

**IN THE COURT OF PRINCIPAL MAGISTRATE JUVENILE
JUSTICE BOARD KHURDA, CIRCUIT AT- BHUBANESWAR**

J.G.R. NO 62/2006

S T A T E.

Vrs.

1. Bamana @ Baman Rout, aged about 23 years
S/o.Chakradhar Rout
2. Rinku Biswal @ Samantaray, aged about 23 years
Dhruba Biswal
3. Manoj @ Dillip Kumar Pradhan, aged about 23 years
S/o. Deba Pradhan
4. Bubu @ Pradeep Kumar Rout, aged about 23 years
S/o. Surendra Rout
5. Bapuji @ Swadhin Kumar Swain, aged about 24 years
S/o.late Bhagaban Swain
All are of Vill-Uppersahi, Laxmisagar, Bhubaneswar
Dist-Khurda

.....J.C.Ls

Date of Argument02.12.2014

Date of Judgment02.12.2014

Counsel for the State.....Smt. B. Mohanty (APP).

Counsel for the J.C.L.....Sri P.Pattnaik & Associates

OFFENCE U/Ss.307/294/506/34 IPC

JUDGMENT

1. The JCLs have faced the enquiry on the allegation U/Ss.294/307/506 read with 34 IPC.

2. A brief fact of the prosecution case is as follows:

On 08.08.2006 at about 7.30 P.M. while the nephew of the informant Alok Jena returning from a book store at BDA Market Laxmisagar, the JCLs along with the other persons being armed with iron rod, iron pipes etc. abused him in filthy language by saying "Maghia, Chhida Hoichhi, Jibanare

Maridevi". Then they assaulted him by means of iron rod, Iron pipes to his head causing severe bleeding injury and he fell on the ground. Further they threatened him to kill in life if he discloses the matter to anybody and left the place. So the informant lodged the report before IIC Laxmisagar P.S. who registered the case and directed S.I. R.K. Sahu to take up investigation. In course of investigation the IO visited the spot, issue injury requisition for treatment of the injured, examined the witnesses, arrested the JCLs and forwarded them to the board. After completion of the investigation he submitted the chargesheet against the JCLs under the aforementioned sections of law. Hence this inquiry.

3. The JCLs have denied the entire allegation made by the prosecution against them.

4. Thus the following points that posed for consideration here:

Whether the JCLs in furtherance of their common intention on 08.08.2006 evening at about 7.30 P.M. Near BDA Market Laxmisagar, Bhubaneswar:

- (i) have abused the informant's nephew in filthy language by saying "Maghia, Chhida Hoichhi, Jibanare Maridevi" etc at a public place causing annoyance to him and others?
- (ii) Have assaulted by means of iron rod, iron pipe etc. to the head of the informant's nephew causing bleeding injury with an intention and knowledge to cause his death?
- (iii) Have threatened to kill in life if he discloses the matter to anybody causing alarming to him and others?

5. To establish the case the prosecution has relied upon the oral testimony of six witnesses of whom P.W.1 is the doctor, P.Ws. 2,3 and 4 are the independent witnesses to the occurrence, P.W.5 is the informant and P.W.6 is the injured apart from the documentary evidence marked Exts. 1 and 2. But the JCLs have declined to adduce any evidence on their behalf.

6. In view of the materials available on record and for the sake of brevity, we feel it appropriate to analyse the evidence taking all the points together as follows:

From the prosecution case it is quite clear that the injured P.W.6 is the most vital witness to testify the points delineated for consideration. During his examination he has not stated anything about the incident rather expressed his inability to recall the details of the incident. Being not satisfied with his testimony the learned Addl. PP put some leading questions as per the provision of law to elicit truth from his mouth, but in vain. Similarly the informant of this case P.W.5 has also not stated about the occurrence however, prove the FIR as Ext.2 and Ext.2/1 is his signature. In fact P.W.5 was not present at the spot and a post occurrence witness. There is no material to say that wherefrom he gathered information that he reflected in the FIR Ext.2 lodged before the Police. Even he denied to have seized any material in his presence by police. The independent witness to the occurrence P.Ws. 2 and 3 have not supported the prosecution case. Another witness to the occurrence P.W.4 though stated about hearing of such incident, but stated about assault on the informant causing injury to his person, is not in consonance with the prosecution allegation. Taking into account the materials available in the record afore extracted, we do not feel it necessary to scan the evidence of the doctor P.W.1. It can be safely said that the JCLs have not committed the alleged offences U/s. 294/307/506 read with Section 34 IPC. Accordingly, all the JCLs are set at liberty forthwith.

Dictated and corrected by me and the judgment is pronounced in open Court today i.e. 2nd day of December, 2014, under my hand and seal of this court.

(Dr.P.M.Samal)

Mrs Anuradha Mohanty Mrs. Namrata Chadha Principle Magistrate
Member,J.J.Board Khurda Member,J.J.Board Khurda Juvenile Justice Board
Khurda circuit-at Bhubaneswar.

List of witnesses examined on behalf of the prosecution

P.W.1. Dr.Trupti Pattnaik
P.W.2 Ranjan Kumar Maharana
P.W.3 Subasis Rout

