

IN THE COURT OF NYAYADHIKARI, GRAMA NYAYALAYA, TANGI.

Present:-

Smt.Pranati Pattanaik, B.A LL.B.,
Nyayadhikari, Tangi

GR Case No.1396/11
TR No.551/13(GN)

State

.....Prosecution

Vrs

1. Sanjaya Naik aged about 38 yrs
S/o- Late Subala Naik
2. Mami Naik aged about 36 yrs
W/o-Sanjaya Naik
3. Matiani Naik aged about 56 yrs
W/o- Late Subala Naik
4. Babina Naik aged about 31 yrs
W/o-Makar Naik
All are of vill-Sundarpur
PS-Tangi, Dist-Khurda

.....Accused Persons

Offence U/s 341/294/323/354/34 of Indian Penal Code

Date of Judgment: 30.8.2014

Date of Argument: 28.8.2014

Counsel for Prosecution: A.P.P

Counsel for Defence: Sri Surendra Kumar Pradhan & Associates

J U D G M E N T

1. The accused persons stand prosecuted for having committed offence punishable U/s 341/294/323/354/34 of Indian Penal Code.
2. The case of the prosecution is that one Puja Nayak W/o Tuna Nayak of village Sundarpur under Tangi Police Station presented a written report alleging that on 7.12.11 at about 3 pm while she was working in her house her neighbour namely Sanjay Nayak in a drunken condition abused her in obscene languages saying 'Bedhei, Sali, Besya' to which the informant protested. Due to this protest Matiani Nayak and Bebina Nayak dragged her by holding her hair and dragged her sari. They also assaulted her by giving blows. Sanjay throttled her neck and the husband of the informant arrived at the spot and rescued the life of the informant. Accused persons also chased the husband of the informant to kill. On this report this case was entered in the station dairy and subsequently it was registered vide PS case no 259 dt 9.12.11. SI S Kallo was directed for investigation of this case and after completion of investigation he submitted charge sheet against the accused persons.
3. Plea of defence is complete denial. As there are no sufficient incriminating materials against the accused persons their statement U/s 313 Crpc has been dispensed with.
4. The points for determination in this case are:-
 - (i) Whether the accused persons in furtherance of common intention restrained the informant while she was proceeding in certain direction in which she had the right to proceed

- (ii) Whether the accused persons in furtherance of common intention uttered any obscene words in a public place causing annoyance
- (iii) Whether the accused persons in furtherance of common intention voluntarily caused bodily pain to the informant with intention of causing hurt
- (iv) Whether the accused persons in furtherance of common intention used criminal force to outrage the modesty of the informant

5. To prove its case 4 witnesses have been examined from the side of the prosecution. PW 1 is the informant, PW 3 is the husband of PW 1, PW 4 is the investigating officer, PW 2 is an independent witness and defence has examined none.

6. It is revealed from the evidence of PW 1 that on 7.12.11 at 3 pm the occurrence took place in front of the house of PW 1. PW 1 at that time was cooking and accused Sanjay abused her in obscene languages saying 'Bedha, Sali, Besya' to which PW 1 protested. It is found from the statement of PW 1 that at the time of incident accused was in a drunken condition. Other accused persons dragged her sari and was holding her hair. Accused Sanjay throttled her neck and when PW 3 separated him Sanjay chased PW 3 to kill. Thereafter PW 1 went to the police station to lodge the FIR. Ext 1 is the FIR and Ext 1/1 is the signature of PW 1. On going through the cross examination of PW 1 it is found that she is the scribe of the FIR and had filed the FIR as per the instruction of the police after one day of occurrence. Since last 14 yrs back both the families were having dispute with each other. PW 3 in his statement adduced that all the accused persons are his relatives. On dt 7.12.11 at 3 pm occurrence took place in front of his house. Accused Sanjay abused PW 1 and other accused persons dragged her by holding her

hair. PW 3 further adduced that he saw accused Sanjay was throttling the neck of PW 1 to which PW 3 protested and due to this protest Sanjay chased him to kill. From the cross examination of PW 3 it is found that about 10 to 25 persons were gathered at the spot. Since 18 to 19 yrs back both the families were having bad relations with each other. PW 2 happens to be the sole independent witness does not support the prosecution story for which his statement has got no value to the prosecution. PW 4 during his investigation examined PW 1 along with other witnesses. On dt 8.12.11 at 10 pm PW 4 arrested accused Sanjay from his house. On dt 9.12.11 he again visited the spot and prepared spot map. On the same day he forwarded the accused to court. Ext 1/2 is the endorsement of IIC along with his signature. Spot map is marked as Ext 2 and Ext 2/1 is his signature therein. PW 4 had not investigated regarding the cause of delay of lodging the FIR. At the time of arrest of accused Sanjay PW 4 took the signature of one Bankanidhi Pradhan to which he has not reflected in the case dairy. In this case the investigating officer has made only one independent witness who does not support the prosecution. The statement of PW 1 and PW 3 corroborates to the FIR story. The investigation of PW 4 does not disclose much material regarding the incident. On going through his evidence it is only found that he has visited the spot and arrested one accused namely Sanjay. Examination of only one independent witness is not sufficient as because PW 1 and 3 are related to each other and their statements are likely to corroborate each other. Only basing upon the evidence of PW 1 and 3, it is not safe to take any adverse step against the accused persons where the witnesses admitted that there is long dispute between their families.

From the above discussion as well as from the circumstantial evidence and looking to the evidence on record I find the

there is no sufficient material for which this case is doubtful against the accused persons and benefit of doubt goes in favour of them.

7. It is made clear from the statement of the witnesses that the accused persons are not found guilty, for which they are acquitted U/s 255 (1) of CrPc. Their bail bonds stand cancelled and they be set as liberty forthwith.

Enter the case as a mistake of Fact

Judgment is dictated, corrected by me and pronounced in the Open Court today i.e. on 30.8.2014. Under my hand and seal of the Court.

Nyayadhikari, Tangi

List of Witness for Prosecution:

PW 1-Puja Nayak

PW 2- Gangadhar Palei

PW 3- Tuna Nayak

PW 4-Sankar Kallo

List of Witness for Defence:

Nil

List of Ext for Prosecution:

Ext 1-FIR

Ext 1/1-Sign of PW 1 on Ext 1

Ext 1/2-Endorsement

Ext 2-Spot Map

Ext 2/1-Sign of PW 4 on Ext 2

List of Ext for Defence

Nil

Nyayadhikari, Tangi

