

IN THE COURT OF THE ADDL.C.J.M, B H U B A N E S W A R.

Present:

Sri P.L.Satpathy,LL.B.,
Addl.C.J.M,Bhubaneswar.

G.R.. CASE NO.1825-06

(Arising out of Baliana P.S. Case No74/06)

S T A T E

.....

Prosecution.

.....Versus.....

1. Charulata Bhoi, aged about 45 years.

w/o Raghunath Bhoi.

2. Pravakar Swain. Aged about 44 years.

s/o. Sudam Swain,

3. Giridhari Swain, aged about 45years,

s/o.Late Uchhab Swain

4. Kedarnath Bhoi, Aged bout 64 years

S/o. Late Gopinath Bhoi

All are of vill.Baliana P.S. Baliana

Dist. Khurda.

..... Accused persons

OFFENCE U/S.294/506/34 I.P.C.

Counsel for the prosecution : Sri Bidyut Ranjan Mishra. A.P.P, BBSR

Counsel for the defence : Sri Niranjan Kanungo & Asso., Advs, BBSR.

Date of argument: 29.4.14

Date of judgment :6.5.14

J U D G M E N T

1. In this case the accused persons named above jointly stand their trial

U/s.294/506/34 IPC

2. The prosecution case, within short compass, is as follows:

On 1.5.06, Monday at about 10 AM while the informant PW.6 along with some others were discussing with the head master of Balunkeswar Nodal UP School of village Paripatpur regarding utilization of money coming to the school under Sarbasikhya Aviyana. The above named accused persons along with their

other associates came there and asked PW.6 "who are you" to discuss with the head master saying so the accused persons abused him in obscene words and also threatened him to face dire consequences . On the written report of PW.6 Baliana PS Case No.74 dtd.1.5.06 was registered U/s.294/506/34 IPC. Thereafter investigation was commenced and after completion of investigation IO submitted charge sheet against the four accused persons U/s.294/506/34 IPC to face their trial in the court of law.

3. The plea of the defence is one of complete denial to the prosecution allegations and false implication.

4. The points for determination in this case are as follows:

- i) Whether on 1.5.06 at about 10 am at the Balunkeswar Nodal UP School, village: Paripatpur the accused persons in furtherance of their common intention, caused annoyance to others by using obscene words towards PW.6 in or near a public place ?
- ii) Whether on the alleged date, time and at place the accused persons in furtherance of their common intention, had given threat to PW.6 with intent to cause alarm to his persons ?

5. To bring home the charge against the accused persons prosecution has examined as many as 6 witnesses including the informant PW.6. The rest witnesses are witnesses to the occurrence. On the other hand defence has adduced no evidence on its side.

6. PW.6 is the informant himself . His evidence goes to show that about 7 to 8 years back while he was the ward member of his village Paripatapur had lodged a written report (Ext.1) at Baliana PS on the allegations of disturbance caused by some people with regard to the accounts matter of their village school. This witness in his cross examination has categorically admitted that he had lodged no report against the accused persons as they were not party to the disturbance for which he has lodged the report. Pws.2 to 5 who are alleged to be the eye witnesses to the occurrence denied to have their any knowledge with regard to the occurrence. The evidence of PW.1 is alleged to be an eye witnesses to the occurrence, his evidence goes to show that the alleged occurrence in this case took place during day time in the year 2006 at Balunkeswar Nodal UP School of their village. His evidence also shows that the accused persons had abused Biswajit Mohanty who is the informant (PW.6) in this case. Had the accused

persons been actually abused to Biswajit Mohanty (PW.6), he would not have forgotten to depose about the occurrence but PW.6 has not stated so in view of the evidence of PW.6 , I place no implicit reliance on the aforesaid evidence of PW.1 The aforesaid evidence of PW.1 has got no support from the evidence of other witnesses. The witnesses examined in this case had never stated anything that the accused persons had given threat to PW.6 with the intention of causing alarm to his person. Besides the evidence of PW.1 to 6 prosecution has no other evidence against the accused. The evidence led by the prosecution in this case do not make out a case U/s.294/506/34 IPC against the accused persons and as such the prosecution has failed to establish its case against the accused persons U/s.294/506/34 IPC. beyond all reasonable doubt.

In the result, I hold the accused persons are not guilty of the offences U/s.294,506/34 IPC and acquit them U/s.255(1) Cr.P.C. The accused persons are on court bail and as such they be discharged from their bail bonds .

Enter this case as “Mistake of Fact”

AC.J.M,BBSR

The judgment is dictated,corrected and pronounced by me in the open court today

i.e. on 6th April, 2014 under my hand and seal of this court.

AC.J.M-,BBSR

List of P.ws. examined for prosecution.

P.w.1 Biswanath Das,

p.w.2. Lingaraj Moharana.

p.w. 3 Debasish Nayak

p.w. 4. Jyoti Narayan Lenka.

p.w.5. Kasinath Das.

p.w. 6 Biswajit Mohanty

List of D. W.s.examined for defence.

None.

List of exhibits marked for prosecution.

Ext.1 Written FIR

Ext.1/1 Signature of PW.6 in Ext.1

List of exhibits marked for defence.

N i l.

List of M.Os.

Nil

AC.J.M-BBSR