

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, BANPUR.

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

Date of argument: 07.08.2014

Date of Judgment. :19.08.2014

G.R. No. 401/2011

T.R. No. 1054/2011

StateProsecution.

-Versus-

Binod Panda, aged about 40 years,
S/o Late Lingaraj Panda
Vill: Mangarajpur, P.S: Banpur,
Dist: Khordha

..... Accused.

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

For the Prosecution. :Sri Jaladhar Pradhan, APP.

For the Defence. :Sri M.P.Samantasinghar & others.

J U D G M E N T.

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

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

One Mamina Panda appeared before the I.I.C., Banpur P.S with a written report alleging therein that on 26.10.2011 at about 7 pm she was observing Diwali festival by lightening lamps in their backyard. She kept her cloths in a rack. She saw her cloths are burning so she raised hullah who were burnt her cloths. Hearing this the accused abused her in obscene language. When she protested the accused holding her head dashed against a brick wall. As a result of which she sustained bleeding injury on her head and lost her sense.

Upon such report P.S. Case No. 260/2011 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:

- Whether on 26.10.2011 at about 7 pm the accused abused the informant in obscene language in or near public place causing annoyance to others?
- Whether on the same date, time and place of occurrence the accused voluntarily caused hurt to the informant?
- Whether on the same date, time and place of occurrence the accused assaulted or used criminal force to the informant to outrage her modesty?
- Whether on the same date, time and place of occurrence the accused committed criminal intimidation and caused alarm to him.

05. In order to prove its case, prosecution has examined as many as four witnesses in its favour where as defence has examined none. Out of which P.W.3 is the informant and P.Ws 1, 2 & 4 are independent witnesses to the occurrence.

06. This is a case U/s 294/323/354/506 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 deposed that the occurrence took place 1 year ago in the night in front of her house. On that day it was Diwali. Fire caught on her mother in-laws cloth so she asked for it. Therefore, the accused pulled her hair and hit against the wall. So she sustained injury on her neck and became unconscious. During her cross examination she said that the accused is her brother in-law but we are living separately. She has previous dispute with the accused. P.W.4 deposed that the occurrence took place last year Dewali. The informant became unconscious and he tried to made her conscious. He also deposed that she saw injury on her head but he can not say why the injury caused to her. During his cross examination he said that he was not present at the time of occurrence. P.W.1 & 2 deposed that they do not know anything about this case.

On careful scrutinization of evidence available on record it is found that the only informant who deposed about the occurrence. In her cross examination she admitted that there is previous dispute between and she had already filed two cases against the accused. The informant in her deposed that at the time of occurrence Litu Panda and Sugandha Mahapatra were present and came back her sense by drinking water. But surprisingly the said Sugandha Mahapatra who was examined as P.W.1 did not support the prosecution evidence. Though the prosecution examined Litu Panda as P.W. 4 he said that he was not present at the time of

occurrence. Hence considering the above aspects, I am of the view that prosecution failed to prove its case beyond all reasonable doubt. Hence it is a fit case in which the accused is entitled to an acquittal.

Hence considering the above evidence on record and I am of the opinion that prosecution has miserably failed to prove its case beyond all reasonable doubt. In the result, the accused is found not guilty for the offence U/s. 294/323/354/506 of the I.P.C. and acquitted thereof U/s 255(1) of Cr.P.C. He be set at liberty and discharged from his bail bond.

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 typed to my dictation, corrected by me and pronounced in the open court, given under my hand and seal of this court, this the 19th day of August, 2014.

Judicial Magistrate First Class,
Banpur

List of witnesses examined for Prosecution.

PW.1 Sugandha Mohapatra
PW.2 Nanda Barik
P.W.3 Mamina Panda
P.W.4 Mitu Panda

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

List of Exhibits marked for defence.

Nil.

List of MOs marked for Prosecution.

Nil.

Judicial Magistrate First Class,

Banpur