

IN THE COURT OF THE 1ST ADDL. DISTRICT &
SESSIONS JUDGE-CUM-SPECIAL JUDGE(VIGILANCE),
BHUBANESWAR.

P R E S E N T : Shri N.Sahu, LL.B.,
1st Addl. District & Sessions Judge-cum-
Special Judge(Vigilance),Bhubaneswar.

T.R.No.2/39 of 2013

(Arising out of G.R.Case No.367 of 2009
corresponding to Jatni P.S.Case No.
144, dt.17.9.2009).

S T A T E Prosecution.

-Versus-

1. Pratap Kar, aged about 47 years,
S/o.Late Lokanath Kar, Vill.-Radhacharanpur,
PS-Jatni, District-Khurda.
 2. Papu @ Beбина @ Pabitra Kar, aged 24 years,
S/o. Pratap Kar, Vill.-Radhacharanpur,
PS-Jatni, District-Khurda.
 3. Biju @ Bijay Ku. Kar, aged about 23 years,
S/o.Pratap Kar, Vill.-Radhacharanpur,
PS-Jatni, District-Khurda.
- Accused persons.

For the Prosecution : Sri S.K.Barik, Addl.P.P.

For accused persons : Sri S.K.Pradhan &
Associates,Advocates.

Date of argument : 4.8.2014.

Date of judgment : 7.8.2014.

Offences u/s.294/323/341/506/34 of IPC & u/s.3(1)(x) SC & ST
(PA) Act.

J U D G M E N T

1. The aforesaid accused persons stood charged for
committing the offences punishable u/s.294/323/341/506/34 of
IPC & u/s.3(1)(x) SC & ST (PA) Act.

2. Briefly stated the prosecution case is that on 12.9.09 at Village-Radhacharanpur the accused persons called the husband of the informant to the village club house, assaulted him by means of a "KATHAFALIA" causing bleeding injury and tried to throttle his neck. It is also alleged that the accused persons abused the informant and her husband in obscene language and threatened to kill them. Basing on the report of the informant a case was registered, investigation commenced and after completion of investigation, charge-sheet was submitted against the accused persons resulting this trial.

3. Defence plea as apparent from the sequence of cross-examination is one of complete denial and false implication.

4. Prosecution has examined 5(five) witnesses whereas the defence has examined none.

5. The points for determination are :

(i) Whether on 12.9.09 at 2 PM at Radhacharanpur the accused persons in furtherance of their common intention uttered obscene words in a public place causing annoyance to others ?

(ii) Whether on the aforesaid date, time and place the accused persons in furtherance of their common intention voluntarily caused hurt to the husband of the informant and wrongfully restrained him ?

(iii) Whether on the aforesaid date, time and place the accused persons in furtherance of their common intention committed criminal intimidation by threatening the informant and her husband with injury to their person with intent to cause alarm to them ?

(iv) Whether on the aforesaid date, time and place the accused persons not belonging to SC & ST category intentionally insulted or intimidated with intent to humiliate the informant and her husband who belong to Scheduled Caste ?

6. All the points are taken up together. PW-1 only stated that about 2 to 3 years back preceding June, 2014 there was some quarrel between the husband of the informant and the accused persons and he does not know anything more. In cross-

examination, he categorically stated that he does not know the reason of quarrel among them. Even he stated that the family of the informant and the families of the accused persons are now in good terms and living peacefully. PW-2 like PW-1 stated that there was some quarrel between the husband of the informant and the accused persons and by that time he (PW-2) was the Ward Member of the Ward. He further stated that now the relationship between the family of the informant and accused persons are good and the matter has been compromised between the parties and he does not know anything more. In cross-examination, he stated that he has no personal knowledge about the occurrence, but he had intervened during compromise between the parties since he was the Ward Member.

7. PW-3 the victim stated that there was some quarrel between himself and the accused persons and he had sustained injury on his head and the matter has been compromised among them. He specifically stated that during tussle he fell down and he had sustained injury on his head. He proved his medical examination report vide Ext.1. But in cross-examination he stated that soon after the occurrence the village gentries intervened and compromised among them. He also stated that he does not remember about the details of the occurrence and he could not say exactly as to who pushed whom during the tussle. He also stated that now their families are having good relationship and he does not want to proceed with this case and he further stated that the accused persons had not uttered anything relating to their caste.

8. PW-4 is the informant who stated that there was some quarrel between her husband and the accused persons, but she does not remember the details of that quarrel. Her husband had sustained some injuries on his head and he was medically

examined. She also stated that someone wrote a report vide Ext.2 and she signed thereon vide Ext.2/1 and she does not know anything more. In cross-examination she admitted that she cannot say the contents of the report Ext.2. Moreover, she stated that she signed on Ext.2 in presence of police being asked by them. She also stated that the matter has been compromised between them and both the families are living peacefully having good relationship and she does not want to proceed with this case.

9. PW-5 the medical officer stated that on 2.7.10 on police requisition he furnished the details of the injuries sustained by PW-3 who was examined by him on 12.9.09 vide Admission No.10968 and he proved his report vide Ext.3. He also stated that he had found two lacerations and one bruise with swelling on the chin and occipital region of the patient and all the injuries were simple in nature probably caused by hard and blunt object. In cross-examination PW-5 stated that such injuries are possible if one falls from a staircase. He also stated that these injuries were finally found to be simple by their Neurosurgeon and he further stated that he had furnished his report Ext.3 basing on the entry of their MLC Register. But the said register has not been proved.

10. Of course, Ext.4 the letter of the Tahasildar which was marked on admission shows that the victim belongs to "DHOBA" Caste and the accused persons belong to "BRAMHIN" Caste, but from the evidence on record as discussed above, it emerges that the victim who is the vital witness of this case has not uttered anything implicating the accused persons with the alleged offences. No other witness nor even the wife of the victim has stated anything against the accused persons. Even if it is assumed that the husband of the

informant had sustained some injuries, but there is lack of evidence to establish that these accused persons had caused these injuries. So far the offences of wrongful restraint, criminal intimidation, using obscene words and insulting the informant and her husband, none of the witnesses including the informant and the victim has whispered anything implicating the accused persons. Rather, PW-3 the victim has specifically stated that the accused persons had not uttered anything relating to their caste. Adding to this, Pws-1 to 4 categorically stated that the parties have compromised their dispute and they are living peacefully having good relationship and Pws-3 and 4 further added that they do not want to proceed with this case.

11. Therefore, after analyzing the evidence on record and for the reasons discussed above, I am inclined to hold that the prosecution has failed to prove its case against the accused persons for commission of the offences punishable u/s. 294/323/341/506/34 of IPC & u/s.3(1)(x) SC & ST (PA) Act. In the result, the accused persons are found not guilty of the offences u/s.294/323/341/506/34 of IPC & u/s.3(1)(x) SC & ST (PA) Act and acquitted u/s.235(1) of Cr.P.C. Their bail bonds be cancelled and sureties discharged.

1st Addl. District & Sessions Judge-cum-Special Judge(Vigilance),Bhubaneswar.

The judgment having been typed to my dictation and corrected by me and being sealed and signed by me is pronounced in the open court today this the 7th day of August, 2014.

1st Addl. District & Sessions Judge-cum-Special Judge(Vigilance),Bhubaneswar.

List of witnesses examined for the prosecution :

P.W.1	Kailash Behera.
P.W.2	Dilip Ku. Behera.
P.W.3	Pratap Ku. Sethi.
P.W.4	Leepika Sethi.
P.W.5	Dr. Rahul Rout.

List of witnesses examined for the defence :-

N o n e.

List of exhibits marked for the prosecution :-

Ext.1	Medical Examination Report.
Ext.1/1	Signature of PW-3 on Ext.1.
Ext.2	Report.
Ext.2/1	Signature of PW-4 on Ext.2.
Ext.3	Medical Examination Report.
Ext.3/1	Signature of PW-5 in Ext.3.
Ext.4	Letter No.3643, dt.23.6.10.

List of exhibits marked for the defence :-

Nil.

List of M.Os. marked for the prosecution :-

Nil.

List of M.Os. marked for the defence :-

Nil.

1st Addl. District & Sessions Judge-cum-
Special Judge(Vigilance),Bhubaneswar.

