

JHRG030003372014



The Court of JM 1st Class, Ramgarh
Present: Mrs. Smriti Tripathi
Judicial Magistrate
17th February, 2023
District: Ramgarh
G.R. Case No. 4782/2014
CNR No. JHRG030003372014
Gola PS Case No. 185/2014

Informant	State (Through Shankar Dayal Mahto)
Represented By	<i>Smt. Manju Kachchap, Id. APP</i>
Accused	1. Siyalal Mahto s/o Janak Mahto, male, aged about 50 years, r/o Marudih, PS Gola, District Ramgarh (A1) 2. Sachin Mahto @ Pawan Kumar, male, aged about 45 years, r/o Marudih, PS Gola, District Ramgarh (A2)
Represented By	<i>Sri Sitaram, Ld. Advocate</i>

Date(s) of Offence	20.11.2014
Date of FIR	22.11.2014
Date of Chargesheet	11.01.2015
Date of substance of accusation	24.03.2018
Date of Commencement of evidence	12.04.2018
Date when Judgment is reserved	07.02.2023
Date of Judgment	17.02.2023
Date of Sentencing Order, if any	None

Rank of the Accused	Name of the Accused	Date of Arrest	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	Siyalal Mahto	27.12.2014	27.12.2014	s. 341/34, 323/34,	Acquitted	None	N/A

		-	17.11.2017	504/34, IPC			
A2	Sachin Mahto @Pawan Kumar	27.12.14	27.12.2014	s. 341/34, 323/34, 504/34, IPC	Acquitted	None	N/A
		-	17.11.2017				

J U D G M E N T

1. The aforementioned accused persons (hereinafter referred to as “**A1** and **A2**”) is facing trial for charges framed u/s. 341/34, 323/34 and 504/34 of The Indian Penal Code, 1860 (Hereinafter referred to as the “**IPC**”).
2. The compendious **case of the prosecution** as sourced from the written report of Shankar Dayal Mahto (hereinafter referred to as the “**informant**”), is that on 20.11.2014 at 8:00 PM in the night, he went to village Sangrampur and asked Motilal Sahu to supply rice for death feast (*Daskarma*) of late Niwaran Saw as per the instruction of Food Supply Officer, Gola. While he was talking to Motilal Sahu, the dealer of Jan Vitaran Pranali, A1 and A2 came there and started fighting with the informant and choked him, due to which, he started bleeding from his mouth. His life was spared as the villagers Pokhan Mahto and Jhulan Mahto, Bihari Mahto, Dukhi Mahto intervened. Hence, this case.
3. After Investigation, the Investigating Officer submitted **charge-sheet** bearing no. 05/2015 on 11.01.2015 against A1 and A2 for the offence u/s. 341/34, 323/34 and 504/34 of IPC and thereafter, **cognizance** was taken under the same sections by the Id. predecessor court on 03.02.2015.
4. After supplying police paper to A1 and A2, on 24.03.2018, **substance of accusation** was explained to A1 and A2 u/s. 341/34, 323/34 and 504/34 of IPC in simple Hindi to which they pleaded not guilty and claimed to be tried and the record was advanced for prosecution evidence.
5. After closing the **prosecution evidence** on 03.06.2022, material against A1 and A2 was put to them and their respective **statements** were recorded u/s. 313 of CrPC on the same day in which they denied the material available against them and claimed to be innocent.

6. 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 he does not want to adduce any evidence. Upon his prayer, the defence evidence was closed and the matter was posted for arguments.

7. The prosecution submitted that the guilt of A1 and A2 is well established and the case has been supported by the witnesses in their deposition. Particularly, it was argued that Ext. 3 and 3/1 go on to show the truth and veracity of the allegations. PW01 has deposed in paragraph nos. 2 and 6 of his deposition that the person for whose right the informant raised a voice was a card holder who had a right to get the rice and as it was for an impending ritual, the informant being the *Up-Pramukh*, intervened. The matter of fight has also been corroborated by PW02 in paragraph no. 1 of his deposition and by PW03 in paragraph no. 15. It was also submitted that as the injury is simple in nature, identification of the injury report by the Investigating Officer is sufficient. Basin on these, prayer was made to convict A1 and A2.

8. 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 and A2 beyond reasonable doubt, and they thus, deserve to be acquitted of all charges. Special reliance was made to the fact that only a single witness came to depose, despite various other people being present during the alleged incident, as mentioned by the Investigating Officer as well as the informant. That independent witness also did not support the factum of A1 or A2's involvement in the alleged incident.

9. Now, the Court will consider as to whether the prosecution has been able to substantiate the charges levelled against A1 and A2 beyond reasonable doubt or not. On the bedrock of the charges framed, the prosecution case will be examined on the following touchstones for the sake of a more structured analysis:

9.1 Did A1 and A2 do any act with the knowledge that they are likely thereby to cause hurt to the informant?

9.2 Did A1 and A2 voluntarily obstruct the informant so as to prevent him from proceeding in any direction in which the informant had a right to proceed?

9.3 Did A1 and A2 insult the informant intentionally, knowing that such

insult was likely to provoke him to break the public peace?

10. 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; reference to only the relevant portions of which is made at relevant parts of this judgment, although they have all been perused by this court in detail. They are:

List of Prosecution/Defence Witnesses

A. Prosecution:

Rank	Name	Nature of Evidence
PW1	Shankar Dayal Mahto	Interested Witness [Informant]
PW2	Pokhan Mahto	Hostile Witness
PW3	Jitendra Kumar Singh	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	Written Report
2.	Ext. 1/1	Case Registration
3.	Ext. 2	Formal FIR
4.	Ext. 3	Petition for medical examination of injured
5.	Ext. 3/1	Injury Report

B. Defence:

Sr. No.	Exhibit Number	Description
--- nil ---		

FINDINGS

11. Did A1 and A2 do any act with the knowledge that they are likely thereby to cause hurt to the informant?

11.1 PW01 has deposed that the alleged occurrence took place on

20.11.2014 at around 8:00 PM in front of Jan Vitaran Parnali Shop of Motilal Sahu. One Niwaran Saw had died and he used to get 20kgs rice as per Govt. Scheme. There was *Daskarma* ritual for him and his wife came to the informant's house and started crying as there was no rice in the house. The informant had already asked the dealer to provide her with rice. For the same, being the *Up Pramukh*, the informant went to the dealer to ask for the same but A1 and A2 came and said to him why he helps in providing rice to people from another village, and an altercation ensued in the course of which, they choked him, due to which he started bleeding from his nose and mouth and became senseless. He also claimed to identify A1 and A2. In his cross-examination, he deposed that in there are different kinds of *Jan Vitaran Parnali* shops for people in a Panchayat, and that of Motilal Sahu is registered under the State Government Scheme from whose shop, people of *mauza* Sangrampur including family of the deceased take rice. Amongst other things, he also deposed that he was treated at Gola Hospital. He also deposed that the alleged fight took place in front of Motilal Sahu, but he has not been made a witness.

11.2 PW02 is a hostile witness who did not depose anything substantial about the alleged offence.

11.3 PW03 deposed that on 22.11.2014 he was posted at Gola PS as an ASI, when he took charge of investigation in the said case. Apart from deposing about the procedures adopted and details of his investigation, he deposed that when he visited the place of occurrence, witnesses Pokhar Mahto, Jhuman Mahto, Bihari Mahto supported the alleged incident. However, none of these have been produced by the prosecution as witnesses. he deposed that in Ext. 3/1, the informant's injury was found to be simple. In his cross-examination, he deposed that at the place of the alleged incident, he recorded the statements of Shankar Dayal Mahto, Pokhar Mahto, Jhuman Mahto and Bihari Mahto but he did not record the statement of other nearby people.

11.4 As to the documentary evidences, the prosecution has exhibited Ext. 1 which is the Written Report forming the basis of this case, Ext. 1/1 which is

the Case Registration, Ext. 2 which is the Formal FIR, Ext. 3 which is the Petition for medical examination of injured/informant and Ext. 3/1 which is his Injury Report which shows that the injury is simple in nature.

11.5 Regard being had to the prosecution evidences; the prosecution has raised a presumption that the informant did suffer some injury. However, whether it were A1 and A2 who caused the said injuries has not been proved. As per the prosecution case itself, it was not an incident which took place in a private space which nobody saw. There were eye witnesses to the said incident but not one has been brought before the court to support the prosecution case. It stands supported by only the informant who is an interested witness. The Investigating Officer has supported the details of his investigation but he also has not seen whether or not it were A1 and A2 who caused the alleged hurt to the informant, in the manner alleged.

11.6 Thus, as the prosecution has failed to raise the presumption that it were A1 and A2 who did an act with the knowledge that they are likely thereby to cause hurt to the informant, **A1 and A2 stand acquitted of the charges u/s. 323/34, IPC.**

12. Did A1 and A2 voluntarily obstruct the informant so as to prevent him from proceeding in any direction in which the informant had a right to proceed?

12.1 In light of the material referred to in paragraph no. 11 of this judgment, it is the case that the prosecution has failed to establish whether or not it were A1 and A2 who voluntarily obstruct the informant so as to prevent him from proceeding in any direction in which the informant had a right to proceed.

12.2 Thus, as the prosecution has failed to raise the presumption that it were A1 and A2 who voluntarily obstruct the informant so as to prevent him from proceeding in any direction in which the informant had a right to proceed, **A1 and A2 stand acquitted of the charges u/s. 341/34, IPC.**

13. Did A1 and A2 insult the informant intentionally, knowing that such insult was likely to provoke him to break the public peace?

13.1 In light of the material referred to in paragraph no. 11 of this judgment, it is the case that the prosecution has failed to establish whether or not it were A1 and A2 who insulted the informant intentionally, knowing that such insult was likely to provoke him to break the public pea.

13.2 Thus, as the prosecution has failed to raise the presumption that it were A1 and A2 who insulted the informant intentionally, knowing that such insult was likely to provoke him to break the public pea, **A1 and A2 stand acquitted of the charges u/s. 504/34, IPC.**

14. Thus, this court is of the considered opinion that the prosecution has failed to substantiate the charge u/s. 323/34, 341/34 and 504/34 of IPC. Hence, A1 and A2 are hereby **acquitted** in this case of all charges. A1, A2 as well as their respective bailors stand discharged from the liabilities of their respective bail bonds.

Pronounced by me in open court.

(Dictated and corrected)

Sd/-

(Smriti Tripathi)
JO Code: JH02021
JM 1st Class, Ramgarh
Ramgarh, dated the 17th February, 2023

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