



2. The brief facts of the prosecution story is that:

On 04.03.1988 at about 4.30PM A.S.I. Naval O.P Raghunath Singh received an information about assault and house trespass by the accused persons in the house of one Bhaskar Sethi. After getting such information A.S.I. Raghunath Singh went to the spot to inquire into the matter. After reaching at the spot he found both the accused persons were drunk and were armed with lathis. On seeing A.S.I. Raghunath Singh both the accused persons abused him in obscene words saying "MAGIHA TU MADA BIKA BANDA KARIDEBU BHARI SENIOR HOIGALUNI". Saying so both the accused persons assaulted him by means of a lathi and fist blows causing injuries on his nose and body. At the time of the said occurrence constable No.822 Nilambar Suar who had accompanied ASI Raghunath Singh went to his rescue but the accused persons have also assaulted him. Moreover the accused Bajia Palei had bite him on his left hand. In addition to that the accused persons also took away the wrist watch of the informant A.S.I. Raghunath Singh. Both the said Raghunath Singh and constable No.822 Nilambar Suar came back to the P.S and lodged a written report which was resigtered as Banpur P.S. Case No. 23 dated 5.3.1988 U/s 332/333/379/34 I.P.C. After completion of investigation C.S was also submitted U/s 333/332/379/34 I.P.C. However at the time of framing charge the charge was framed U/s 332/307/379/34 of the I.P.C.

In G.R. Case No. 47/88 both the accused persons were charge sheeted but on 23.01.1991 the case against accused Bajia Palai was split up and accordingly on 22.12.1992 case of the accused Bana Behera only was committed to the court of Sessions. After receipt of the case record by the court of Sessions S.T. Case No. 11/93 was registered. Subsequently the case of the accused Bajia Palei was committed to the court of Sessions and his case was registered in the Sessions Court as S.T. Case No. 233/1993. But as per the order dated 07.09.1993 both the S.T. Cases that means S.T. 11/93 and 233/93 were tagged with each other and now both the accused persons are facing joint trial in ST 11/93

3. The plea of the accused persons is one of complete denial.

4. The points for determination in this case are :-

(i) Whether on 04.03.1988 at about 4.30pm in furtherance of their common intention the accused persons voluntarily assaulted the informant and bite C/822 Nilamani Suar who were working as A.S.I., of police and constable No.822, so as to deter them from discharging their official duties?

(ii) Whether on the same date, time and place of occurrence the accused persons in furtherance of their common intention dealt lathi blows to the informant and constable No.822 with such intention or knowledge and under such circumstances but by that act death might be caused?

(iii) Whether on the same, date, time and place of occurrence

in furtherance of their common intention the accused persons committed theft of one wrist watch ?

5. To substantiate the case prosecution has examined as many as five witnesses where as defence has examined none.

6. In this case prosecution had examined as many as five witnesses including one of the victim Nilambar Suar as P.W.3. However for better appreciation of evidence the version of the injured victim Nilambar Suar is taken into account first. As per his version on 4.2.1988 he was working as constable at Naval O.P. One Bhaskar Sethi was having a beetle shop near Naval Railway crossing. On that date the said Bhaskar Sethi came to the Naval O.P and reported that the accused persons namely Banambar and Bajia Palei had demanded money from him. But when he refused the said accused persons assaulted him. On receipt of the said report this witness along with A.S.I. Raghunath Singh went to the spot. When they reached at the spot the accused persons came and assaulted them. The accused Bajia dealt a fist blow on the nose of A.S.I R.N.Singh causing bleeding. Similarly, the said accused Bajia bite the left hand of this witness and escaped from the spot. Being injured he along with A.S.I.R.N. Singh came back to the out post and sent information to the Balugaon P.S. The Balugaon police came to the O.P and send them for medical examination. Apart from this witness prosecution had examined two

other witnesses to the occurrence namely Sankar Panda and Jaladhara Raula who were said to be present at the place of occurrence. But both the said witnesses denied their knowledge about the alleged occurrence. Both these said witnesses were put to question by the learned Addl. P.P U/s 154 of Indian Evidence Act. But nothing much of importance was elicited from their mouth supporting the case of the prosecution. Similarly one Trinath Sahu was examined on behalf of the prosecution as a witness to the seizure of wrist watch allegedly to have been stolen from R.N. Singh. Like P.Ws 2 and 4 this witness also denied his knowledge about the alleged seizure. However he admitted his signature on the seizure list as Ext.1. Apart from the aforesaid four witnesses the prosecution had examined the medical officer as P.W.5 while being examined as P.W.5 the medical officer disclosed that on police requisition he had examined A.S.I. R.N. Singh and constable Nilambar Suar and found certain injuries which were mentioned in the injury reports prepared by him. The said injury reports were marked on behalf of the prosecution as Ext.2 & 3.

From the said evidence on record it reveals that on the alleged date of occurrence both P.W.3 and A.S.I. R.N. Singh had been to the alleged spot for investigating into a matter which was reported at the Naval O.P by one Bhaskar Sethi. The said Bhaskar Sethi is a C.S witness but he could not be examined by the prosecution. Similarly the informant- cum- injured A.S.I. R.N. Singh was

also not examined by the prosecution. Both the said witnesses are vital witnesses for the case of the prosecution. Due to their non-examination the version of P.W.3 could not get any corroboration. Corroboration is not a general rule. In each and every case corroboration is not required or it can be said that there is no general rule that unless a statement of a witness gets corroboration it cannot be believed. But corroboration can be sought for when there is a chance of getting corroboration or when there is any ambiguity in the statement of a witness. Here P.W.3 being an injured witness can be relied upon and his evidence is having much more weight than that of a general witness. But the version of P.W.3 requires corroboration because as per the F.I.R. story the alleged occurrence took place on 4.3.1988 but as per the versions of P.W.3 the alleged occurrence took place on 4.2.1988. So if the version of P.W.3 is believed the alleged occurrence took place one month prior to lodging of the F.I.R. or it can be said that no such occurrence took place on 4.3.1988 for which the alleged F.I.R. was lodged by the A.S.I. Raghunath Singh. Similarly as per his version many other people had gathered at the spot and have seen the occurrence but the prosecution could not bring any one witness who could have deposed in support of the case of the prosecution. The witnesses who were said to be the eyewitness denied their knowledge about the occurrence. Moreover as per the F.I.R. story P.W.3 had sustained a bite mark. The M.O P.W.5 during his examination-in-chief had also

stated about the same but during the cross-examination admitted that such an injury can be possible by fall. So under that score it cannot be said that only due to the biting of Bajia Palei P.W.3 had sustained that injury. For the aforesaid circumstances, I am of the view that statement of P.W.3 required corroboration but it could not get for the reasons discussed above. Under the aforesaid circumstances I am of the view that the prosecution could not able to prove its case against the accused persons beyond all reasonable doubt.

7. In the result I hold the accused persons are found not guilty U/s 332/307/379/34 I.P.C. and acquit them u/s. 235(1) Cr.P.C. They be set at liberty forthwith and be discharged from their bail bonds

The seized articles if any be destroyed after four months of the appeal period is over, if no appeal is preferred and in case of any appeal subject to the orders of the Appellate court.

Asst. Sessions Judge, Banpur.

Typed to my dictation & corrected by me. Judgment being sealed and signed is pronounced in the open court today i.e. on 30.09.2014.

Asst. Sessions Judge, Banpur.

LIST OF WITNESSES EXAMINED ON BEHALF OF THE PROSECUTION.

P.W.1.	Trinath Sahoo
P.W.2.	Sankara Panda
P.W.3.	Nilambar Suar
P.W.4	Jaladhar Raula
P.W.5	Narayana Sahu

LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENCE.

NONE.

LIST OF EXHIBIT MARKED FOR THE PROSECUTION.

Ext.1. Injury report.  
Ext.1/1. Signature of P.W.5 on Ext.1.  
Ext. 2 Injury report.  
Ext.2/1 Signature of P.W.5 on Ext.2.  
Ext.3 Injury report.  
Ext.3/1 Signature of P.W.5 on seizure list.

LIST OF EXHIBIT MARKED FOR THE DEFENCE.

NIL.

Asst. Sessions Judge, Banpur.