

GR 1218/2015
State Vs Sanu Bala Ray.



DISTRICT: BONGAIGAON.
IN THE COURT OF MUNSIFF CUM JUDICIAL MAGISTRATE FIRST CLASS,
BONGAIGAON

**G.R. Case No. 610/2016 UNDER SECTIONS 294/417/427/506/34
IPC**

1. CHAMPA DEVI,
WIFE OF SRI RAM AWADESH GOND,
2. SUNITA DEVI @PINKI
DAUGHTER OF SRI RAM AWADESH GOND,
3. SHOBHA KUMARI
DAUGHTER OF SRI RAM AWADESH GOND

ALL RESIDENTS OF NEW BONGAIGAON,
P.S & DISTRICT: BONGAIGAON, ASSAM

.....ACCUSED PERSONS

-VERSUS-

STATE OF ASSAM –

.....PROSECUTOR

PRESENT: UTTAM CHETRI, MUNSIFF CUM JUDICIAL MAGISTRATE FIRST
CLASS, BONGAIGAON

ADVOCATE FOR THE PROSECUTION: APP, S.MAZUMDAR
ADVOCATE FOR THE ACCUSED PERSON: SRI J.DEBSHARMA

OFFENCE EXPLAINED ON:	08.03.2017
EVIDENCE RECORDED ON:	15.05.2017, 26.05.2017
ARGUMENT HEARD ON:	14.12.2017
JUDGMENT DELIVERED ON:	14.12.2017

JUDGMENT

1. The prosecution case in a nutshell is that on 24.06.2016, the informant Sumitra Saw lodged an FIR with the Bongaigaon Police-Station stating inter alia that on 23.06.2016 at about 12.30 PM, the accused persons illegally entered into her premises, hurled slang words on her,

10
J.M. 1st Class
Bongaigaon

GR 1218/2015
State Vs Sanu Bala Ray.



assaulted her, damaged her house and threatened her with dire consequences.

2. On receipt of the FIR, the police registered Bongaigaon P.S. Case No- 398/2016 under Sections 447/294/323/427/506/34 IPC against the accused persons Champa Devi, Sunita Devi@Pinki and Shobha Kumari and conducted investigation into the matter. On completion of the investigation, the police submitted charge-sheet against the accused persons Champa Devi, Sunita Devi @ Pinki and Shobha Kumari under Sections 447/294/427/506/34 IPC.

3. The accused persons entered their appearance in response to the process issued. Copies of the relevant documents were furnished to the accused persons in accordance with Section 207 Criminal Procedure Code. Offences under Sections 447/294/427/506/34 IPC were read over and explained to the accused persons to whom they pleaded not guilty and claimed to be tried.

4. During trial, the prosecution examined 2 (two) witnesses after which the prosecution evidence was closed. The statement defence of the accused persons as mandated by Section 313 Criminal Procedure Code was dispensed with due to lack of sufficient materials against them. Defence did not adduce any evidence.

5. Upon hearing both the parties and on perusal of the case record, the following points for determination have been formulated by this Court.

i) Whether the accused persons namely Champa Devi, Sunita Devi@Pinki and Shobha Kumari in furtherance of their common intention on 23rd day of June, 2016 committed criminal trespass by illegally entering into the property of the informant Sumitra Saw with intent to commit an offence or to intimidate, insult or annoy the informant and thereby committed an offence punishable under Section 447 IPC read with Section 34 IPC?

ii) Whether the accused persons namely Champa Devi, Sunita Devi@Pinki and Shobha Kumari in furtherance of their common intention on the same day, time and place did an obscene act namely hurled slang words on the informant Sumitra Saw in a public place and that such an act/uttering was

10
J.M. 1st Class
Bongaigaon

GR 1218/2015
State Vs Sanu Bala Ray.



obscene and that it caused annoyance to others, and thereby committed an offence punishable under Section 294 IPC read with Section 34 IPC?

iii) Whether the accused persons namely Champa Devi, Sunita Devi@Pinki and Shobha Kumari in furtherance of their common intention on the same day and time and in the same place committed criminal intimidation by threatening the informant Sumitra Saw with injury to her person with intent to cause alarm to the informant, and thereby committed an offence punishable under Section 506 IPC read with Section 34 IPC?

iv) Whether the accused persons namely Champa Devi, Sunita Devi@Pinki and Shobha Kumari in furtherance of their common intention on the same day and time and in the same place committed mischief by causing wrongful loss or damage to the property of the informant valued at more than Rs 50, and, thereby, committed an offence punishable under Section 427 IPC read with Section 34 IPC?

6. I have heard the learned counsel for both sides and have gone through the evidence on record which is outlined below.

EVIDENCE

7. PW1 in her examination in chief had deposed that she knows the informant and the accused persons who are standing at the dock; that the incident took place about a year back; that she doesn't know anything about the incident. Defence declined to cross-examine PW1.

8. PW2 in his examination in chief had deposed that he knows the informant and the accused persons who are standing at the dock and the absent accused Shobha Devi; that on the day of the incident, accused persons hurled slang words in front of his house and threatened to break the house of the informant; that, accordingly, the accused persons broke the house of the informant on the next day.

9. PW2 in his cross examination had stated that his house is situated at about a distance of 50 metres from the house of the informant. PW2 had denied the suggestion that he had not stated before the police that accused

10
J.M. 1st Class
Bongaigaon

GR 1218/2015
State Vs Sanu Bala Ray.



persons had hurled slang words on the informant in front of his house. PW2 had further denied the suggestion that he had not stated before the police that accused persons had broken the house of the informant. PW2 had further stated in his cross examination that Sanjay Das, Keshab Raut, Borka etc. were present at the place of occurrence at the time of the occurrence; that Parul Rao's house is situated near the house of the informant. PW2 had further denied the suggestion that he had not stated before the police the specific slang words uttered by the accused persons. PW2 had further denied the suggestion that he had deposed falsely.

APPRECIATION OF EVIDENCE

10. On perusal of case record, it appears that the prosecution failed to examine the informant/victim in the present case in spite of repeated opportunities. Thus failure of the prosecution to examine the informant/victim creates reasonable doubt on the prosecution story and the accused persons deserve benefit of doubt in respect of the offences alleged against them.

11. Accordingly, I held that the prosecution has failed to prove beyond reasonable doubt that the accused persons namely Champa Devi, Sunita Devi@Pinki and Shobha Kumari had committed offences punishable under Sections 447/427/294/506/34 IPC. As such, all the points for determination are answered in the negative in favour of the accused persons.

ORDER

In view of the discussion made above and the decisions reached in the foregoing points for determination, it is held that the prosecution has failed to prove beyond reasonable doubt that the accused person namely Champa Devi, Sunita Devi@Pinki and Shobha Kumari had committed offences punishable under Sections 447/427/294/506/34 IPC.

As such, accused persons Champa Devi, Sunita Devi@Pinki and Shobha Kumari are acquitted of the charges under Sections 447/427/294/506/34 IPC.

The bail bond of the accused persons and their surety shall remain in force for a period of 6 months from today in compliance with Section 437-A Criminal Procedure Code.

10
J.M. 1st Class
Bongaigaon

GR 1218/2015
State Vs Sanu Bala Ray.



Case is disposed of on contest.

Given under my hand and seal of this Court on this 14th day of December, 2017 at Bongaigaon.

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(Uttam Chetri)
M.A. 1st Class
Bongaigaon
cum Judicial
Magistrate First Class,
Bongaigaon

GR 1218/2015
State Vs Sanu Bala Ray.



APPENDIX

PROSECUTION EXHIBIT:

NONE

DEFENCE EXHIBIT:

NONE

PROSECUTION WITNESS:

PW 1- Lakhi Bhowmik

PW2- Biswajit Ghosh

DEFENCE WITNESS: NONE

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~~Utkal Chandra~~
Mishra
Bongaigaon
Magistrate First Class,
Bongaigaon