

IN THE COURT OF NYAYADHIKARI, GRAMA NYAYALAYA, TANGI.

Present:-

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

GR Case No.335/10
TR No.449/13(GN)

State

.....Prosecution

Vrs

1. Amar Roy aged about 47 yrs
S/o- Prabash Roy
2. Reena Kullu aged about 26 yrs
S/o-Santosh Kullu
3. Madan Kullu aged about 30 yrs
S/o- Nirod Kullu
4. Falguni Roy aged about 31 yrs
S/o-Prabhas Roy
5. Meena Roy aged about 37 yrs
S/o-Amar Roy
6. Matangini Kullu aged about 55 yrs
W/o-Late Dillip Kullu
7. Santosh Kullu aged about 63 yrs
S/o-Nirod Kullu
All are of vill-Katilagotha Colony,PO-Abhimanpur
PS-Tangi, Dist-Khurda

.....Accused Persons

Offence U/s 341/323/294/427/354/379/506/34 of Indian Penal Code

Date of Judgment: 25.8.2014

Date of Argument: 25.8.2014

Counsel for Prosecution: A.P.P

Counsel for Defence: Sri D Pattanaik & Associates

J U D G M E N T

1. The accused persons stand charged for having committed offence punishable U/s 341/323/294/427/354/379/506/34 of Indian Penal Code.
2. The case of the prosecution is that one Arati Haldar D/o Rupchand Haldar of Kathlagot Colony of village Abhimanpur presented written report before Tangi Police Station alleging that her co villagers Amar Ray, Santosh Kullu, Falugni Ray and Madan Kullu were having previous enmity with the informant. On 17.3.10 at about 7 pm the informant started constructing one room to which all the accused persons abused her and assaulted her. When the informant reported the matter at Bhusandpur outpost being aggrieved of that Reena Kullu, Minu Ray and Matangini Kullu along with other accused persons destroyed the house at 3 pm. They snatched away her mobile, abused her and assaulted her by kicks and blows. They also threatened to kill her. They dragged her sari to which she became naked and by holding her hair dragged her on the ground. Due to this act the informant sustained injuries on her body. All the accused persons destroyed the materials of the house and assaulted the five year old daughter of the informant. On this report this case was registered vide PS case no 82/10 and SI S Kallo took up investigation of this case. After completion of investigation he submitted charge sheet against the accused persons.

3. Plea of defence is complete denial. Accused persons in their statement U/s 313 Cr.Pc deny all the allegations levelled against them.
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 voluntarily caused bodily pain the informant and her daughter with intention of causing hurt
 - (iii) Whether the accused persons in furtherance of common intention uttered any obscene words in a public place causing annoyance
 - (iv) Whether the accused persons in furtherance of common intention caused destruction of the property with intention of causing wrongful loss or damage to the informant
 - (v) Whether the accused persons in furtherance of common intention used criminal force to outrage the modesty of the informant
 - (vi) Whether the accused persons in furtherance of common intention removed the moveable property out of the possession of the informant without her consent with a dishonest intention
 - (vii) Whether the accused persons in furtherance of common intention threatened the informant to kill
5. To prove its case 7 witnesses have been examined from the side of the prosecution. PW 1 is the informant, PW 6 is the younger sister of PW 1, PW 5 is the investigating officer, PW 7 is the medical officer, PW 2, 3, 4 are the independent witnesses and defence has examined none.

6. It is revealed from the evidence of PW 1 that all the accused persons are her neighbours. In the year 2010 while PW 1 was repairing her old house all the accused persons destroyed that house and assaulted PW 1 by giving blows and dragged her sari. They tore her blouse for which she became naked. PW 1 further adduced that they confined her in a room. Ext 1 is the FIR and Ext 1/1 is her signature. On going through the cross examination of PW 1 it is found that Falguni assaulted her by blows and no village gentlemen interfered into the matter. According to the statement of PW 6 it is only found that on the day of occurrence all the accused assaulted PW 6 and PW 1 by holding their hairs. Subsequently PW 6 adduced that accused Madan Kullu dragged her by holding her hair and thereafter the FIR was lodged by PW 1. PW 5 during course of investigation examined PW 1 and issued injury requisition to medical officer. It is found from the evidence of PW 5 that he has not examined the immediate neighbours of PW 1. As per the evidence of PW 5 the occurrence took place on dtd 17.3.10 and this case was registered on dtd 27.3.10. The investigation of PW 5 does not disclosed regarding the cause of delay of 10 days and it also found from his statement that there is a counter case to this case. PW 7 examined PW 1 on dtd 17.3.10 and found (i) Abrasion of size 1 cm x 1 cm on left knee (ii) Swelling of size 2 cm x 2 cm nap of the neck (iii) Abrasion of size 1 cm x ¼ cm on lower left lateral lip. PW 7 opined that all the injuries are simple in nature. The report of PW 7 is marked as Ext 2/2 and Ext 2/3 is his signature. PW 2, 3 and 4 happens to be the independent witnesses deny knowing anything in connection to this case for which their statement are of no help to the prosecution story. In this case apart from the official witnesses PW 1 and PW 6 supports to the prosecution story but their statement are not corroborating to each other to determine against the accused persons.

Though PW 1 adduced favouring the prosecution story but she happens to be the most vital witness had not stated to that extent for corroboration of the FIR story. The investigating officer has left many lacunas which goes against the prosecution to prove this case against the accused persons.

From the above discussion as well as evidence on hand it is made clear that there are found many contradictions in the evidence for which this case is not proved against the accused persons. As the case is not proved against the accused persons it seems prosecution miserably failed.

7. It is clear from the statement of the witnesses that accused persons are not found guilty so they are acquitted U/s 248 (1) of Cr.Pc. 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 25.8.2014. Under my hand and seal of the Court.

Nyayadhikari, Tangi

List of Witness for Prosecution:

PW 1- Arati Haldar

PW 2- Dinabandhu Das

PW 3- Priyabala Dutta

PW 4-Basumati Biswal

PW 5-Sankar Kaloo

PW 6-Kali Haldar @ Saraswati Das

PW 7-Surya Narayan Mishra

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-Sign of PW 1 on injury report

Ext 2/1-Sign of PW 5 on injury report

Ext 2/2-Injury Report

Ext 2/3-Sign of PW 7 on Ext 2/2

Ext 3-Spot Map

Ext 3/1-Sign of PW 5 on Ext 3

List of Ext for Defence

Nil

Nyayadhikari, Tangi

