

IN THE COURT OF THE ADDL.C.J.M-ASJ, B H U B A N E S W A R.

Present:
Sri P.L.Satpathy,LL.B.,
Addl.C.J.M-ASJ,Bhubaneswar.

C.T.CASE NO.16/94/07/14

(Arising out of GR.Case No.2330/05 corresponding to Saheed Nagar PS Case No.195/05)

S T A T E

-Versus-

Narayan Singh @ Tiki, aged about 29 years,
S/o Bata Singh, At: Pathar Bandha Basti, PS: Saheed Nagar, Dist: Khurda

..... Accused person

OFFENCE U/S.307 IPC.

Counsel for the prosecution : Sri P.Pattnaik, Addl.P.P, Bhubaneswar.

Counsel for the Defence : Sri Niranjan Kanungo & Associates, Advs, BBSR.

Date of argument: 20.6.14

Date of judgment: 21.6.14

J U D G M E N T

1. The accused named above stands charged for the offence punishable U/s.307 IPC
2. Shortly stated, the prosecution case is that :

On 11.7.05 at about 1.45 pm Jitendra Reddy, the informant of this case (PW3) while was playing cards with others on the veranda of the club house situated in the Majhi Sahi of Patharbandha Basti under Saheed Nagar PS the accused Narayan Singh @ Tiki Singh arrived there and with intents to finish PW.3 away suddenly attacked PW.3 with a cricket bat causing bleeding injuries on his head. PW.3 reported the matter at Saheed Nagar PS in writing on the basis of said FIR (Ext.1) Saheed Nagar PS Case No. 195/05 U/s.307 IPC was registered against the accused. Investigation was undertaken there by and in the course of investigation police examined the informant and other witnesses, send the injured (PW.3) with injury requisitions to Capital Hospital, BBSR for his examination, visited the spot, seized the weapon of the offence i.e a cricket bat under seizure list (Ext.3), received the injury report of the injured and after closure of usual investigation submitted charge sheet U/s.307 IPC against the accused named above before the Court of Ld. SDJM, BBSR to face his trial in the court of law. The case was committed to the court of Sessions and subsequently this

case was transformed to this court for disposal according to law.

3. The case of the defence is one of completely denial to the prosecution allegations and false implications.

4. The points for determination in this case is as follows:

i) Whether on 11.7.05 at around 1.45 am in Patharbandha Basti under Saheed Nagar PS the accused attempted to commit murder to Jitendra Reddy (PW.3)?

5. In order to establish its case, prosecution examined as many as 5 witnesses, in all including the informant-cum injured (PW.3). Pws.1 is the scribe of the FIR (Ext.1). PW.2 and 5 are alleged to be the eye witness to the occurrence. PW.4 is alleged to be one of the witness to the factum of seizure of the alleged weapon of the offence. On the other hand defence has adduced no evidence on its side. pw.1 happens to be the brother of the informant(pw.3). His evidence reveals that he had only scribed the FIR but he has no direct knowledge about the incident. This witness has also stated in one place that he has scribed the FIR at the instance of the informant (PW.3) and in another place he has stated that he has scribed the FIR. PW.2 and 5 are alleged to be the eye witnesses to the occurrence but their evidence before the court reveals that they had no direct knowledge about the incident rather they had heard that while the informant was busy in playing cards accidentally fell down and sustained injuries on his person. They both have not implicated the accused in the alleged occurrence. The evidence of PW.2 and 5 does not reveal from whom they had heard about the incident. Their evidence also does not disclose that they had seen the accused sustaining injuries on his person. Their evidence also does not disclose that either they had asked about the incident in question to the informant or the informant had narrated the same before them. PW.4 is alleged to be one of the eye witness to the factum of seizure of the weapon of the offence i.e the cricket bat. This witness in his evidence before the court has stated that about 7 years back from the date of his deposition before the court that police had seized a material in his presence and prepared seizure list (Ext.3) where in he put his signature (Ext.3/1). In cross examination this witness has categorically stated that he can not say in which connection that articles were seized and that by the lapse of time he do not remember what was that article which was seized under Ext.3 and that he can not say from whom it was seized and from where police had brought that article. Ext.3 reveals that police has seized the alleged weapon of the offence at the spot i.e at Patharbandha Basti where as this witness has stated that police had prepared Ext.3 at PS in his presence. Hence the place of seizure appears to be discrepant. From the evidence of Pws. 1,2,4 and 5 it is clear that prosecution has got no help from the four witnesses to implicate the accused with the commission of alleged crime.

6. Now the prosecution case rests only on the testimony of the informant-cum-injured (pw.3). PW.3 being the victim in this case is a star witness of the prosecution. He is the best person to say about the incident in question. Reading his evidence shows that he along with the accused and others were busy in playing cards seating on the mandap of their basti some other persons were also witnessing their play. In the course of playing there was shout amongst them and the persons those who were watching the play. Further his evidence reveals that he accidentally fell on the ground and received injuries on his person. Persons present at the spot took him to the Saheed Nagar PS . Police told them unless FIR is lodged they can not send the injured for his medical examination. Accordingly at the instance of police his brother (pw.1) scribed the FIR. Police had sent him to Capital Hospital for his medical examination. This witness in his cross examination has categorically stated that the accused was no way responsible for the injuries received by him on his person. The accused had committed no overt act towards him. He had made no allegations against the accused. His evidence in cross examination further reveals that neither he has gone into the FIR (Ext.1) nor his brother (pw.1) who had scribed the FIR had read over and explained the contents of the same before him. As per the FIR story while PW.2 was busy in playing cards the accused came there and assaulted him. This fact of the FIR shows that the accused was not playing but as per the evidence of the informant (pw.3) the accused was playing along with him. The informant had not implicated the accused with the alleged incident. Since when the informant has not corroborated the FIR story on material facts the prosecution can not implied the said facts against the accused relying upon the FIR. Besides Pws.1 to 5 prosecution has no other evidence against the accused. Taking the entire prosecution evidence available on record into consideration I am of the respectable opinion that the prosecution has no evidence against the accused U/s.307 IPC and as such, the accused is entitled to be acquitted.

In the result, I hold the accused not guilty U/S 307 IPC and acquit him therefrom U/s.235(1)CrPC. The accused is on court bail and as such he be discharged from his bail bond.

Addl.C.J.M-A.S.J,Bhubaneswar.

The seized articles like old cricket bat be destroyed four months after the appeal period is over, if there would be no appeal.

Addl.C.J.M-A.S.J,Bhubaneswar

The judgment is dictated,corrected and pronounced by me in the open court today i.e. on 21st day of June, 2014 under my hand and seal of this court.

Addl.C.J.M-A.S.J,Bhubaneswar.

List of P.ws. examined for prosecution.

P.w.1 Surendra Reddy.
P.w.2 Laxman Tudu
P.w.3 Jitendra Reddy.
P.W.4 Ramachandra Mahali
P.W.5 Gayadhar Singh.

List of D.ws.examined for defence.

None.

List of exhibits marked for prosecution.

Ext.1 Written FIR dtd. 11.7.05
Ext.1/1 Signature of p.w.3 on Ext.1
Ext.2 Signature of p.w.3 in medical examination report
Ext.3 Signature of pw.4 in seizure list.

List of exhibits marked for defence.

N i l.

List of M.Os.

N i l.

Addl.C.J.M-A.S.J,Bhubaneswar.