

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, BANPUR.

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

Date of argument. : 13.10.2014

Date of Judgment. : 16.10.2014

G.R. No. 360/2006

T.R. No. 354/2007

State

.....Prosecution.

-Versus-

1. Bhaskara Parida, aged about 64 years, S/o Late Sanatana Parida.
2. Kuni Parida, aged about 57 years, S/o Bhaskara Parida.
3. Dasarathi Parida, aged about 39 years, S/o Bhaskara Parida.

All are of Vill: Khajuria, P.S:Banapur, Dist: Khurda.

..... Accused persons.

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

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

For the Defence. :Sri A.K.Swain & others.

J U D G M E N T.

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

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

One Smt. Lili Patra appeared before the I.I.C. Banpur P.S alleging therein that on 23.10.2006 in the morning hour while she had returned from the temple she saw that the accused persons were standing in front of her house and abusing her and her family members in obscene languages. The accused persons seeing the informant went to her and assaulted her. The accused persons also dragging her hair thrown her near a tube well and snatched away

her gold chain. When her husband tried to rescue her the accused Bhaskar Parida dealt a thenga blow to the leg of her husband as a result he sustained injury on his leg. The accused Bhaskar also dealt a slap blow to the son of the informant.

Upon such report P.S. Case No.238/2006 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 23rd day of October 2006 at morning hour at Khajuria the accused persons in furtherance of their common intention wrongfully restrained the informant from proceeding in a certain direction in which she 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 and her family members 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 voluntarily caused hurt to the informant and her husband and son?

5. In order to prove its case, prosecution has examined as many as nine P.Ws in its favour where as defence has examined none. Out of which P.W.2 is the informant, P.W.7 is the son of the informant, P.W.6 is the I.O and rest are independent witnesses to the occurrence.

06. This is a case U/s 341/294/323/34 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.2 who is the informant in this case deposed about the occurrence elaborately but during her cross examination on recall she deposed that now the alleged matter has been settled between them and she does not want to proceed with the case any more. Similarly P.Ws 3 & 7 deposed about the occurrence in their examination but during their examination on recall they 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.341/294/323/34 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.

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 16th day of October, 2014.

Judicial Magistrate First Class,
Banpur

List of witnesses examined for Prosecution.

P.W.1	Dr. Prasanta Kumar Hota.
P.W.2	Lili Patra.
P.W.3	Balakrushna Parida.
P.W.4	Bhramar Palei.
P.W.5	Babuli Patra
P.W.6	Sk. Gaisuddin.
P.W.7	Sibanarayan Patra
P.W.8	Dhuti Parida

P.W.8 Gauri Mansingh

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. 1/2 Signature of P.W.2 on Ext.1.

Ext. 1/3 Signature of P.W.1 on Ext.1.

Ext. 2 F.I.R.

Ext. 2/1 Signature of P.W.2 on Ext.2.

Ext.3 Injury requisition.

Ext.3/1 Signature of P.W.6 on Ext.3.

List of Exhibits marked for defence.

Nil.

List of MOs marked for Prosecution.

Nil.

Judicial Magistrate First Class,
Banpur

