

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, BANPUR.

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

Date of argument. : 04.08.2014

Date of Judgment. :14.08.2014

G.R. No. 52/2013

T.R. No. 380/2013

State

.....Prosecution.

-Versus-

Smt. Sanatana Balabantaray, aged about 53years,  
S/o Bhimasen Balabantaray.  
Vill: Sikharapadara P.S: Balugaon,  
Dist: Khordha

..... Accused .

Offence: Under Sections 452/294 of the I.P.C.

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

For the Defence. :Sri G.J.Pattnaik & others.

J U D G M E N T.

01. The accused stands charged for the offence punishable Under Sections 452/294 of the Indian Penal Code.

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

On 21.02.2013 one Tarani Balabantaray of Sikharpadar appeared before the Balugaon P.S with a written report alleging therein that when they reached in his house with his brother ( accused) from the meeting suddenly the accused brought out a sword and ran away towards him to kill. So the informant out of fear ran away in the village road for help but the accused chased him by

saying "SALAKU CHHADIDIA MU TAKU HANIBI". One Panda Baliarsingh of their village escaped him. When the accused did not find him the accused threatened to kill his family members.

Upon such report P.S. Case No.25/2013 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 20.02.2013 the accused committed house trespass by entering into the house of the informant to commit an offence?
- Whether on the same date, time and place of occurrence the abused the informant in obscene language in or near public place causing annoyance to others?
- In order to prove its case, prosecution has examined only the informant as P.W.1 where as defence has examined none.

06. This is a case U/s 452/294 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.1 who is the informant of this case deposed that due to minor dispute he lodged the F.I.R which is marked as Ext.1 and admitted his signature marked as Ext.1/1/. She has deposed that now the matter has been settled between them and he does not want to proceed with 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 is found not guilty for the offence U/s 452/294 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 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 14<sup>th</sup> day of August, 2014.

Judicial Magistrate First Class,  
Banpur

List of witnesses examined for Prosecution.

PW.1        Tarani Balabantaray.

List of witnesses examined for defence.

None.

List of Exhibit marked for the prosecution.

Ext1        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