

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

Present:

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

2nd Addl. Sessions Judge, Khurda.

T.R.Case No. 4 of 14

(Arising out of G.R.Case No. 24/12 corresponding to Banpur .Case No.
17/12)

S T A T E

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Prosecution.

...Vrs...

Dasil Pradhan, aged about 36 years, S/o Gandu Pradhan

Vill. Khajuria, P.S. Banpur, Dist. Khurda.

.Accused

OFFENCE U/S. U/s. 447, 294, 506 I.P.C and 3(i)(x) S.C& S.T (PA)Act

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

Counsel for the defence : Sri Pravat Ku. Das Adv.

Date of argument : 30.7.2014

Date of Judgment: 2.8.2014

J U D G M E N T

Accused Dasil Pradhan stands prosecuted U/s.447, 294, 506 I.P.C and 3(i)(x) of S.C & S.T (P.A) Act.

2. It is alleged by the informant Sabita Sethi that on 23.1.12 at 8.30 p.m while she was sitting in her house and her husband had been to attend the call of nature, the accused knocked the door of her house and as she opened it, the accused barged into the house and caught and clung her and tried to lie her down on the ground and requested for sexual favour. At that time her husband

returned home and pushed the accused, for which he fled away. While going away the accused threatened her to commit sexual intercourse some other day and as the informant was going to lodge F.I.R, local gentlemen assured her to settle the matter, but since nothing could be decided, the F.I.R was lodged on 26.1.12. Police registered the case and conducted investigation. The investigation resulted into submission of charge-sheet against the accused U/s.447, 294, 506 I.P.C and 3(i)(x) S.C & S.T (P.A) Act. The accused pleaded not guilty and claimed for trial.

3. The plea of the accused is mere denial.
4. The points for determination in this case are;
 - i) Whether accused has committed criminal trespass by entering into the house of informant?
 - ii) Whether the accused uttered obscene words in a public place causing annoyance to others?
 - iii) Whether the accused threatened to commit sexual intercourse to the informant causing alarm to her?
 - iv) Whether the accused is not a member of S.C & S.T community?
 - v) Whether the informant is a member of S.C & S.T community?
 - vi) Whether the accused intentionally insulted in intimidated with intention to humiliate the victim a member of S.C within the public view by threatening her rebuking her and entering into her house?
5. Prosecution has examined as many as 6 witnesses in this case ,out of them P.w.4 is the informant, while other witnesses are independent witnesses of the case of prosecution.
6. The record reveals that all the witnesses except the informant have stated nothing in court corroborating the prosecution case. All the witnesses

have been declared hostile by prosecution and leading questions have been put to them, but I found nothing has been elicited from them by the prosecution corroborating the F.I.R story. Rather P.w.5 and 6 say that there is party faction and election rivalry in the village. P.w.4 the victim testifies that about 2 and half years back in one night at 8.30 p.m while her husband had been to attend call of nature and she was sitting in her house, the accused came inside and pounced upon her, she shouted for help. While the accused was fleeing away her husband caught hold of him. Further that the accused rebuked her telling “ Dhobani Chodani to mo Banda Chhodidebu”. Then she reported the matter to village caste men, but they did not take any action, for which F.I.R was lodged in delay. The F.I.R has been marked as Ext.1. During cross-examination she admits that the F.I.R was scribed at Khurda after two days of occurrence and before that they had reported the matter at Gambharimunda out post and police has wrote something on their report. Then they went to Banpur P.S and lodged report. As regards scribe of F.I.R it has been elicited that they had consulted one advocate at Khurda, discussed the matter with him and the report was prepared on her saying. The discussion was made for 30 minutes. At the instance of her husband she has put her signature on the F.I.R. Learned defence counsel has elicited contradictions that P.w.4 had not stated to police that the accused pounced upon her and rebuked her telling “ Dhobani Chodani to mo Banda Chhodidebu” . As a matter of fact it remains that F.I.R does not contain that the accused had rebuked her telling Dhobani, nor the obscene words stated by her. She admits that since they are washer man by caste villagers addressed her as Dhobani.The husband of the victim did not appear in court for his examination and thereafter considering the material in record the case of prosecution has been closed.

7. Admittedly there is no corroboration by any of the witnesses belonging to locality to the case of prosecution. It is trite that sole testimony of a victim or injured can be relied on if it is free from concoction or embellishment and it is trust worthy. In the present case the F.I.R does not contain the material part of

the allegation that the accused threatened the victim telling Dhobani, therefore charge U/s. 3(i) (x) S.C & S.T (PA) Act fails. At the same time F.I.R has been drawn after consultation and discussion with the advocate at Khurda. The record indicates party faction and rivalry due to election between the parties. Therefore, there is no corroboration at all to the testimony of the victim, and it does not inspire confidence to believe it, or safe to rely on it. The purpose of the legislature to bring in the statute the S.C and S.T (P.A) Act 1989 is to prevent the commission of offences of atrocities against the members of the S.C and S.T community. Admittedly the victim belongs to S.C. Sec. 3(i) (x) S.C and S.T (P.A) Act 1989 of the statute postulates intentional insult or intimidation with intent to humiliate the member of S.C or S.T community within the public view. In the present case prosecution has failed to prove it.

8. So far as other offences are concerned, I found the incident had taken place inside the house, for which charge U/s.294 I.P.C fails. P.w.4 has not stated about causing of criminal intimidation or alarm to her, for which charge U/s.506 I.P.C fails. As regards the entering into the house, though F.I.R contain that the accused knocked the door, for which the victim opened it, the statement in court in this regard is different. That being so charge U/s.447 or 448 I.P.C in alternative also fails.

9. Having regard to such analysis of evidence available in case record, it is held that the prosecution has failed to prove the charge against the accused U/s.447, 294, 506 I.P.C and 3(i)(x) of S.C & S.T (P.A) Act and held not guilty of the offence U/s.447, 294, 506 I.P.C and 3(i)(x) of S.C & S.T (P.A) Act and is acquitted there from U/s.235(1) Cr. P.C and set at liberty.

2nd Addl. Sessions Judge, Khurda.

The judgment is dictated, corrected and pronounced by me in the open court today i.e 2nd day of August,2014 under my hand and seal of this court

List of P.ws examined for prosecution.

P.w.1	Smt. Labanya Sethi
P.w.2	Bhaskar Panda
P.w.3	Basanta Pattnaik
P.w.4	Sabita Sethi
P.w.5	Ramakrushna Das
P.w.6	Golakh Palei

List of Dws examined for defence.

N i l.

List of exhibits marked for prosecution.

Ext.1	F.I.R
Ext.1/1	Signature of p.w.4 on F.I.R

List of Exhibits marked for defence.

N i l.

List of M.Os marked for prosecution.

N i l.