

**IN THE COURT OF SUB-DIVISIONAL JUDICIAL MAGISTRATE (M)**  
**NORTH SHALMARA, ABHAYAPURI**

G.R. No. 811 of 2014 U/S 294/448/427/323/506/34 of IPC

State

-Vs-



1. Kishor Kumar Ray

S/O- Dhajen Ch. Das

Village- Deohati South

2. Ahsan Ali @ Dhana

S/O- Md. Sohreb Uddin Ahmed

Village- Rowmari

Both are from P.S.- Abhayapuri, District- Bangaigaon

..... Accused

Present: Shri Nayanjyoti Choudhury, A.J.S.

For the State: Mrs. S. Barman ....Learned APP

For accused: Mr. R. Hoque...Learned advocate

Date of Evidence: 12-03-19

Date of argument: 07-05-19

Date of judgment: 07-05-19

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

1. Brief fact of the case:-

2. The prosecution case in brief is that the informant Ratul Ray on 10-11-14 lodged the FIR before O/C, Abhayapuri P.S. alleging that on the same day at 9:30 am the accused above named along with some Hooligans committed criminal trespass into the office of Abhayapuri Magic Association and committed mischief. The accused also hit the informant and committed intimidation and left that place and hence the case. The FIR was registered as Abhayapuri P.S. case No. 445/2014 u/s 143/448/325/427/506 of IPC. After

*AD*  
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investigation police submitted the charge sheet u/s 448/326/506/34 of IPC against the accused persons named above. The accused persons named above made her appearance and copies of the relevant documents were furnished to the accused person. On hearing the learned APP, the learned advocate for the accused and considering the relevant material available with the case record the accused were discharged from the offences u/s 341/325 of IPC. However it was found that there wre prima facie material against the accused for presuming that they had committed offences punishable u/s 294/448/427/323/506/34 of IPC. Hence the particulars of offences u/s 294/448/427/323/506/34 of IPC were explained to the accused to which he pleaded not guilty and claimed to be tried. Prosecution examined one witness and exhibited no documents. The statement of the accused person was not recorded U/S 313 of Cr.P.C. as no incriminating material was found against them. The accused have not adduced any defense witness.



3. Points for determination:

(a) Whether the accused persons in furtherance of common intention on 10-11-14 at 9:30 am at Abhayapuri committed house trespass into the office of Abhayapuri Magic Association with an intention to commit any offence punishable with imprisonment?

(b) Whether the accused persons in furtherance of criminal intention on the same date, place and time voluntarily caused hurt to the informant and also gave criminal intimidation?

(c) Whether the accused persons in furtherance of criminal intention on the same date, place and time uttered obscene words to the informant and committed mischief?

4. I have carefully gone through the case record and perused the entire evidence on record both oral and documentary. I have heard the arguments and the submissions made by the learned advocates.

5. Discussion of evidence, decisions and reasons thereof:

6. The learned A.P.P. appearing for the state has fairly submitted that there are sufficient evidence in support of the prosecution case. On the other hand the learned advocate for the accused persons has submitted and argued that the prosecution witness has not supported the prosecution case and there is no evidence to show that the accused person is involved with the alleged offence. The learned advocate for the accused person has further submitted that the prosecution has miserably failed to prove the case against the accused person as alleged beyond all reasonable doubt and the accused persons are entitled to get acquitted from the charges levelled against him.

7. Now let us see how far the prosecution has been able to discharge its burden to prove the offence leveled against the accused. PW 1 Rezzak Ali deposed that he knew the informant and accused Kishore Kumar Ray but did not know Ashan Ali Ahmed. PW 1 deposed that he did not know anything

8. Now from the evidence of the witnesses it is seen that the witness was

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contradicting the prosecution story. Though summon was served upon the informant he refused to receive the summons as per service report which implies a doubt on the authenticity of the case. In a criminal case the prosecution has to prove the case beyond all reasonable doubt. But in this case the prosecution has not been able to prove the case beyond all reasonable doubt to make me believe that the accused persons were involved to the charges leveled against them. Hence in my considered view I hold the opinion that the accused are not guilty u/s 294/448/427/323/506/34 of IPC

9. Considering the nature of the offence and other attending facts and circumstances of this case the accused Kishore Kumar Ray and Ahsan Ali @ Dhana are acquitted.

10. The bail bonds for Kishore Kumar Ray and Ahsan Ali @ Dhana shall be in force for six months.

11. Accordingly the case is disposed of on contest under the following order,



**ORDER**

In view of the evidence of the witness, the material available with the case record and the argument put forwarded by the Learned A.P.P. and the learned counsel for the accused person I am of the opinion that the prosecution has failed to establish the case against the accused Kishore Kumar Ray and Ahsan Ali @ Dhana. Hence the accused Kishore Kumar Ray and Ahsan Ali @ Dhana are acquitted. The bail bonds for Kishore Kumar Ray and Ahsan Ali @ Dhana shall be in force for six months. The case is disposed of on contest accordingly.

Given under my hand and seal on this 7<sup>th</sup> day of May 2019 at Abhayapuri.

Dictated and corrected by me,

Nayanjyoti Choudhury

Sub- Divisional Judicial Magistrate (M)

Abhayapuri  
S. D. J. M. (M)  
W/Saimara, Abhayapuri

Nayanjyoti Choudhury

Sub- Divisional Judicial Magistrate (M)

Abhayapuri  
S. D. J. M. (M)  
W/Saimara, Abhayapuri

**APPENDIX**



(A) Prosecution Exhibits:

Nil

(B) Defense Exhibits:

Nil

(C) Witnesses Exhibits:

Nil

(D) Prosecution Witness:

PW1- Rezzak Ali

(E) Defense Witness:

Nil

(F) Court Witness:

Nil

*(Signature)*  
07-05-19  
**S. D. J. M. (M)**  
**Salimara, Abhavaonad**