

IN THE COURT OF THE ASSISTANT SESSIONS JUDGE, BANPUR

PRESENT:

Sri Satya Ranjan Pradhan
Asst..Sessions Judge, Banpur

S.T. Case No. 90/120 of 2014/2010

(Arising out of G.R. Case No. 184/2009 corresponding
to Banpur P.S. Case No. 72 of 2009)

State. ... Prosecution.

Versus.

1. Sisira Kumar Behera, aged about 40 years, S/o Late Rama Chandra Behera.
 2. Kishore Behera, aged about 35 years, S/o Late Rama Chandra Behera.
 3. Bani Behera, aged about 65 years, W/o Late Rama Chandra Behera.
 4. Rajani Behera, aged about 35 years, W/o Sisira Kumar Behera.
 5. Basi Behera, aged about 31 years, W/o Kishore Behera.
- All are of Vill:Veleri, P.S: Balugaon, Dist: Khurda.

... Accused persons.

For the Prosecution : Sri S.Mishra, Addl. P.P.

For the Defence : Sri M.P.Samantasinghar & Associates,
Advocates.

Offence U/s 323/294/324/354/307/506 I.P.C.

Date of Argument : 18.11.2014

Date of Judgment : 18.11.2014

JUDGMENT

1. The above named accused persons stand charged U/s 323/294/324/354/307/506/34 of the Indian Penal Code for having committed the offence of voluntarily causing hurt, for abusing the informant and his family members in or near a public place causing annoyance, for voluntarily

causing hurt by dangerous weapon or means, for outraging the modesty of the informant's wife, for attempting to murder the informant and his family members and for threatening the informant and his family members with dire consequence, in furtherance of their common intention.

2. The brief facts of the prosecution story is that on 05.04.2009 a about 11 AM when the informant went to the backyard of his house to bring the fishing net the accused Kishore Behera obstructed him. Thereafter hot exchange of words between them started. The accused Kishore Behera tried to do away the life of the informant by pressing his neck. The other accused Sisira Behera caught hold the informant from his back side and gave a bite. When the wife and daughter of the informant came to his rescue the accused Kishore Behera with an intention of outraging her modesty pulled her wearing apparels. Thereafter the other accused persons pushed the wife and daughter of the informant into the well situated near the place of occurrence. The accused Bani Behera assaulted the informant by a wooden plank on his knee and right hand causing injuries. For the aforesaid occurrence the informant lodged a written report at the Naval O.P but the same was not registered for which he came to the court of J.M.F.C., Banpur and filed a complaint case which was registered as I.C.C.52/2009. The same sent to Balugaon P.S U/s 156(3) of Cr.P.C. which was registered as Balugaon P.S. Case No. 72/2009 U/s 294/307/323/324/354/506/34 I.P.C. Thereafter investigation of the case started and after completion of investigation the I.O submitted Charge Sheet

against the accused persons U/s 294/323/324/307/354/ 506/34 I.P.C. and charge was framed accordingly.

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

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

(i) Whether on 5th day of April, 2009 at 11AM the accused persons in furtherance of their common intention voluntarily caused hurt to the informant and others?

(ii) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention abused the informant and his family members in obscene languages in or near a public place causing annoyance?

(iii) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention voluntarily caused hurt by means of teeth bite to the informant?

(iv) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention assaulted or used criminal force to the informant's wife to outrage her modesty?

(v) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention pressed the neck of the informant and pulled his wife and daughter into the well with such intention or knowledge and circumstances that by that act their death might have caused?

(v) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention had criminally intimidated the informant and his wife causing alarm on their mind?

5. To substantiate its case prosecution had examined as many as seven witnesses where as defence had examined none.

6. As mentioned in the preceding paragraph to substantiate its case prosecution had examined as many as seven witnesses but the informant of the case could not be examined as he had died in the mean time. But his wife and his daughter who are also the victims of this case were examined by the prosecution as P.W.3 and 7. Both these said witnesses while being examined on behalf of the prosecution as P.W.3 & 7 denied their knowledge about the occurrence. Even though they were put to question by the learned Addl. P.P U/s 154 of the evidence Act nothing was brought out from their mouth supporting the case of the prosecution. The other witnesses who were examined by the prosecution as P.Ws 1,2,4,5 and 6 also denied their knowledge about the occurrence. No other witnesses except the aforesaid seven persons were examined by the prosecution, so as because nothing was stated by the prosecution regarding the alleged occurrence and the involvement of the accused persons in the alleged crime, I am of the opinion that prosecution could not able to prove its case beyond all reasonable doubt.

7. In the result I hold the accused persons not guilty U/s 294/323/324 / 354/307/506 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 18th day of November, 2014.

Asst. Sessions Judge, Banpur.

LIST OF WITNESSES EXAMINED ON BEHALF OF THE PROSECUTION.

P.W.1. Rankanath Behera
P.W.2. Bula Biswal
P.W.3. Mina Behera
P.W.4 Mitu Behera
P.W.5 Babuli Barik
P.W.6 Jitendra Kumar Raiguru.
P.W.7 Amuli Behera.

LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENCE.

NONE.

LIST OF EXHIBIT MARKED FOR THE PROSECUTION.

NIL

LIST OF EXHIBIT MARKED FOR THE DEFENCE.

NIL.

Asst. Sessions Judge, Banpur.