

IN THE COURT OF NYAYADHIKARI, GRAMA NYAYALAYA, TANGI.

Present:-

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

GR Case No.156/10
TR No.51/13 (GN)

State

.....Prosecution

Vrs

Kanga @ Bhima Behera aged about 34 yrs
S/o- Maguni Behera
Vill-Mangalajodi
PS-Tangi,Dist-Khordha.

.....Accused

Offence U/s 341/323/294/354/506of Indian Penal Code

Date of Judgment: 27.8.2014

Date of Argument: 27.8.2014

Counsel for Prosecution: A.P.P

Counsel for Defence: Sri N Khan & Associates

J U D G M E N T

1. The accused stands prosecuted for having committed offence punishable U/s 341/323/294/354/506 of Indian Penal Code.

2. The case of the prosecution is that one Subasi Behera w/o Jagannath Behera presented a written report before IIC Tangi alleging that her son in law namely Kanga Behera entered inside her house and abused the informant and her unmarried daughter in obscene languages and threatened them being armed with a weapon to kill. Informant explained the matter before village gentlemen. On the next day about 11 am again accused Kanga being armed with a bhujali, abused them in obscene languages and forcibly tore the maxi of the daughter of the informant. When the informant protested to this accused assaulted her by kicks and dragged her by holding her hair to which she fell down on the ground. When they raised hulla some village gentleman arrived at the spot and rescued them. Again accused threatened to kill them and make pieces of their bodies. On this report this case was registered vide PS case no 36 dtd 12.2.10. SI P. Muttu took up investigation into the case and submitted charge sheet against the accused.
3. Plea of defence is complete denial. Accused in his statement deny the entire allegation levelled against him in his statement U/s 313 Cr.Pc. He further adduced that this is a false case foisted against him.
4. Points for determination in this case are:-
 - (i) Whether the accused restrained the informant and her daughter while they were proceeding in certain direction in which they had the right to proceed
 - (ii) Whether the accused voluntarily caused bodily pain to the informant with intention of causing hurt
 - (iii) Whether the accused uttered any obscene words in a public place causing annoyance

- (iv) Whether the accused used criminal force to outrage the modesty of a woman
 - (v) Whether the accused threatened the informant and her daughter to kill
5. To prove its case 10 witnesses have been examined from the side of the prosecution. PW 1 is the informant, PW 2 is the daughter of PW 1, PW 3,4,5,6,7,8,9 are the independent witnesses, PW 10 is the investigating officer, one witness has been declined by the prosecution and defence has examined none.
6. It is revealed from the evidence of PW 1 that accused is her son in law. One day about 12 noon accused came to her house and abused her and her daughter in filthy languages. He threatened PW 1 at night. On the next day PW 1 intimated the fact to the villagers but the villagers did not take any action. On the date of occurrence at about 12 noon accused again entered into the house of PW 1 and threatened PW 1 and 2 to kill. PW 1 further adduced that accused tore the maxi of PW 2. When PW 1 intervened the accused gave pushes and dragged her outside for which PW 1 reported the matter before Tangi Police Station. Ext 1 is the FIR and Ext 1/1 is the signature of PW 1. It is found from the cross examination of PW 1 that accused has married to the elder daughter of PW 1 but PW 1 cannot say where she is staying presently. According to the statement of PW 2 it is found that accused is his brother in law who is standing inside the dock. On dt 10.2.10 in an evening time the occurrence took place. Accused asked for his wife to which PW 2 told that she has no knowledge regarding that, for which the accused started to quarrel with her along with PW 1 and they intimated the matter to the villagers. On 11.2.10 at about 2 pm accused came to her house and pulled her maxi. When PW 1 intervened, accused assaulted her and abused her in

filthy languages. Thereafter the villagers reached the spot and intervened into the matter. It is found from the cross examination of PW 2 that she was examined by the police and PW 1 had not sustained any injury on her body due to the assault by the accused. Further it is found from the statement of PW 2 that he had shown the torn maxi to the police. According to the statement of PW 3 the occurrence took place on dt 10.2.10 at about 2 pm in front of the house of PW 1. At that time PW 3 was returning to his house from his shop and found accused was abusing in filthy languages and was asking for his wife and children. Thereafter accused entered into the house of PW 1. PW 3 heard hulla inside the house of PW 1. Subsequently PW 3 came to know that PW 1 and PW 2 are not present in their house. The husband of PW 1 told PW 3 that out of fear of the accused PW 1 and PW 2 have left the house and also told that both of them are in the house of one Pramila Bewa. PW 3 along with other villagers called PW 1 and 2. On dtd 11.2.10 accused again came in a drunken condition by holding a bhujali and abused PW 1 in filthy languages and there was tussle between them to which PW 1 sustained bleeding injury on her right finger. PW 3 further adduced that the dress of PW 2 was torn. PW 3 in his cross examination adduced that the brothers of husband of PW 1 are staying in the house where the occurrence took place and he has not seen the occurrence which took place inside the house of the informant. As per the evidence of PW 4 it is found that on the date of occurrence accused entered into the house of PW 1 and abused PW 1 and 2 in obscene languages. In cross examination PW 4 admitted that he was not examined by the police. PW 5 in his evidence stated that on dt 11.2.10 at 10 am accused abused PW 1 and her family members in obscene languages and in cross examination he admitted that he was not examined by the police. The statement of PW 6,7,8 and 9 are of no help to the prosecution as because all of them deny knowing anything in connection to this case. PW 10 during

course of investigation on dt 12.2.10 examined PW 1 and other witnesses. He visited the spot, arrested the accused and forwarded him to court. PW 10 further admitted that he has not seized the wearing apparel (maxi) of PW 2. In this case no material is found from the evidence of PW 10 happens to be the investigating officer of this case. PW 1 and 2 though adduced that the accused persons abused them in filthy languages but have not stated specifically regarding that. As per their statement the entire occurrence took place inside their house which is not a public place. PW 3, 4 and 5 also adduced that accused abused PW 1 and 2 in obscene languages but they have also not specifically stated regarding that. PW 1 and 2 have not stated anything regarding any injury in their body due to the assault by the accused. Except PW 1 and 2 no other witnesses including the investigating officer has stated that at the time of incident accused had threatened to kill PW 1 and 2 being armed with any weapon. Regarding outraging the modesty of PW 2, the investigation of PW 10 does not disclosed anything about that and he has also not seized any wearing apparel to prove the offence. PW 10 has not made the husband of PW 1 as witness and also not examined the elder daughter of PW 1 happens to be the wife of the accused.

From the above discussion there are found much contradiction between the statement of the witnesses and there are found lacuna in part of the prosecution investigation for which prosecution miserably failed to prove this case against the accused.

7. It is clear from the statement of the witnesses that the accused is not found guilty so he is acquitted U/s 255 (1) of Cr.Pc. His bail bond stands cancelled and he 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 27.8.2014.Under my hand and seal of the Court.

Nyayadhikari, Tangi

List of Witness for Prosecution:

PW 1-Subasi Behera
PW 2-Asanti Behera
PW 3-Laxmidhar Behera
PW 4-Purna Behera
PW 5-Puria @ Purushottam Behera
PW 6-Baban Behera
PW 7-Hata Behera
PW 8-Kanga Behera
PW 9-Nanda Behera
PW 10-Padma Muthu

List of Witness for Defence:

Nil

List of Ext for Prosecution:

Ext 1-FIR
Ext 1/1-Signature of PW 1 on Ext 1
Ext 1/2- Endorsement and Signature of IIC Tangi in Ext 1

List of Ext for Defence

Nil

Nyayadhikari, Tangi

