

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, BANPUR.

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

Date of argument. : 14.10. 2014

Date of Judgment. : 20.10. 2014

G.R. No. 362/2011
T.R. No. 220/2012

State

.....Prosecution.

-Versus-

Naba Swain, aged about 52 years,

S/o Banchha Swain.

Vill: Mathapatna, P.S: Banpur

Dist: Khurda

..... Accused.

Offence: Under Sections 341/323/294/354/506 of the I.P.C.

For the Prosecution. :Sri Jaladhar Pradhan, APP.

For the Defence. :Sri S.S. Mishra & others.

J U D G M E N T.

01. The accused stands charged for the offence punishable Under Sections 341/323/294/354/506 of the Indian Penal Code.

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

One Surekha Maharana appeared before the I.I.C. Banpur P.S lodged a written report alleging therein that on 25.09.2011 at about 7.30pm the accused came in front of her house and called her when she asked him why you were calling me but the accused abused her in obscene language by saying “GHODAGEHI MOTE TU HAJARE TANKA DEBA KATHA DEUNU KAHINKI”. When she protested him the accused dragged her hair and gave a slap to her. Due to fear she entered into her house but the accused pulled her

saree as a result she became half naked. The accused also dealt fist and kick blows to her and accused also squeezed her neck. The villagers who were present there saved from the clutches of the accused.

Upon such report P.S. Case No.238/2011 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 25.09.2011 at 7.30pm at Mathapatna the accused 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 voluntarily caused hurt to the informant?

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

(v) Whether on the aforesaid date, time and place the accused 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. 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 341/323/294/354/506 of the I.P.C. In order to substantiate the case against the accused 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 she lodged the F.I.R. which is marked as Ext.1 and admitted her signature as Ext.1/1. She also deposed that now the matter has been settled between them so she does not want to proceed with the case. P.Ws 1 & 2 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 found not guilty for the offence U/s. 341/323/294/354/506 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 20th day of October, 2014.

Judicial Magistrate First Class,
Banpur

List of witnesses examined for Prosecution.

PW.1 Krushna Chandra Maharana
P.W.2 Govinda Swain
P.W.3 Surekha Maharana.

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

