



The Court of JM 1st Class, Ramgarh

Present: Smriti Tripathi

Judicial Magistrate

District: Ramgarh

20th February, 2023

G.R. Case No. 2368/2013

CNR No. JHRG030000812013

Mandu (Kuju) PS Case No. 273/2013

Informant	State (Through Abdul Rahman)
Represented By	Smt. Manju Kachchap, Ld. APP
Accused	1. Rikhiya Devi, w/o Late Bhola Mahto, aged about 40 years [A1] 2. Naresh Mahto, s/o Bisheshwar Mahto, aged about 43 years [A2] 3. Ramesh Choudhary s/o Late Dhanu Mahto, aged about 35 years [A3] 4. Firangi Mahto s/o Late Dhotan Mahto, aged about 45 years [A4] 5. Karu Mahto s/o Ramjee Mahto, aged about 45 years [A5] 6. Anita Devi, s/o Chhotan Mahto, aged about 34 years [A6] 7. Chhotan Mahto, S/o Late Kishun Mahto, aged about 42 years [A7] 8. Triveni Mahto, S/o Late Tejan Mahto, aged about 50 years [A8] 9. Bhukhali Devi, W/o Triveni Mahto, aged about 45 years [A9] 10. Kajarua Mahto, S/o Late Raman Mahto, aged about 58 years [A10] All r/o mauza Murpa, P.O. Kuju PS Mandu, District Ramgarh.
Represented By	Sri Amar Nath Thakur, Ld. Advocate

Date(s) of Offence	17.07.2013
Date of FIR	17.07.2013
Date of Chargesheet	31.08.2013
Date of substance of accusation/Charge	06.04.2018
Date of Commencement of evidence	08.05.2018
Date when Judgment is reserved	09.02.2023
Date of Judgment	20.02.2023
Date of Sentencing Order, if any	N/A

Rank of the Accused	Name of the Accused	Date of Arrest/surrender	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of detention undergone during trial for purpose of s. 428, CrPC
A1	Rikhiya Devi	26.05.17	26.05.17	u/s. 147, 186/149, 283/149, 290/149 of IPC	Acquitted	N/A	N/A
A2	Naresh Mahto	28.08.17	28.08.17	u/s. 147, 186/149, 283/149, 290/149 of IPC	Acquitted	N/A	N/A
A3	Ramesh Choudhary	26.05.17	26.05.17	u/s. 147, 186/149, 283/149, 290/149 of IPC	Acquitted	N/A	N/A
A4	Firangi Mahto	26.05.17	26.05.17	u/s. 147, 186/149, 283/149, 290/149 of IPC	Acquitted	N/A	N/A
A5	Karu Mahto	18.11.17	18.11.17	u/s. 147, 186/149, 283/149, 290/149 of IPC	Acquitted	N/A	N/A
A6	Anita Devi	26.05.17	26.05.17	u/s. 147, 186/149, 283/149, 290/149 of IPC	Acquitted	N/A	N/A
A7	Chhotan Mahto	26.05.17	26.05.17	u/s. 147, 186/149, 283/149, 290/149 of IPC	Acquitted	N/A	N/A
A8	Triveni Mahto	26.05.17	26.05.17	u/s. 147, 186/149, 283/149, 290/149 of IPC	Acquitted	N/A	N/A

A9	Bhukhali Devi,	26.05.17	26.05.17	u/s. 147, 186/149, 283/149, 290/149 of IPC	Acquitted	N/A	N/A
A10	Kajaru Mahto	26.05.17	26.05.17	u/s. 147, 186/149, 283/149, 290/149 of IPC	Acquitted	N/A	N/A

J U D G M E N T

1. The afore-named accused persons (hereinafter referred to as "**A1 to A10**") are facing trial for offence u/s. 147, 186/149, 283/149, 290/149 of The Indian Penal Code, 1860 (Hereinafter referred to as the "IPC").
2. The compendious **case of the prosecution** as sourced from the self-statement of SI Abdul Rahman, incharge of Kujju OP (hereinafter referred to as the "informant"), recorded on 17.07.2013 at about 11:00 AM at Naya More Kujju four lane, is that between 4:30-5:00 AM in the morning, he received the information that dead body of a person, crushed by an unknown vehicle, was lying on the road-side on Kujju More towards Sarubera road. For verification, he, alongwith other police personnel went to the place of the alleged incident and saw a dead body of a boy aged about 26-27 years lying on the road-side. He also saw a motorcycle bearing registration no. JH02S-4155 there. The informant further states that appeared to him that the deceased was murdered by someone deliberately and was thrown out on the road. Further, family members of the deceased came and identified the body as being one Jivan Mahto s/o Rokan Mahto, r/o Sakin Murpa, PS Mandu, District Ramgarh. After sometime, the local villagers gathered there and forcibly jammed NH-33 4-lane and caused hindrance in the transit of vehicles and on-goers. The informant and his team tried to control the situation and disperse the mob with the help of additional police forces. He has further named A1-A10 who were accompanied by other 50-60 unknown people who were somehow removed them from the road. Thus, the instant case.
3. After Investigation, the Investigating Officer submitted charge-sheet bearing no. 159/2013 dated 31.08.2013 against A1 to A10 and one Rajesh Choudhary for the offence u/s. 146, 147, 186/149, 283/149, 290/149 of IPC and cognizance was taken

under the same sections by the then court on 05.10.2013 and all eleven of them were summoned.

4. After appearance of the accused persons, on 06.04.2018 substance of accusation was explained for the offence u/s. 147, 186/149, 283/149, 290/149 of IPC to the accused A1 to A10 and another one Rajesh Choudhary in simple Hindi to which they pleaded not guilty and claimed to be tried and the record was advanced for prosecution evidence.
5. Despite several reminders and notices, accused Rajesh Choudhary did not turn up and on 24.01.2023, the case record of Rajesh Choudahry was split up/separated from that of A1-A10 and his bail bond was cancelled, and the present record was fixed for recording the statement of A1-A10 u/s. 313 of Cr.PC.
6. After closing the prosecution evidence on 24.01.2023, the material available against A1 to A10 was put to them and their respective statements were recorded u/s. 313 of CrPC on same day in which they denied the material available against them and claimed to be innocent.
7. Thereafter, the defence was provided with an opportunity to adduce evidence on its behalf, if any but the Id. counsel for the defence submitted that they do not want to adduce any evidence. Upon his prayer, the defence evidence was closed and the matter was posted for arguments.
8. The Id. Assistant Public Prosecutor argued on behalf of the prosecution that A1-A10 are all notorious miscreants who tried to take law into their own hands and obstructed in the administration of justice. It was further argued that the prosecution case has been supported by the prosecution witnesses which leaves no room of doubt about the fact that all A1-A10 did indeed commit the alleged crime. Prayer was thus made to convict them all.
9. The defence on the other hand argued that a false case has been lodged and no offence as alleged is made out from the deposition of the witnesses. It was also submitted that the prosecution has failed to prove the guilt of A1 to A10 beyond reasonable doubt, and thus, they deserve to be awarded the benefit of doubt and acquitted.
10. The Court will now consider whether the prosecution has been able to substantiate the charge levelled against A1 to A10 beyond reasonable doubt or not, for which the prosecution case will be examined on the touchstone of the following **points of consideration**:

- I. Whether A1 to A10 committed rioting as alleged?
- II. Whether A1 to A10, being member of an unlawful assembly voluntarily obstructed a public servant in the discharge of his public functions?
- III. Whether A1 to A10, being member of an unlawful assembly obstructed a any public way or public line of navigation?
- IV. Whether A1 to A10, being member of an unlawful assembly committed public nuisance?

11. Before the court dwells to consider the points of determination as stated above, it would be apt to enlist the evidences brought in this case by all sides for the sake of brevity and proper reference, which are enlisted below:

List of Prosecution/Defence Witnesses

A. Prosecution:

Rank	Name	Nature of Evidence
PW01	Anil Kumar Thakur	Official Witness
PW02	Md. Shakib	Official Witness
PW03	Abdul Rahman	Official Witness [Informant]
PW04	Lalit Mohan Vishwakarma	Official Witness [Investigating Officer]

B. Defence:

Rank	Name	Nature of Evidence
--- Nil ---		

List of Prosecution/Defence/Material Exhibits

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Ext.1	Forwarding case report.
2	Ext.1/1	Registration of case.
3	Ext.1/2	Written statement.
4.	Ext.2	Formal FIR.

B. Defence:

Sr. No.	Exhibit Number	Description
--- Nil ---		

FINDINGS

Whether A1 to A10 committed rioting as alleged?; Whether A1 to A10, being member of an unlawful assembly voluntarily obstructed a public servant in the discharge of his public functions?; Whether A1 to A10, being member of an unlawful assembly obstructed a any public way or public line of navigation?; Whether A1 to A10, being member of an unlawful assembly committed public nuisance?

12. To substantiate the points of consideration as stated above, the following evidence has been adduced on behalf of the prosecution:

12.1 PW01 and PW02 both deposed that the alleged incident took place on 17.07.2013 while he was on duty at Kujju OP as arms guard. The then O/C Abdul Rahman received information regarding a dead body lying on the road-side. It was hit by a vehicle and on this information, he, alongwith other police personnel reached the place of alleged incident i.e. NH-33 road where the agitators namely Triveni Mahto, Ramesh Mahto, Rajesh Choudhary and other 50-60 persons had gathered and some of them started talking about blocking the road. They were all armed with *lathi-dunda*. Despite being asked to not jam the road; they didn't listen and blocked the road causing great difficulty to the on-goers. Thereafter, with the police effort, the road blockage was cleared. The dead body was identified by one of the persons present there. PWs 01-14 have all claimed to identify the accused persons. In his cross-examination, PW01 deposed that he does not remember the time and date when he handed over and took over the charge as arms guard at Kujju PS. With respect to death of deceased, a UD case was lodged but he couldn't recall its number. In para 10, he deposed that no instrument was seized from the place of the alleged incident at his instance. Further, that he has no information whether anyone lodged complaint in the police station regarding road blockage. PW02 deposed in his cross-examination that he does not remember the registration nos. of vehicles that were stopped during the road blockage. Further, that neither was any complaint to the police station with respect to the alleged road blockage, nor was he informed by anyone as to who was involved in such offence. Finally, that his statement was not recorded at the spot rather it was recorded at the police station. PW04 also gave similar deposition and did not bring any new fact to light. He deposed that he can't tell whether any case was lodged regarding the death of the deceased and that he never met A1-A10 prior to the alleged incident and also that he does not know the names of the people who disclosed the names of A1-A10.

Finally, that it was after the dead body was brought to the hospital for *post mortem*, that the mob which was present before the police arrived there, dispersed.

12.2 PW03, the informant, apart from the formal details of the registration of this case, did not bring any new fact to light. He deposed that he knew some of the accused persons prior to the alleged incident, and he learnt about some of them after it. He also couldn't recall vehicle numbers of the vehicles that were stuck due to the alleged road blockage. Finally, apart from other similar statements, he also deposed that statement was recorded by the I.O. at police station.

12.3 Overall, the prosecution has produced the informant and other members of the team who were present at the place of the alleged incident. They have all claimed to identify A1-A10. However, none of them have deposed anything substantial about their involvement in the alleged crime. No details have been deposed about the alleged incident as to who did what and what not. It has been deposed that someone said to block the road. Whether it was anyone from A1-A10 is not clear. Whether the rest followed suit is not clear. Whether in furtherance, the committed the alleged offences is not clear. The Investigating Officer has also not been produced to depose about the details of his investigation.

12.4 Thus, the prosecution has not been able to discharge its burden of proof and prove beyond reasonable doubt that A1-A10 all committed the offences for which they stand facing this trial.

Regard being had to the discussion made above, this court is of the considered opinion that the prosecution has failed to prove that A1-A10 committed the alleged offence. Hence, the A1-A3 are all hereby **acquitted** in this case. A1, A2, A3 as well as their respective bailors stand discharged from the liabilities of their respective bail bonds.

(Dictated and corrected)

Pronounced by me in open court

Sd/-

Sd/-

(Smriti Tripathi)

JO Code: JH02021

JM 1st Class, Ramgarh

Ramgarh, dated the 20th February, 2023

(Smriti Tripathi)

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