

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
LAXMIPUR, DISTRICT: KORAPUT

Present:

Smt. Neesha Samal, L.L.M.,
J.M.F.C., Laxmipur.

GR Case No. 253/2015

Trial No. 233 /2016

State

.... Prosecution

-VRS-

1. Arun Kumar Takri @ Jhunu, aged about 29 years, Son of Dayapatra Takri.
 2. Jyotirmaya Takri @ Megha, aged about 30 years, Son of Dayapatra Takri.
 3. Phulmita Khosla, aged about 58 years, Wife of Dhanika Khosla.
 4. Gitanjali Khosla @ Chetty, aged about 38 years, Wife of Naresh Chetty.
 5. Naresh Chetty, aged about 48 years, Son of Late Phuldhar Chetty.
 6. Smt. Prafullamala Takri, aged about 49 years, Wife of Dayapatra Takri.
 7. Puspanjali Takri, aged about 26 years, Wife of Jyotirmaya Takri @ Megha.
 8. Smt. Aliza Takri @ Khosla, aged about 26 years, Wife of Arun Kumar Takri.
 9. Anudhati @ Arundhati Takri, aged about 23 years, Daughter of Dayapatra Takri.
 10. Dayapatra Takri, aged about 61 years, Son of Late Raphael Takri.
- All are Resident of village: Kellar, P.S.
Kakiriguma, Dist: Koraput

... Accused Persons .

Counsel for the Prosecution : Sri Abhimanyu Sahu,
APP, Laxmipur.

Counsel for the Defence : Sri Ch. Pravakar Rao, Advocate,
Laxmipur.

Date of Argument: 03.01.2018

Date of Judgment: 10.01.2018

OFFENCES UNDER SECTIONS 147/148/294/323/325/506/354-B/149 OF

THE INDIAN PENAL CODE

JUDGMENT

1. The above named accused persons face trial for having committed the offence U/Ss. 147/148/294/323/325/506/354-B/149 of the Indian Penal Code (herein referred to as IPC).

2. Brief facts of the case is that:

On 23.11.2015 at about 4.30 P.M, the complainant Kedar Chetty of village Kellar reported in writing that he has taken a stone quarry in his village vide Khata No.85 and plot No. 595 on lease basis on 30.10.15 from the Tahasildar, Laxmipur for lifting 600 CM of stone from the quarry paying royalty to Govt. On 21.11.15 at about 3.00 P.M. he was preparing himself near his stone quarry for lifting stone. At that time all the accused persons of his villagers came in a group holding iron rod and knife in their hand and abused him and his brother in obscene languages and asked him who allowed him to make stone quarry there. When he told that that he was doing stone quarry paying royalty, then they became angry and assaulted him by abusing in obscene languages. As her brother, wife and sister-in-law came for his rescue, they assaulted his mother and sister-in-law who was a pregnant lady and dragged her wearing saree and took away gold mali from the neck of his wife and dragged the wearing saree and blouse of his sister-in-law. On 22.11.2015 at

about 9.00 A.M. a meeting was held in the village but at that time Dayapatra Takri, Arun Takri, Megha Takri and all others arrived there and assaulted him and abused him in obscene languages by threatening them to kill in life.

. Basing on this report, the IIC, Kakiriguma P.S. registered P.S. Case No.59 dated 23.11.2015 U/Ss 147/148/294/323/325/506/354-B/149 of the IPC and directed the A.S.I. of Police namely Shri L.Ch.Panda to investigate the case. During course of investigation the I.O. examined the informant, visited the spot, prepared the spot map and examined other witnesses, issued injury requisition in respect of the injured and obtained medical opinion from M.O. P.H.C., Kakiriguma. Basing on the prime-facie evidence, he arrested the accused persons and forwarded them to Court. After completion of investigation the I.O. submitted charge sheet against the accused persons U/Ss 147/148/294/323/325/506/354-B/149 of the IPC vide C.S. No.79 dated 31.12.2015 to face their trial in the Court of law. Hence, this case.

3. The statement u/s 313 of the accused has been dispensed with as there are no incriminating materials against the accused persons and no prejudice shall be caused to them.

4. The points for determination in this case are:

- (i) Whether on 21.11.15 at about 3.00 P.M. at village Kellar, the accused persons being members of an unlawful assembly and in prosecution of common object of such assembly committed the offence of rioting?
- (ii) Whether on the above stated date, time and place, the accused persons being members of an unlawful assembly and in prosecution of common object of such assembly being armed with deadly weapons committed the offence of rioting?
- (iii) Whether on the above stated date, time and place. the accused persons being members of an unlawful assembly and in prosecution of common object of such assembly abused the complainant in

obscene language in or near a public place causing annoyance to others ?

- (iv) Whether on the above stated date and place the accused persons being members of an unlawful assembly and in prosecution of common object of such assembly, voluntarily caused hurt to the brother of informant?,
- (v) Whether on the above stated date and place the accused persons being members of an unlawful assembly and in prosecution of common object of such assembly, voluntarily caused grievous hurt to mother and sister-in-law of the informant?,
- (vi) Whether on the above stated date, time and place, the accused persons being members of an unlawful assembly and in prosecution of common object of such assembly, committed criminal intimidation by threatening the informant with injury to her person, reputation or property with intent to cause alarm to her ?
- (vii) Whether on the above stated date, time and place, the accused persons being members of an unlawful assembly and in prosecution of common object of such assembly assaulted the sister-in-law of the complainant by pulling her wearing saree and pulling her to be naked ?

5. In order to substantiate the charges leveled against the accused persons, the prosecution has examined as many as six witnesses. Out of whom Kedar Chetty as P.W.3 who is the informant. He identified the FIR vide Ext.1 and his signature thereon vide Ext.1/1. He identified the seizure list vide Ext.2 and his signature thereon vide Ext.2/1. Amar Chetty as P.W.1. Banchanidhi Khosla as P.W.2. Sukanta Jani as P.W.4. Tapan Kumar Chetti as P.W.5. Kantilata Chetti as P.W.6. On the other hand, the accused persons have not adduced any oral or documentary evidence on their behalf.

6. In the present case P.W.1, P.W.2 and P.W.4 and P.W.5 have not supported the prosecution case in any manner and not stated anything with regard to the facts of this case. P.W.3, who is the complainant in this case had stated that he had given the FIR in this case as he had some dispute with the accused persons , but subsequently the matter has amicably settled all his disputes with the accused outside the Court and does not want to proceed further in this case. On being cross examined by the defence counsel, she stated that he did not want to proceed further in this case. P.W.6, the independent witness in this case stated in his evidence that about 2 years ago there was some dispute between both the parties. During the said incident his son, his daughter-in-law and other family members got injured by all the accused persons. On being cross examined by the defence counsel, he stated that he did not want to proceed further in this case as the matter has already been settled outside the court in the presence of village gentries.

7. It transpires from the evidence of the prosecution witnesses that there is no iota of evidence coming forth against the accused persons and none of the prosecution witnesses including the informant and the victim have stated anything substantive to prove the guilt of the accused persons. PW1 ad PW2 could not even prove the facts of the FIR and the incident and their evidences were not corroborative to each other. The prosecution miserably failed to prove the charges leveled against the accused persons and also the facts of this case. Hence, this Court finds the accused persons not guilty of committing the offences punishable U/Ss 147/148/294/323/325/506/354-B/149 of the IPC and hence they are acquitted U/s 248(1) of Cr.P.C. The accused persons be set at liberty. Their bail bonds stand canceled and surety be discharged. The seized articles be destroyed four months after the appeal period is over in case of no appeal and in case of appeal as per orders of the appellate court.

7. The zimanama be cancelled, the seized Xerox copy of document be kept by

the zimmadar four months after the expiry of the period of limitation for preferring the appeal against this judgment if no appeal is preferred and in case the appeal is preferred, the same shall be subject to the orders of the appellate court.

Enter this case as mistake of fact for statistical purpose.

Judgment is dictated and corrected by me, pronounced in the open court on this the 10th day of January, 2018 under my signature and seal of the Court.

Judicial Magistrate First Class,
Laxmipur.

List of prosecution witness.

P.W.1	Amar Chetty.
P.W.2	Banchhanidhi Khosla.
P.W.3	Kedar Chetty.
P.W.4	Sukanta Jani.
P.W.5	Tapan Kumar Chetty.
P.W.6	Kantilata Chetti.

List of defence witnesses.

NIL

List of exhibit marked on behalf of prosecution.

Ext.1	F.I.R.
Ext.1/1	Signature of P.W.3 on Ext.1.
Ext.2	Seizure list.
Ext.2/1	Signature of P.W.3 on Ext.2.

List of exhibit marked on behalf of defence.

NIL

Judicial Magistrate First Class,
Laxmipur.