

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, BANPUR.

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

Date of argument : 29.10.2014

Date of Judgment. : 30.10.2014

G.R. No. 58/2006  
T.R. No. 419/2006

State

.....Prosecution.

-Versus-

1. Balaram Jena, aged about 35 years, S/o Khetrabasi Jena.
2. Khetrabasi Jena, aged about 74 years, S/o Chanda Jena.
3. Kumudini Jena, aged about 78 years, S/o Khetrabasi Jena.
4. Bhagaban Jena, aged about 40 years, S/o Khetrabasi Jena.

All are of Vill: Kanthamala Ankula, P.S: Balugaon, Dist: Khurda.

..... Accused Persons.

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Offence: Under Sections 498(A)/406/34 of the I.P.C. & 4 D.P.Act.

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

For the Defence. :Sri A.S. Sarangi & others.

J U D G M E N T.

01. The accused persons stand charged for the offence punishable Under Sections 498(A)/406/34 of the I.P.C. & 4 D.P.Act..

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

One Anusuya Dei filed a complaint petition alleging therein that her marriage was solemnised with one Balaram Jena of village Kanthamala as per Hindu rites and customs. Prior to the marriage the accused persons had demanded Rs.50,000/- as dowry money from the father of the complainant but at the time of marriage the father of the complainant paid Rs.30,000/- as dowry money and assured to pay rest Rs.20,000/- to them within one year of the

marriage. The father of the complainant had also given gold ornaments, wooden furniture, and other house hold articles. After marriage the complainant lived happily in her in-laws house for a period of two years. After one year the accused persons insisted the complainant to bring rest Rs.20,000/-. When the complainant expressed the inability of her parents to fulfill their demand the accused persons tortured the informant both physically and mentally. The accused persons used to assault the complainant very often without any fault of her and did not provide sufficient food to her. Lastly on 17.10.2005 all the accused persons physically assaulted the complainant and forcibly drove her out from matrimonial home and warned her not to return again. Finding no alternative she filed the complaint petition before this court which was sent to P.S for for investigation.

Upon such report P.S. Case No.22(2)/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 or before 17.10.2005 the accused persons in furtherance of their common intention subjected the informant to cruelty and tortured her both physically and mentally?
  - (ii) Whether on the same date, time and place of occurrence the accused persons in furtherance of their common intention committed breach of trust in respect of the property given by the informant's parents.
  - (iii) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention demanded more dowry from the informant's parents?

05. In order to prove its case, prosecution has examined as many as 7 P.Ws in its favour where as defence has examined none. P.W.5 is the informant's mother and rest are independent witnesses to the occurrence.

06. This is a case U/s 498(A)/406/34 of the I.P.C. & 4. D.P.Act. 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.5 deposed that now her daughter was not living with them and she could not say her whereabouts. During her cross examination she said that her daughter has gone some where with someone. Till today they do not know their whereabouts. P.W.s 1,2,3,4,6 and 7 deposed that they do not know anything with regard to this case.

Hence considering the above evidence on record and the prosecution has failed to produce the informant's whereabouts as the mother of the informant said that her daughter has gone some where with someone. 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.498(A)/406/34 of the I.P.C. & 4.D.P.Act and acquitted thereof U/s.248 (1) of Cr.P.C. They be set at liberty forthwith and discharged from their bail bonds.

The Zimanama if any be cancelled after expiry of four months of the appeal period if no appeal is preferred and in case of appeal as per the direction of Appellate court.

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

Judicial Magistrate First Class,  
Banpur

List of witnesses examined for Prosecution.

PW.1	Rabi Jena
PW.2	Aditya Martha
P.W.3	Bhikari Pradhan
P.W.4	Basudev Pradhan
P.W.5.	Parbati Jagadev
P.W.6	Gouranga Barik
P.W.7	Somanath Narendrasingh.

List of witnesses examined for defence.

None.

List of Exhibits marked for Prosecution.

Nil

List of Exhibits marked for defence.

Nil.

List of MOs marked for Prosecution.

Nil.

Judicial Magistrate First Class,  
Banpur.