

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

Present:

Sri A.K.Sahoo, LL.M.,

2<sup>nd</sup> Addl. Sessions Judge, Khurda.**T.R.Case No. 6 of 14**

( Arising out of G.R.Case No. 284/11 corresponding to Bolagarh P.S .Case No. 32/11 )

**S T A T E**

.....

Prosecution.

...Vrs...

1. Smt.Banki Pradhan, aged about 40yrs. W/o Pahali @ Prahallad Pradhan
2. Pahali @ Prahallad Pradhan age about 50 yrs S/o Purusottam Pradhan
3. Sipu @Sidhanta Kumar Pradhan, age about22 yrs S/o Pahali@Prahallad Pradhan.
4. Muna @ Sukanta Kumar Pradhan, aged about.20 years. S/o Pahali @ Prahallad Pradhan.

Vill. Trutiapada, P.S. Bolagarh, Dist. Khurda.

.....Accused persons.

**OFFENCE U/S. U/s. 341,323,294,506/34 I.P.C and 3(i)(x)(xi) S.C& S.T (PA)Act**

Counsel for the prosecution : Sri A.K.Pattnaik, Addl. P.P

Counsel for the defence : Sri Prafulla Ku. Mishra, Adv.

Date of argument : 14.8.2014

Date of Judgment: 20.8.2014

**J U D G M E N T**

Accused persons stand charged U/s. 341, 323, 294, 506/34 I.P.C and 3 (i)(x)(xi) S.C & S.T ( P.A) Act.

2. On 15.3.2011 afternoon while Smt. Rajani Sahu had been to collect water from the village water point, accused Smt. Banki Pradhan was taking water, since the informant put her pitcher to collect water accused Banki threw away the pitcher and rebuked her telling “Bedhei Keutuni Tu Athi Pani Nele Amara Pani Chhuan Heba”. The informant felt insulted and as she protested accused Banki dragged her and assaulted her with kicks and fist blows, at that time her husband Prahallad Pradhan and sons Sidhant and Sukanta further rebuked her concerning her caste and assaulted her with a Farsa causing bleeding injuries. Balabhadra Behera and Prafulla Sahu saved her. On such allegation police registered the case and S.D.P.O, Khurda conducted investigation. The investigation resulted into submission of charge-sheet against the accused persons, hence this case.

3. The plea of the accused persons mere denial.

4. The points for determination in this case are;

- i) Whether the accused persons in furtherance of their common intention voluntarily obstructed the informant from going in a direction she has right to move?
- ii) Whether the accused persons in furtherance of their common intention caused hurt to the informant voluntarily?
- iii) Whether the accused persons in furtherance of their common intention rebuked the informant telling obscene words causing annoyance to her?
- iv) Whether the accused persons in furtherance of their common intention threatened to assault the informant and thereby caused alarm to her?
- v) Whether accused Banki Pradhan insulted the informant for being of S.C caste with intention to insult her in a public place?
- vi) Whether the accused persons assaulted the informant belonging to S.C caste with intention to dishonour her?

5. Prosecution has examined as many as 5 witnesses in this case and then considering their evidence closed its case. It is evident from the testimony from the Medical Officer P.w.1 that on 15.3.11 he had examined informant Smt. Rajani Sahu and found one lacerated injury of size 1" x 1/ 3" over the right parietal region which was simple in nature. He has proved his report vide Ext.1. He has opined that such injury can be possible by fall on a sharp edge surface and on the request of the patient he had referred her to Capital Hospital for C.T Scan. Therefore, it indicates from the testimony of this witness that on 15.3.2011 informant had sustained one lacerated injury over her right parietal region. P.w.2 the informant says that while she had been to collect water accused Banki Pradhan told her "Tu Keutunita Pani Kana Nabu", for which she returned home. Thereafter all the accused persons came and accused Banki assaulted her with a "gara" causing injury. P.w.3 Urmila Khatei did not support the case of prosecution, rather testifies that there was a dispute between the parties since Manas the son of informant had passed comment to the daughter of Banki. P.w.4 Smt.Nisamani Nisanga did not support the case of prosecution. P.w.5 the husband of the informant testifies that they belong to S.C category being "Kaibarta" by caste. Further that accused Banki had rebuked his wife telling "Tu keutuni Chhuan heba" and did not allow her to collect water, but she had collected water after the quarrel. He says that the accused Muna had assaulted his wife by farsa causing bleeding injury. During cross-examination it has come out that he was released on bail in a case filed since Manas had commented the daughter of Banki Pradhan. Further that now the dispute has been compromised among them.

6. In view of such evidence in record, prosecution did not choose to further proceed with the case. It is clear from the available evidence in record that the son of the informant had passed comment at the daughter of accused Banki, for which there was a case filed before police in which husband of Rajani Sahu was arrested and released on bail. Therefore, it is not safe to rely on the sole testimony of informant P.w.2 or her husband. The independent

witnesses P.ws.3 and 4 had not supported the case of prosecution, rather P.w.3 has supported the defence plea. There is contradiction regarding the assault by the accused persons and causing injury to the informant. Though the injured-informant says that she sustained injury due to assault by Banki with a gara, her husband testifies that accused Muna assaulted p.w.2 by a farsa causing bleeding injury. Therefore it is not safe to believe the case of prosecution particularly in view of proof of defence plea regarding prior enmity. There is no corroborative evidence regarding intention of accused Banki to insult informant Rajani Sahu relating to her caste.

7. In view of such analysis of evidence, since the prosecution has failed to prove the charge against the accused persons U/s. 341, 323, 294, 506/34 and 3(i)(x)(xi) of S.C & S.T ( P.A) Act . Consequently the accused persons are held not guilty of offence U/s. 341, 323, 294, 506/34 and 3(i)(x)(xi) of S.C & S.T ( P.A) Act and are acquitted there from U/s.235(1) Cr. P.C.

2<sup>nd</sup> Addl. Sessions Judge, Khurda.

The judgment is dictated, corrected and pronounced by me in the open court today i.e 20<sup>nd</sup> day of August,2014 under my hand and seal of this court

2<sup>nd</sup> Addl. Sessions Judge, Khurda.

List of P.ws examined for prosecution.

P.w.1	Dr. Ram Prasad Panda
P.w.2	Smt. Rajani Dei
P.w.3	Smt. Urmila Khatei
P.w.4	Smt. Nisamani Nisanga
P.w.5	Lingaraj Sahu

List of Dws examined for defence.

N i l.

List of exhibits marked for prosecution.

Ext.1            Medical Report

Ext.1/1         Signature of p.w.1 on Ext.1

List of Exhibits marked for defence.

N i l.

List of M.Os marked for prosecution.

N i l.

2<sup>nd</sup> Addl. Sessions Judge, Khurda.