

IN THE COURT OF SPECIAL JUDGE: BHUBANESWAR.

Present:

Shri I.K. Das,LL.B.
Special Judge, Bhubaneswar.TR CASE NO. 95/19 of 2013-11

(Arising out of G.R. Case No.578 of 2007)

Vide Hon'ble Courts Letter No. 8017 (44) dtd. 9.9.2014**Status of the accused person/persons:**

1. Accused is on bail:
2. Accused is present:

Date of argument- 13.11.14Date of Judgment- 19.11.14State
-Vrs-Sk. Zakir Saha @ Khan, aged about 45 years
S/o Sk. Uddin Khan, resident of Vill: Bengabati
PS: Balipatna, Dist: Khurda

... Accused

Advocate for the prosecution- Sri N.R. Ray, Addl. P.P. BBSR

Advocate for Accused Shri R.K. Pradhan, Advocate

Offence Under Sections:- Sec. 341/323/506/294 IPC and u/s 3 of SC &
ST (PA) Act.**J U D G M E N T**Accused stands charged for the offence u/s 341/323/294/506 IPC
and u/s 3 of SC & ST (PA) Act.

2. Prosecution was initiated on the basis of a written report filed by one Chabindra Naik that on 10.2.07 at about 2 PM while he was going with some posters, the accused abused him with filthy words on the road saying "Sala Haditoka Magiha". Thereafter the accused assaulted him and snatched away the

posters. On the intervention of some witnesses, he was saved from the accused. On the basis of such FIR IIC Balipatna PS registered PS case No.11/07 and requested one DSP to take up investigation of the case. During course of investigation, the IO visited the spot, examined the informant and witnesses and recorded their statement, forwarded the injured for medical examination and obtained the injury report. After completion of investigation, submitted charge sheet.

3. Plea of the defence is complete denial to the occurrence.

4. Points for determination are as follows:-

(i) Whether on 10.2.07 at about 2 PM, the accused abused the informant in obscene language in a public place causing annoyance to him and others and thereby committed an offence u/s 294 IPC ?

(ii) Whether on the same day, time, the accused abused the informant by his caste aspersion and thereby committed offence u/s 3 of SC & ST (PA) Act ?

5. During the course of trial, prosecution examined only 2 witnesses out of which P.W.1 is the victim informant and P.W.2 is another witness to the occurrence.

6. During the course of trial, a joint compromise petition is filed by both the accused and victim and it is submitted to dispose of the case on the basis of compromise. Out of the offences, offence u/s 341/323/506 IPC are all compoundable in nature and therefore, the offences have been compounded and the accused has been acquitted from the above offences u/s 320(8) Cr.P.C. The only offence pending against the accused is u/s 294 IPC and Sec. 3 SC & ST (PA) Act. I have examined the evidence of victim. He categorically deposed in the Court that he does not know anything about the case. He also did not support the contents of the FIR, although exhibited his signature on the FIR as Ext.1. In his evidence, he also admitted that the matter has been compromised outside the Court. P.W.2 was the Sarpanch at the relevant time. He also denied his knowledge about the case. Police did not examine him during investigation. On

perusal of evidence and in view of compromise between the parties, no further witness has been examined as it will not improve the prosecution case. The available material on record does not implicate the accused in any manner with the alleged offences, although in the FIR, PW.1 stated that the accused abused him saying "Sala Haditoka Magiha", he did not support the same during his examination in the Court. As the contents of the FIR has not been proved through the mouth of P.W.1 by adducing evidence, offence u/s 294 IPC is not proved against the accused.

7. As regards offence u/s 3 SC & ST (PA) Act, the victim in his evidence did not claim to be a member of Scheduled caste or tribe and by uttering such abusive words he was annoyed at the public place. P.W.2 also did not say that the informant being a member of Scheduled caste was abused by the accused with aspersion to his caste. Taking into consideration the material on record, I find the prosecution has miserably failed to prove the case against the accused beyond reasonable doubt.

8. In the result, the accused is found not guilty for the offence u/s 341/323/294/506 IPC and is acquitted therefrom. In absence of any material for the offence u/s 3 of SC & ST (PA) Act, the accused is also found not guilty of the said offence and are acquitted u/s 235 (1) Cr.P.C. The accused be set at liberty forthwith. Their bail bonds be cancelled and surety be discharged.

9. The seized property if any, be destroyed, four months after expiry of appeal period, if no appeal is preferred and in case of appeal, as per the direction of the appellate court.

Pronounced in the open Court today this the 19th day of November, 2014.

Typed to my dictation and corrected by me.

Special Judge, Bhubaneswar

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List of witnesses examined for the prosecution

P.W.1:- Chabindra Naik

P.W.2:- Mir Nasir Alli

List of witness examined for the defence

Nil

List of exhibits marked for the prosecution

Ext.1: Signature of P.W.1

List of Exts. Marked for Defence

Nil

Special Judge, Bhubaneswar.