



2. On 23.6.13 at about 8.30 a.m the informant Siba Prasad Mishra lodged F.I.R at Bankoi police out post alleging dacoity in his house by six culprits in previous night. Basing on which police registered the case and conducted investigation. It is alleged that in the night of 22.6.13 at 12.30 a.m six culprits entered into his house being armed with pistol, bhujali, crowbar and thena by braking open the front door of his house and demanded cash of Rs. 10 lakhs, gold ornaments brought by him during his son's marriage brandising pistol. The culprits broke open the iron chest and boxes from the house of informant and took away gold ornaments of 120 g.ms, cash of Rs. 12,000/-, two mobile phone sets, one torch light and also had snatched away gold mangalsutra and gold ring from the wife of informant. While decamping the culprits has locked the door from outside. During investigation police seized one gold chain and 2 gold ear tods from the possession of accused Bijaya Kumar Pradhan and on completion of investigation submitted charge-sheet against these two accused persons on the ground that they had committed the dacoity alongwith others.

3. The plea of the accused persons is mere denial.

4. The points for determination in this case are;

- i) Whether accused persons alongwith others had committed house braking by night in the house of informant in order to commit dacoity?
- ii) Whether the accused persons along with others had committed dacoity?
- iii) Whether the accused persons were in possession of pistol without any authority?
- iv) Whether the accused persons had used the pistol at the time of dacoity?

5. Prosecution has examined the informant Siba Prasad Mishra ( P.w.1), his wife Smt. Pravati Mishra ( P.w.2) and his son P.w.3 and then considering their statements prosecution closed its case. Defence has adduced no evidence on its behalf.

6. P.w.1 the informant testifies that the incident had taken place on 22.6.13 in the night in their house at Patapur Sasan. Six culprits entered into their house being armed with pistol, bhujali and thenga, by breaking open the front door of the house and demanded cash and told, telling the informant that he has collected Rs. 10 lakhs and gold ornaments during his son's marriage. They snatched away one Mangalsutra and ear flower from P.w.2 and also 120 g.ms of gold ornaments, cash of Rs. 12,000/- from the almirah. While decamping the culprits had taken away the mobile phone set, torch light and sarees also. P.w.1 proved the F.I.R lodged by him vide Ext.1.

As a matter of facts it remains that during T.I parade P.w.1 could not identify any of the culprits. The informant also testifies that he can not identify any culprits since he was frightened during the occurrence. In court he failed to identify any of the accused persons in dock. P.w.2 though corroborated the testimony of P.w.1 regarding dacoity, but failed to identify any of the accused persons in dock. P.w.3 says about the dacoity in his house. He had received telephonic message about the dacoity and had returned home in the next morning. Therefore, from such evidence adduced by prosecution, it is clear that there was a dacoity in the house of P.w.1, but there is no evidence, that the accused persons are the author of the alleged crime. Though the record indicates seizure of 2 gold ornaments of 5 g.ms each from the possession of accused Bijaya Kumar Pradhan, but nothing in that regard is proved to rope such accused persons with the alleged crime.

7. During hearing learned defence counsel submits that prosecution has failed to adduce even an iota of evidence against any of the accused and has falsely entangled them in such case. The material in record indicates that the culprits have not been identified by the informant or any of the family members, nor any stolen property has been recovered from their possession. Therefore, I found no evidence that the accused persons have committed offences U/s. 457, 395 I.P.C and Sec.25/27 Arms Act, for which the accused persons are acquitted U/s.232 Cr. P.C and set at liberty.

The zimanama be cancelled after expiry of 4 months of appeal period if no appeal is preferred and as per the order of appellate court if an appeal is preferred.

2<sup>nd</sup> Addl. Sessions Judge, Khurda.

The judgment is dictated, corrected and pronounced by me in the open court today i.e 9th day of September,2014 under my hand and seal of this court.

2<sup>nd</sup> Addl. Sessions Judge, Khurda.

List of P.ws examined for prosecution.

P.w.1            Siba Prasad Mishra  
P.w.2            Smt. Parvati Mishra  
P.w.3            Devi Prasad Mishra.

List of Dws examined for defence.

N i l.

List of exhibits marked for prosecution.

Ext.1            F.I.R  
Ext.1/1          Signature of P.w.1 on F.I.R

List of Exhibits marked for defence.

N i l.

List of M.Os marked for prosecution.

N i l.

2<sup>nd</sup> Addl. Sessions Judge, Khurda.