

IN THE COURT OF THE ASSISTANT SESSIONS JUDGE, BANPUR
PRESENT:

Sri Satya Ranjan Pradhan
Asst..Sessions Judge, Banpur

S.T. Case No. 58/14/64 of 2014/2013/2012
(Arising out of G.R. Case No. 78/2001
corresponding to Banpur P.S. Case No. 37 of 2001)

State. ... Prosecution.
Versus.

1. Akhu @ Akshaya Pradhan, aged about 40 years, S/o Hati Pradhan.
2. Daka @ Chakrapani Pradhan, aged about 39 years, S/o Duti Pradhan.

Both are of Vill: Barapatna, P.S: Banpur, Dist: Khurda.

... Accused persons.
For the Prosecution : Sri S.Mishra, Addl. P.P.
For the Defence : Sri D.K.Pattnaik & Associates,
Advocates.

Date of Argument : 12.08.2014
Date of Judgment : 16.08.2014

Offence U/s 341/307/34 I.P.C.

JUDGMENT

1. The above named accused persons stand charged U/s 341/307/34 of the Indian Penal Code .

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

On 15.03.2001 Gods and goddesses of different villages were taken to the Panchudola field by their respective villagers in procession. The informant and the victim were also participating in the procession of of their village God. At that time persons from Barapatana village came in front of the said procession of informant's village and started creating disturbances with intention to

overtake the procession of the informant's village. In the due process there started exchange of hot words between both the sides. Hearing the shout when the informant went to the spot he found the accused Akhu Pradhan and Daka Pradhan holding the victim Sagar Maharana. Thereafter the accused Kanduri Sahoo came holding a knife saying "MAGIHAKU AJI MARIDEBI" and dealt a blow on his right side belly and right side shoulder causing profuse bleeding. Due to the said assault the victim Sagar Maharana fell down on the ground but the accused Kanduri again dealt a blow by that knife on the back of the victim causing injury. Due to the aforesaid assaults the victim Sagar Maharana lost his sense. The informant and other villagers who were present at the spot took the victim to medical. There after the informant came to the police station and lodged a written report which was registered as Banpur P.S. Case No.37/2001 U/s 341/324/294/ 342/307/34 of I.P.C. However after completion of investigation the I.O submitted charge sheet against the accused persons namely Akhu @ Akshya Pradhan ,Daka @ Chakrapani Pradhan Jogi @ Jogendra Pradhan and Kanduri Sahoo U/s 341/324/294/342/307/34 I.P.C. During hearing, the case of the present accused persons along with the accused Kanduri Sahoo was split up from the main case record on 19.12.2011 as these accused persons didnot not appear. Subsequently the accused persons Akshaya Pradhan and Chakrapani Pradhan were apprehended but Kanduri Sahoo could

not be apprehended . So again the case of Kanduri Sahoo was split up on 17.05.2012 and now this case only proceeded against the accused persons namely Akhu @ Akshaya Pradhan and Daku @ Chakrapani Pradhan.

3. The plea of the accused persons is one of complete denial .
4. The points for determination in this case are :-
 - (i) Whether on 15th day of March, 2001 at 9.30 am the accused persons in furtherance of their common intention wrongfully restrained the victim Sagar Maharana so that he could not move in any direction in which he had the right to proceed?
 - (ii) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention assaulted the victim with a knife with an intention to kill or knowledge under such circumstances that if they by that act caused death of victim they would have held guilty of murder?
5. To substantiate its case prosecution had examined as many as six witnesses, whereas defence had examined none.
6. Here in this case prosecution had examined as many as six witnesses. Out of which the informant was examined as P.W.3. During his examination in the court he stated that he does not remember anything about this case and he has nothing to say against the accused persons. However he admitted the fact of lodging of the F.I.R. Through this witness prosecution marked the F.I.R. as

Ext.1 and his signature as Ext. 1/1. Apart from that he stated nothing regarding the alleged occurrence. Similarly the victim of this case namely Sagar Maharana while being examined as P.W.5 denied his knowledge about the occurrence. Although the informant and victim were examined by the Learned Addl. P.P U/s 154 of the Evidence Act, nothing much of importance was elicited from their mouth which could have supported the case of the prosecution. Apart from these two witnesses prosecution had examined four other eye witnesses to the occurrence as P.W,s 1,2, 4 & 6,who also denied their knowledge about the occurrence. All the said witnesses were also put to question by the Learned Addl. P.P. U/s 154 Evidence Act. But nothing much of importance was elicited from their mouth. Apart from these witnesses no other witnesses were examined by the prosecution. From the aforesaid discussion it reveals that none of the prosecution witnesses supported the case of the prosecution including the informant and the victim. All the said witnesses showed their ignorance about the alleged occurrence. However the prosecution could able to mark the F.I.R as Ext.1 through the informant. At this juncture it can be said that the F.I.R is not a substantial piece of evidence which can be used to convict the accused persons. Rather it is a corroborative piece of evidence. It can be used for the purpose of contradiction and corroboration only. As no corroboration is available to the FIR story the said document marked as Ext.1 is of no use for the case of the prosecution. As none of the prosecution witnesses including the informant and

victim did not support the case of the prosecution, I am of the opinion that the prosecution could not able to prove its case beyond all reasonable doubt.

7. In the result I hold the accused persons not guilty for the offence U/s 341/307/34 I.P.C. and acquit them u/s. 235(1) Cr.P.C. They be set at liberty forthwith and be discharged from the bail bonds.

The seized article if any be destroyed after four months of expiry of the appeal period if no appeal is preferred and in case of any appeal as per the order 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 16.08.2014.

Asst. Sessions Judge,
Banpur.

LIST OF WITNESSES EXAMINED ON BEHALF OF THE PROSECUTION.

P.W.1. Purna Chandra Rout
P.W.2. Manjuli Jena
P.W.3. Sudarsana Maharana
P.W.4 Jogendra Maharana @ Jogi
P.W.5 Sagar Maharana
P.W.6 Kumari Maharana

LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENCE.

NONE.

LIST OF EXHIBIT MARKED FOR THE PROSECUTION.

Ext.1. F.I.R.
Ext.1/1. Signature of P.W.3 on Ext.1.

LIST OF EXHIBIT MARKED FOR THE DEFENCE.

NIL.

Asst. Sessions Judge, Banpur.

