

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

Sri Satya Ranjan Pradhan
Asst..Sessions Judge, Banpur

S.T. Case No. 93/74 of 2014

(Arising out of G.R. Case No. 12(A)/1991
corresponding to Banpur P.S. Case No. 07/1990)

State. ... Prosecution.

-Versus-

Santilaxmi Samantaray, aged about 45 years,
W/o Tribhubana Raj Samantaray,
Vill: Sunakhala, P.S: Banpur, Dist: Khurda.

... Accused.

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

For the Defence : Sri A.K.Swain & Associates,
Advocates.

Date of Argument : 21.10.2014

Date of Judgment : 25.10.2014

Offence U/s 436 I.P.C.

JUDGMENT

(i) The above named accused stands charged U/s 436 of the Indian Penal Code .

(ii) The brief facts of the prosecution story is that:

On 07.01.1991 night the informant and her husband were sleeping in their house. By hearing hulla they got up and found their house on fire. So they came out. The persons at the spot informed her that Ashok and Santilaxmi set fire to the house and ran away. The entire house of the informant was burnt. This incident was reported to police and after

investigation the police submitted final form stating that the case true but no clue. But cognizance was taken against the present accused and one Ashok Kumar Narendra U/s 436 I.P.C they were put to trial.

On 07.02.1996 the case against the present accused was split up from the other accused as he did not appear before the court below. Subsequently the case record along with the accused was committed to the Court of Sessions on 25.04.2014. Hence this case.

(iii) The plea of the accused person is one of complete denial .

(iv) The points for determination in this case are :-

5. Whether the accused had committed mischief by fire with an intention to cause destruction of the house of the informant which she was using for her dwelling?

(v) To substantiate its case prosecution had examined as many as five witnesses, whereas defence had examined none.

(vi) So as to substantiate its case prosecution has examined as many as five witnesses. But the evidence of the informant and her husband could not taken as both of them have died before their statement could be recorded by this court. On perusal of the case record it reveals that the informant or her husband had not seen the accused persons setting fire to their house. They came to know about the involvement of the accused persons from one Bhikari Martha and Bijaya Paikray who are their neighbours. In the said process of mischief caused by the accused persons some part of the house of Bijay Paikray was also destroyed. The said Bijay Paikray as well as Bhikari Martha were examined as P.Ws 1

and 4 respectively. However both of them denied their knowledge about the said occurrence. Out of the said two witnesses the witness Bijay Paikray was put to question U/s 154 of the Evidence Act by the learned prosecutor but nothing much of importance was elicited from his mouth which could have supported the case of the prosecution. Apart from these two witnesses prosecution had examined three more witnesses namely Sukanta Kumar Narendra, Dolagobinda Paikray and Ashalata Paikray wife of Bijaya Paikray as P.Ws 2,3 and 5. Like the previous witnesses these three witnesses also denied their knowledge about the occurrence. Apart from these five witnesses no other witnesses were examined by the prosecution. From the above discussion it revealed that none of the prosecution witnesses examined has stated anything against the accused. In this circumstances I believe that prosecution has failed to prove its case against the accused.

(vii) In the result I hold the accused not guilty for the offence U/s 436 I.P.C. and acquit her u/s. 235(1) Cr.P.C. She be set at liberty forthwith and be discharged from the bail bond.

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 25th day of October, 2014.

Asst. Sessions Judge, Banpur.

LIST OF WITNESSES EXAMINED ON BEHALF OF THE PROSECUTION.

- P.W.1. Bijaya Paikray.
P.W.2. Sukanta Kumar Narendra
P.W.3. Dolagobinda Paikray
P.W.4 Bhikari Martha
P.W.5 Ashalata Paikray

LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENCE.

NONE.

LIST OF EXHIBIT MARKED FOR THE PROSECUTION.

- Ext.1. Signature of P.W.2 on the seizure list.

LIST OF EXHIBIT MARKED FOR THE DEFENCE.

NIL.

Asst. Sessions Judge, Banpur.