

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
BHUBANESWAR**

Present : - Shri Bishes Kumar Sahu, LL.M.,
Judicial Magistrate First Class,
Bhubaneswar.

G.R. Case No.1057/2007
(Arising out of Airfield P.S. Case No. 47/2007)
T.R. No. 42/12

State: - **Prosecution**

-Versus -

- 1) Rasika @ Rasananda Bhoi, Aged about 65 yrs
S/O- Bhramara Bhoi, Vill- Kapila Prasad,
P.S- Airfield, Dist- Khurda.
- 2) Nabin Bhoi, Aged about 48 yrs,
S/O- Gauranga Bhoi, Vill- Kapila Prasad,
P.S- Airfield, Dist- Khurda.
- 3) Alok Ranjan Bhoi, Aged about 24 yrs,
S/O- Rasananda Bhoi, Vill- Kapila Prasad,
P.S- Airfield, Dist- Khurda.

.....**Accused Persons**

Counsels for the Prosecution: Shri Prakash Chandra Panda,
Shri Laxmidhar Parida &
Shri Sudhansu Sekhar Tripathy

.....A.P.P., Bhubaneswar.

Counsels for the defence : Shri S.K. Pattanaik & associates.
.....Advocates, Bhubaneswar.

Date of Conclusion of Argument : 28.10.2013

Date of Pronouncement of Judgment : 13.11.2013

Offences under Sections- 341,294,323,354,427,506(1)/34 of the I.P.C.-1860

J U D G M E N T

1. The accused persons named above stands prosecuted for the offences punishable under section-341,294,323,354,427,506(1)/34 of the I.P.C. for in furtherance of their common intentions of Committing wrongful restraint, uttering obscene languages, outraging the modesty of a woman, voluntarily causing hurt, mischief by causing damage & criminally intimidated the informant for dire consequences causing alarm in his mind respectively.

2. The accusations which led to trial of the accused stated in brief are as follows:-

That, one Pramila Samal, aged about 39 yrs, W/o- Shri Ganesh Samal of Village- Kapila Prasad, PS- Airfield, Dist- Khurda presented a written report before IIC of Airfield P.S. The informant made an allegation therein that on 24.03.2007 at about 08am while the informant and her daughter were alone in their house, at that time the accused persons came with deadly weapons and damage the newly constructed brick wall of the informant. When the informant and her daughter protested their overt act, the accused persons drag the informant on the ground and also assaulted by means of kick and blow to both the informant and to her daughter. During the occurrence the accused persons abused the informant in obscene languages like "BEDHA GHODAGEHI etc". At the end the accused persons threatened them for dire consequences if they again construct the wall. . For the reasons the informant lodged an FIR at Airfield Police Station, Khurda.

3. Basing upon the written report, law was set into motion and the matter was investigated into. In course of investigation; the concerned investigating officer visited the spot, examined the informant, and the witnesses present in the spot. The statements of the witnesses are also recorded u/s-161 of Cr.P.C. On completion of investigation, the I.O. submitted charge sheet against the accused namely 1) Rasika @ Rasananda Bhoi, 2) Nabin Bhoi, 3) Alok Ranjan Bhoi under sections 341,294,323,354,427,506(1)/34 of the I.P.C. to face their trial in the court of law which gave rise to the present trial.

4. The plea of the accused is one of outright denial and false implications.

5. The points for determination of this case are:-

- i. Whether the above named accused persons, in furtherance of their common intentions have on the said date, time & place wrongfully restrained the Informant to proceed in any direction to which he has a right to proceed?
- ii. Whether the above named accused persons, in furtherance of their common intentions have on the said date, time & place abused the Informant in obscene languages in or near a public place to the annoyance of others?
- iii. Whether the above named accused persons, in furtherance of their common intentions have on the said date, time & place voluntarily caused hurt to the Informant?
- iv. Whether the above named accused persons, in furtherance of their common intentions have on the said date, time & place outrage the modesty of the informant and her daughter?
- v. Whether the above named accused persons, in furtherance of their common intentions have on the said date, time & place caused damage to newly constructed brick wall. of the Informant?
- vi. Whether the above named accused persons, in furtherance of their common intentions have on the said date, time & place criminally intimidated the Informant for dire consequences by causing alarm in their mind?

6. After a careful perusal of the evidence of PW-1 & 2 who are the informant and her daughter of this case, they stated before the court about the prosecution story that the informant was assaulted by the accused persons by means of kick, fist & blow to her chest and shoulder. Also stated before the court that the accused persons dragged her on the surface and there by outraged her modesty. During the occurrence the accused persons abused to both PW-1 PW-2 in obscene languages like, "GHODA GEHI,

BEDHA, MAGIHA NKARA BAHUTA PANI HELANI etc". it is also reflected in the evidences of the informant and her daughter that the accused persons caused damage to the newly constructed wall of the informant. To prove the story of the PW-1 the evidences of other witnesses are very much vital to this case. During the perusal of the evidences of PW-3 to 5, they put their ignorance towards the factum of the case. Thus the evidences of PW-3 to 5 have no value to the prosecution's case. During the perusal of the record it is found that the I.O. has not seized any deadly weapons as mentioned by the PW-2 in her examination-in-chief. More over the prosecution has in his own risk close its evidence without calling the I.O. and the medical officer of this case, who might give a light to this case.

7. Considering the evidence adduced on the case record, this court is of the opinion that there is no iota of evidence worthiness to the name to connect the alleged accused persons in the alleged crime.

8. In the result, I hold that the prosecution has failed to prove its case against the accused persons beyond all reasonable doubt and as such the accused namely 1) Rasika @ Rasananda Bhoi, 2) Nabin Bhoi, 3) Alok Ranjan Bhoi, are not found guilty for the offences punishable under sections U/s 341,323,294,427,506(1)/34 of the IPC and are acquitted thereof under section 255 (1) of Cr.P.C. and they be set at liberty forthwith and be discharged from their bail bonds.

As there is no seizure of any articles, no order is to be passed thereon.

Enter the case as of "Mistake of Fact".

**Judicial Magistrate First Class,
Bhubaneswar**

This judgment is typed by and corrected by me and pronounced in the open court on this day i.e.; the 13th day of November, 2013 and given under my hand and seal of this Court.

**Judicial Magistrate First Class,
Bhubaneswar**

List of witnesses examined on behalf of the Prosecution.

P.W. 1: Pramila Samal
P.W. 2: Laxmi Samal
P.W. 3: Babuli Bhoi
P.W. 4: Babuli Das
P.W. 5: Nanda Bhoi

List of witnesses examined on behalf of the Defence.

: None

List of Exhibits marked on behalf of the Prosecution.

List of Exhibits marked on behalf of the Defence.

: Nil.

**Judicial Magistrate First Class,
Bhubaneswar**