

IN THE COURT OF 2ND ADDL.SESIONS JUDGE, KHURDA.

Present:

Sri A.K.Sahoo, LL.M.,
2nd Addl. Sessions Judge, Khurda.

S.T 22 of 14

Arising out of G.R. No. 881/13 corresponding to Bolagarh P.S.Case No. 68/13

S T A T E **Prosecution.**

...Vrs...

1. Bijaya Kumar Pradhan, aged about 35 years, S/o Dolagobinda Pradhan
2. Jogesh Naik , aged about 35 years, S/o Bauribandhu Naik,
Both of vill. Kalipoi, P.S. Baideswar, Dist. Cuttack.

.....**Accused persons.**

OFFENCE U/S. U/s. 457, 395 I.P.C

Counsel for the prosecution : Sri H.K.Swain, Addl. P.P

Counsel for the defence : Sri Pravat Ku. Das & L. Sahu, Adv.

Date of argument : 8.9.2014

Date of Judgment: 9.9.2014

J U D G M E N T

The above named accused persons stand charged U/s. 457 and 395 of Indian Penal Code.

2. In the night of 4.6.2013 at about 1.30 a.m while the informant Prakash Chandra Hota of vill. Kaduapada, P.S. Bolagarh was sleeping with his elder brother Prafulla Chandra Hota at the backyard of their house and his parents and children were sleeping inside the house, realising light of a torch, he woke up. Two culprits caught hold of both of them and brandised pistol threatening to kill them. Being compelled by them the informant and his brother went inside their house, thereafter four other culprits entered into the house, put off all the lights and threatened them brandising Katuri, for which the informant handed over the key of the almirah of the house. Then the culprits took away cash of Rs. 35,000/-, four nos. of gold chains, one gop chain, gold ear tods, 8 nos. of gold rings and other ornaments. While going away the culprits locked them inside a room taking away his 2 mobile phone sets. On such allegation police registered the case and conducted investigation. During investigation sniffer dog detected one packet containing 2 gold chains, one gold gop chaion, ear tods, 5 nos. of gold rings and other ornaments alongwith cash of Rs. 14,270/-, left by the culprits inside their house and then left those in zima of complainant. During investigation police also seized one RE Diesel Autorickshaw bearing Regd No.OR 25A 5803 from the possession of accused Jogesh Naik and on completion of investigation launched prosecution against three accused persons, submitting that other accused persons were also involved in the crime, hence this case. Since accused Santosh Naik is absconding, the case against him has been split up.

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?

5. Prosecution has examined six witnesses in this case. Out of them P.w.1 is the informant, P.w.2 is his wife, P.w.3 his mother, P.w.4 the nephew of the informant and P.w.s.5 and 6 are witnesses to the seizure. Defence has adduced no evidence on its behalf.

6. P.w.1 has narrated the incident taken place in the night of 4.6.13 in his house, alleging that the culprits brandished bhujali, pistol and threatened them and took away the gold ornaments alongwith cash of Rs. 35,000/- . During T.I parade of the suspects, he failed to identify any body. In court also he failed to identify any of the accused persons concerning their complicity with the alleged crime, rather stated that he can not identify the culprits. The admitted fact remains that during investigation with sniffer dog and scientific team the dog had identified a bags kept near their house containing some of the stolen ornaments and cash of Rs. 14,270/- which was given in his zima vide Ext.2. P.w.2 testifies that after dacoity being called, she woke up. P.w.3 corroborates the testimony of P.w.1 and says that she can not identify the culprits. P.w.4 came to know about the dacoity in the next morning. P.w.s.5 and 6 are witnesses to the seizure of some stolen articles and cash from the house of informant detected by sniffer dog. The seizure list has been proved vide Ext.3. It indicates that the culprits had left a part of the booty in their house which was detected during investigation. There is no other evidence in record regarding complicity of the accused persons with the alleged crime. During T.I parade they were not even identified by the witnesses. During argument, it is alleged by the defence that there is absolutely no even an iota of evidence against the accused persons.

7. The evidence adduced by prosecution, indicates that the accused persons were neither identified during T.I parade nor in court, nor even there was any recovery of stolen property from them. Therefore, it is amply clear that there is no evidence that the accused persons committed the offence. Consequently the accused persons are held not guilty to the charge U/s. 457 and 395 I.P.C and are acquitted there from U/s.232 Cr. P.C.

They be set at liberty and discharged from their bail bonds.

Since the case against the absconding accused Santosh Naik is pending, no order is made regarding disposal of seized property.

2nd 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.

2nd Addl. Sessions Judge, Khurda.

List of P.w.s examined for prosecution.

P.w.1	Prakash Chandra Hota
P.w.2	Smt.Snigdharani Hota.
P.w.3	Smt.Champa Hota.
P.w.4	Manoj Kumar Hota.
P.w.5	Bijaya Kumar Hota
P.w.6	Laxmikanta Hota

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
Ext.2	Zimanama.
Ext.2/1 & 2/2	Signature of P.w.1 on zimanama.
Ext.3	Seizure list.
Ext.3/1	Signature of P.w.5 on seizure list.
Ext.3/2	Signature of P.w.6 on the seizure list.

List of Exhibits marked for defence.

N i l.

List of M.Os marked for prosecution.

N i l.

2nd Addl. Sessions Judge, Khurda.