the sickle and from the injury report submitted by M.O that she found injury on the left fore arm and left leg of the injured. Apart from that neither the informant nor the injured any where stated the accused persons abused her in obscene language in or near public place and assaulted or used criminal force to outrage the modesty of the informant's mother.

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 found not guilty for the offence U/s. 341/323/294/354/324 of the I.P.C. and acquitted thereof U/s.248 (1) of Cr.P.C. He be set at liberty and discharged from his bail bond.

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 31st day of October, 2014.

Judicial Magistrate First Class,
Banpur

List of witnesses examined for Prosecution.

PW.1	Minati Pattnaik
P.W.2	Ranju Pradhan
P.W.3	Ananda Pradhan
P.W.4	Trinath Pradhan

List of witnesses examined for defence.

None.

List of Exhibits marked for Prosecution.

Ext.1	Injury report.
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Ext.1/1 Signature of P.W.1 on Ext.1.
Ext. ½ Signature of P.W.2 on Ext.1.
Ext.2 Injury report.
Ext.2/1 Signature of P.W.1 on Ext.2.
Ext.2/2 Signature of P.W.3 on Ext.2.
Ext. 3 FIR.
Ext. 3/1 Signature of P.W.3 on Ext.3.

List of Exhibits marked for defence.

Nil.

List of MOs marked for Prosecution.

Nil.

Judicial Magistrate First Class,
Banpur

