

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, BANPUR.

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

Date of argument. : 22.10.2014

Date of Judgment. : 28.10.2014

G.R. No. 472/2009  
T.R. No. 192/2010

State

.....Prosecution.

-Versus-

1. Raj @ Raju Bisoi @ Behera, aged about 44 years, S/o Banchanidhi Behera.
  2. Murali Bisoi @ Behera, aged about 40 years, S/o Banchhanidhi Behera.
  3. Kuni Bisoi @ Behera, aged about 32 years, W/o Murali Bisoi.
- All are of Vill: Ranipada, P.S: Banpur, Dist: Khurda.

..... Accused persons.

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Offence: Under Sections 341/323/294/506/34 of the I.P.C.

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

For the Defence. :Sri S.K.Lenka & others.

J U D G M E N T.

01. The accused persons stand prosecuted for the offence punishable Under Sections 341/323/294/506/34 of the Indian Penal Code.

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

One Susama Behera of Ranipada appeared before the I.I.C. Banpur P.S. with a written report alleging therein that on 31.12.2009 at about 1 pm when the informant was sitting with her nephew in front of her house verandah the accused Kuni Behera without any reason abused her sister in-law by saying “CHHODI BEDHIE CHHOTA GHAI TAKU BIBHA HOICHHU PARA, TORA CHHOTA GHAI TARA AJI AAU GOTE GODAKU HANI PANGU KARIDEBU”. At 1.30pm the other accused persons suddenly

entered into the house of the informant abused in obscene language and assaulted the informant and her sister in-law by means of a wooden plank. The accused persons also threatened them to kill.

Upon such report P.S. Case No.303/2009 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. During course of the trial the case against Basudev Behera was abated vide order dated 10.06.2010. Hence the case is proceeded against the above named accused persons.

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 31<sup>st</sup> day of December, 2009 at 1 pm the accused persons in furtherance of their common intention wrongfully restrained the informant and others from proceeding in a certain direction in which they had right to proceed?
- (ii) Whether on the aforesaid date, time and place the accused persons in furtherance of their common intention abused the informant and others in obscene language in or near public place causing annoyance to others?
- (iii) Whether on the aforesaid date, time and place the accused persons in furtherance of their common intention voluntarily caused hurt to the informant and others?
- (iv) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention committed criminal intimidation to the informant and others and caused alarm to them?

5. In order to prove its case, prosecution has examined as many as 6 P.Ws in its favour where as defence has examined none. P.W.1 is the informant and rest are independent witnesses to the occurrence.

6. This is a case U/s 341/323/294/506/34 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.1 the informant deposed that due to minor dispute she lodged the F.I.R which is marked as Ext.1. She also deposed that now the alleged matter has been settled between them and she does not want to proceed with the case. P.Ws 2,3 & 5 deposed that the alleged matter has been settled between the parties. P.Ws 4 & 6 deposed that they do not know anything about this case.

7. Hence considering the above evidence on record and the recent development of the fact of mutual settlement of the matter 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.341/323/294/506/34 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.

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

Judicial Magistrate First Class,  
Banpur

List of witnesses examined for Prosecution.

PW.1	Susama Behera
P.W.2	Jhadu @ Pratysha Paltasingh.
P.W.3	Prafulla Paltasingh.

P.W.4 Madhaba Paltasingh.

P.W.5 Benga Paltasingh.

P.W.6 Mochiram Behera.

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.1 on Ext.1.

List of Exhibits marked for defence.

Nil.

List of MOs marked for Prosecution.

Nil.

Judicial Magistrate First Class,  
Banpur