

**IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST
CLASS(O), BHUBANESWAR, DIST-KHURDA**

Present : Sk. Md. Quais, M.A., LL.M.
J.M.F.C.(O), BHUBANESWAR

Date of conclusion
of argument : 15.09.2014

Date of Judgment : 17.09.2014

G.R. No. 3599/2001
Trial Case No. 2149/2002

S t a t e

vrs

1. Nari @ Narendra Sahoo, aged about 50 years,
S/o. Dijabara Sahoo
2. Jairam Sahoo, aged about 48 years
S/o- Dijabara Sahoo,
3. Dhira @ Dharendra Sahoo, aged about 31
years,
S/o- Nari @ Narendra Sahoo
4. Smt. Dhobi Sahoo, aged about 54 years,
W/o- Nari @ Narendra Sahoo,
5. Smt. Sakhi Sahoo, aged about 44 years,
W/o- Jairam Sahoo
All are of Vill-Sana Bhainchua, P.S.-Balianta,
Dist-Khurda.

... Accused Persons

For offences punishable u/s. 341/294/323/506/34 of IPC

For the Prosecution : A.P.P.
For the Defence : For accused no. 1, 3 & 4
Manoj Nayak & his Associate
Advocates.
For accused no. 2 & 5
Govinda Chandra Naik & his
Associate Advocates.

J U D G M E N T

The accused persons stand prosecuted for offences punishable u/s. 341/294/323/506/34 of IPC for allegedly, wrongfully restraining the informant, voluntarily causing hurt, uttering obscene words in a public place and for committing criminal intimidation by issuing threats to the informant in furtherance of their common intention.

2. The case of the prosecution shortly runs as hereunder ;
That on 07.11.2001 at about 3.00 PM the informant, Meena Sahoo appeared at Baliana PS and presented a written report to the effect that on the same day accused persons picked up quarrel with the informant alleging that she had passed urine in front of the house of accused persons. The accused persons abused the informant in obscene languages, assaulted the informant by means of bucket , fist blows and kicks, as a result the informant sustained bleeding injuries on her person. The accused persons also threatened the informant and her husband to face dire consequences. Basing upon such report of the informant Baliana PS Case No. 154 dtd. 07.11.2001 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 341/294/323/506/34 of IPC was submitted

against the accused persons to face their trial in court of law.

Hence, this case.

3. The plea of the accused persons is clean denial and false implication.

4. The points to be determined are as follows ;

i. Whether on 07.11.2001 at village-Sana Bhainchua the accused persons in furtherance of their common intention wrongfully restrained the informant from proceeding to any direction which she had got right to proceed ?

ii. Whether on the aforesaid date, time and place of occurrence, the accused persons in furtherance of their common intention voluntarily caused hurt to the informant ?

iii. Whether on the aforesaid date, time and place of occurrence, the accused persons in furtherance of their common intention abused the informant by uttering any obscene words in or near a public place causing annoyance to the informant and others ?

iv. Whether on the aforesaid date, time and place

of occurrence, the accused persons in furtherance of their common intention committed criminal intimidation by issuing threats to the informant and her husband with injury to the person of informant with intent to cause alarm in their mind ?

5. In order to prove its case, prosecution has examined five witnesses in all out of whom PW.1 Meena Sahoo is the informant and victim of this case. P.W.2, Kalia @ Sarat Kumar Sahoo is the brother-in-law of the informant. P.W.3, Harsa Sahoo and P.W.4, Benudhar Behera are the witnesses to occurrence. P.W.5, Debendra Kumar Mallick is the I.O of this case. Defence has examined none on its behalf.

6. P.W.1, the informant has deposed that the occurrence took place in the year 2001 at about 7.00 A.M in her house. At the relevant time she was alone in her house. Her husband was absent. At that time the accused persons came to her house. Accused, Sakhi Sahoo gave a pushed blow to her, as a result she fell down. Thereafter, accused persons assaulted her by stick, fist blows and kicks. The accused persons pushed and pulled her. She had sustained fractured on her both hands. She was shifted to

Balakati Hospital for treatment. Later on she was shifted to Olatpur for treatment. She reported the matter in writing before Police. During cross-examination, P.W.1 has stated that she had lost sense after occurrence. She does not remember as to who had scribe the FIR for her. She further deposed that the FIR was lodged on the very day of occurrence. Her husband had accompanied her to P.S. She failed to remember the exact time of presentation of FIR. She deposed to had been to P.S first, then she was taken to hospital by Police. She failed to remember how many outsiders had gathered and who were they. She also failed to depose whom of accused assaulted which part of her body. P.W.2, P.W.3 and P.W.4 have not supported the prosecution case.

P.W.5, the I.O of this case has deposed that on 07.11.2001 he was working as S.I of Police attached to Baliana P.S. On that day, he took up investigation of this case i.e., Baliana P.S. Case No. 154/2001. He testified that during investigation he had examined the complainant, visited the spot and prepared spot map vide Ext.-2. On 08.11.2001 he arrested the accused persons Dhira @ Dharendra Sahoo, Dhobi Sahoo, Sakhi Sahoo and forwarded them to Court. On 27.11.2001 he arrested the accused persons Narendra Sahoo and Jayaram Sahoo and forwarded them

to Court. After completion of investigation he submitted charge-sheet U/s. 341/323/294/506/34 of IPC against all accused persons. Examination of rest of the witnesses was declined by the prosecution.

7. From the aforesaid evidence of prosecution witnesses it appears the occurrence took place in the morning hour amidst of village-Sana Bhainchua. It is evident that there are residential houses near the spot including the house of P.W.2, P.W.3 and P.W.4. As reveals from FIR the incident occurred for a quiet long period. However, none of the witness has corroborated the evidence of P.W.1. It is admitted by the informant that a counter case has been instituted against her and her family members at the instance of accused persons. Under the above circumstances, the evidence of P.W.1 is to be scrutinized carefully. P.W.1 contradicted her statement before police regarding the exact place of occurrence. While P.W.1 has deposed that the occurrence took place inside of her house, the I.O has deposed that it occurred in the front courtyard of the house of informant. P.W.1 contradicted her statement U/s. 161 Cr.PC regarding accused Sakhi Sahoo pushing her, all accused persons assaulting her by means of stick, sustaining injuries on her person and being medically examined

on police requisition. The I.O has specifically denied that he had not issued any injury requisition in favour of P.W.1. No document regarding any medical examination of P.W.1 has been proved on behalf of prosecution. In absence of any corroboration to the self contradictory evidence of P.W.1, her evidence cannot be relied upon beyond doubt. Under the above circumstances, the benefit of doubt is extended to the accused persons.

In the result, I hold the accused persons not guilty of the offence punishable u/s 341/294/323/506/34 of IPC and acquit them therefrom u/s 255(1) of Cr. P.C. The accused persons be set at liberty forthwith and they are discharged from their bail bonds.

Enter the case as mistake of fact.

J.M.F.C.(O), Bhubaneswar

Dictated, corrected and pronounced in the open court on this the 17th day of September, 2014 under my hand signature and seal of this court.

J.M.F.C.(O), Bhubaneswar

List of witnesses examined for prosecution

PW.1	Meena Sahoo
PW.2	Kalia @ Sarat Kumar Sahoo
PW.3	Harsa Sahoo

PW.4 Benudhar Behera

PW.5 Debendra Kumar Mallick

List of witnesses examined for defence

N o n e

List of documents admitted in evidence for prosecution

Ext.1 FIR.

Ext.1/1 Signature of P.W.5 on Ext.-1.

Ext.1/2 Formal FIR.

Ext.1/3 Signature of P.W.5 on Ext.-1.

Ext.2 Spot Map.

Ext.2/1 Signature of PW.5 on Ext.-2.

List of documents admitted in evidence for defence

N I L

J.M.F.C.(O), Bhubaneswar