

The Court of JM 1st Class, Ramgarh**Present: Smriti Tripathi****Judicial Magistrate****31st May, 2023****District: Ramgarh****G.R. Case No. 1266/2017****CNR No. JHRG030011112017****Gola PS Case No. 106/2017**

Informant	State (through Savita Devi)
Represented By	<i>Smt. Manju Kachchap, Id. APP</i>
Accused	1. Devashish Kumar s/o Om Prakash Dangi, male, aged about 28 years [A1] 2. Sunita Devi w/o Om Prakash Dangi, female, aged about 55 years [A2] 3. Manish Kumar Dangi w/o Om Prakash Dangi, male, aged about 30 years [A3] All r/o Gola, PS Gola, District Ramgarh
Represented By	<i>Sri Deepak Ranjan, Ld. Advocate</i>

Date(s) of Offence	20.11.2017
Date of FIR	21.11.2017
Date of Chargesheet	30.04.2018
Date of framing of charge	20.11.2019
Date of Commencement of evidence	09.01.2020
Date when Judgment is reserved	26.05.2023
Date of Judgment	31.05.2023
Date of Sentencing Order, if any	N/A

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	Devashish Kumar	05.09.18	05.09.18	s. 341/34, 342/34, 323/34, 504/34 IPC	Acquitted	None	N/A
A2	Sunita Devi	05.09.18	05.09.18	s. 341/34, 342/34, 323/34, 504/34 IPC	Acquitted	None	N/A
A3	Manish Kumar Dangi	22.11.17	11.01.18	s. 341/34, 342/34, 323/34, 504/34 IPC	Acquitted	None	N/A

J U D G M E N T

1. The afore-named accused persons (Hereinafter referred to as "**A1 to A3**") are facing trial for the offences u/s. 341/34, 342/34, 323/34 and 504/34 of The Indian Penal Code, 1860 (Hereinafter referred to as the "**IPC**").

PROSECUTION CASE

2. The compendious case of the prosecution, as sourced from the written application of Savita Devi (hereinafter referred to as the "informant") is that on 20.11.2017, while she was returning from Ramgarh after visit for treatment of her child, she went to Ruchika Sweet Hotel, DVC Chowk, Gola, run by A1-A3, at about 1:00 PM alongwith her two little daughters and her husband Dhaneshwar Karmali to have some water. There, as they served water into a glass from a jug, the hotel owner started abusing them by their cast name "Karmali" and said why did the lower caste persons touch the water jug and also assaulted her and her husband. Then, the mother and brother of the said hotel's owner snatched ₹27,000/- from the informant and kept all of them confined in the hotel for three hours. They also snatched gold chain of the informant. She finally says that the hotel owner and his brother also molested the informant. Hence, this case.

FROM INVESTIGATION TILL TRIAL

3. After investigation, the Investigating Officer submitted **charge-sheet** bearing no. 41/2018 dated 30.04.2018 against A1 to A3 for the offence u/s.341, 342, 323, 504/34 of IPC and thereafter, **cognizance** was taken under the same sections by the Id. predecessor court on 16.05.2018.
4. After supplying police papers to A1-A3, on 20.11.2019, **substance of accusation was explained** for the offence u/s.341/34, 342/34, 323/34 and 504/34 to A1-A3 in simple Hindi to which they pleaded not guilty and claimed to be tried. Thereafter, the case was fixed for evidence and appearance of A1-A3.
5. After **closing the prosecution evidence** on 22.05.2023, the material against A1 to A3 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.
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.

ARGUMENTS ADVANCES

7. The prosecution argued that the case has been supported by all the witnesses examined,

which warrants conviction of A1 to A3. It was further submitted by the Id. Assistant Public Prosecutor that the victim has been examined who has fully supported the prosecution case and that the offence u/s. 341, IPC is clearly made out.

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 witness. It was submitted that the prosecution has failed to prove the guilt of A1 to A3 beyond reasonable doubt. It was submitted that not a dingle document has been exhibited by the prosecution and the Investigating Officer or any independent witness has not been examined by the prosecution to prove the veracity of the allegations levelled. The Id. counsel urged that as all the witnesses are related witnesses, their testimony is biased and not reliable. It was further urged that PW01 has deposed as an eye witness whereas he was not present during the alleged occurrence. The Id counsel also submitted that PW02 has brought up a new fact of dialing no. 100 for help which has not been deposed by any of the witnesses or mentioned in the case diary and that the statement of PW03 is full of contradictions. Basing upon all these, prayer was made to acquit A1-A3 of all the accusations.

POINTS FOR CONSIDERATION

9. Now, the Court will consider as to whether the prosecution has been able to substantiate the accusation u/s. 341/34, 342/34, 323/34 and 504/34 of IPC levelled against A1-A3 beyond reasonable doubt or not.

9.1 *Whether A1-A3, with common intention of all, wrongfully restrained the informant, her husband and daughters, as u/s. 341. IPC?*

9.2 *Whether A1-A3, with common intention of all, wrongfully confined the informant, her husband and daughters, as u/s. 342, IPC?*

9.3 *Whether A1-A3, with common intention of all, caused hurt to the informant and her husband, as u/s. 323, IPC?*

9.4 *Did A1-A3 insult the informant and her husband intentionally, knowing that such insult was likely to provoke them to break the public peace as u/s. 504, IPC?*

EVIDENCES

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/Witnesses**A. Prosecution:**

Rank	Name	Nature of Evidence
PW01	Shambhu Karmali	Related Witness [Informant's father]
PW02	Upendra Karmali	Related Witness [Informant's father in law]
PW03	Dhaneshwar karmali	Related Witness [Informant's husband]

B. Defence:

Rank	Name	Nature of Evidence
--- nil ---		

List of Prosecution/Defence/Material Exhibits**A. Prosecution:**

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

B. Defence:

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

C. Material Objects:

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

FINDINGS

11. Whether A1-A3, with common intention of all, wrongfully restrained the informant, her husband and daughters, as u/s. 341. IPC?; Whether A1-A3, with common intention of all, wrongfully confined the informant, her husband and daughters, as u/s. 342, IPC?; Whether A1-A3, with common intention of all, caused hurt to the informant and her husband, as u/s. 323, IPC?; Did A1-A3 insult the informant and her husband intentionally, knowing that such insult was likely to provoke them to break the public peace as u/s. 504, IPC?

11.1 For the sake of brevity, all these points are being taken up together.

11.2 PW01 deposed that the instant case has been instituted by his daughter against the owner of Ruchika Hotel A3, his brother A1 and mother A2. On the alleged day, his daughter, her husband and their children went to Sadar Hospital, Ramgarh for some treatment and while returning, they went to Ruchika Hotel for some snacks and the daughter the informant namely Lovely spit water from her mouth in the jug. On this, the owner of the hotel started abusing and assaulting the daughter of the informant and her husband. This created a commotion and

upon noticing that, he rushed towards them as he was nearby and saw that they held PW03 by his neck and took him upstairs. PW01 also went after them and tried to pacify the dispute and sought apology with folded hands and said that he is ready to reimburse the damage caused. He further deposed that the owner of the hotel misbehaved with the informant as a result of which her bangles broke. Thereafter, that after staying there for about 1-1.5 hours, they went to the police station alongwith A3. Hence this case. He claimed to identify the accused in the court. In his cross-examination, he deposed that prior to this incident, he has visited that hotel previously but his daughter and son-in-law were not acquainted with the owner of said hotel. Also, that there was no prohibition to enter into the said hotel for people/customers who belong to lower caste. That, the police recorded his statement but he has not mention this in his statement that his son-in-law was beaten in front of him but that he told the police that A3 held his son in law by his neck. He deposed before the police that A3 held the neck of his son-in-law and took him to the upper floor by stairs and that the witness was seeking apology by folded hand to release him. In para 19, he deposed that on that day of the alleged occurrence, he, alongwith his daughter went to the police station and that, seizure list was prepared at the place of the alleged incident on which his daughter affixed her signature, amongst other things.

11.3 PW02 has deposed in his examination-in-chief that the instant case was lodged by his daughter-in-law against A3 for the alleged incident which took place on 20.11.2017. On that day, at about 3:00 PM, his son PW03 told him that when he and his family members went to the said hotel to have some food, his younger daughter mixed water from glass into the jug and then, A3 became angry and abused them by their caste. Also, that A1-A3 also misbehaved with the informant and assaulted her and her family and took out ₹27,000/- from the pocket of PW03 and also snatched gold chain from the neck of the informant and also tied them on the first floor for three hours. Lastly, the police came there and rescued them. The victims received treatment at Gola Hospital from where they were referred to RIMS but they were admitted to Bokaro Hospital for treatment. He claimed to identify A1-A3. In his cross-examination, he deposed that the police took his statement on 20.11.2017 at the police station and deposed that A1-A3 assaulted and abused the victims by their caste "Karmali" and took out ₹27,000/- from the pocket of PW03 and also snatched a gold chain from the neck of the informant. Further, he deposed that his *beti-damad* were in custody of the hotel owner and thereafter, PW03 dialed 100 and they were rescued and brought to the police station. Also, that the entire incident did not happen before him, but his son telephoned him. also, that no customer present there informed him about

the said incident and that did not disclose the name of hotel owner to the police. Further, that on the day of the alleged occurrence, his son and family had gone to Sadar Hospital, Ramgarh for treatment of Dolly, PW03's younger daughter, but he is not sure whether any prescription was produced before the police or not. Also, that after the incident, the victims were referred to Bokaro Hospital for treatment for 10 days by Dr. Kundan Raj. Then, that the informant was the village chief in 2017. Finally, that there was no display board on the hotel that said that only upper cast people can enter.

11.4 PW03, the victim deposed that this case has been lodged by the informant who is his wife against owner of Ruchika Hotel A3. Further, he gave similar deposition as PW01 and PW02 regarding the alleged occurrence and also corroborated the written report of FIR. He claimed to identify A1-A3. In his cross-examination, he deposed that his statement was recorded by the police on the spot. At the place of the alleged incident, the informant gave written complaint to the police. Further, he deposed the surroundings of place of the alleged incident. In para 7, he deposed that he got his daughter treated by Dr. Barelia but he did not provide any medical prescription to the police. Also, that his mother is the *Mukhiya*. Also, that there was no display board in the hotel stating that only upper caste people are allowed to enter the hotel. He was in an unconsciousness state in the police station and regained his consciousness at Bokaro Hospital 6 hours later. Also, that the police brought some medical document from Bokaro Hospital but he cannot recall the name of the doctor. He also deposed that several persons gathered near the hotel at the time of the alleged incident except police personnel. In para 21, he deposed that during scuffle with A1-A3, bangles of the informant broke but the police did not seize anything from the place of the alleged incident. Also, that he did not inform his caste to staff of the said hotel. He stated before the police that his daughter, after drinking the water from the jug, poured it down on the table due to which, the hotel owner became angry. Further, that he told the police that when A1-A3 abused his family members, and he objected to the same, A3 caught hold his collar and thrashed him on the ground and assaulted him with fist and leg after which, when he and his family members sought apology from them, A3 levied false allegation on them that they snatched ₹60,000/- and gold chain from them. He further stated that A3 and others took him on the upper floor and snatched ₹27,000/- from his pocket and snatched gold chain thereafter he dialed emergency number 100 and they were saved. In para 34, he deposed that he did not produce any invoice of the snatched gold chain. At the time of the alleged incident, 150-200 people gathered there but he could tell the name of anyone. Finally, that he dialed 100 from his

own mobile but he neither showed it to the Investigating Officer nor was his mobile was seized by the police.

11.5 Regard being had to the evidences produced, it has not been clearly established by the prosecution whether PW01 and PW02 were eye witnesses or not. Their testimonies are also unclear about this. They have both supported the prosecution case and the allegations levied but with some contradictions in the sequence of events that occurred. Moreover, the alleged offence is one which was done in a public place and in the public eye. There were other customers present at that place, as deposed by PW02 but none of them have been examined to support the sequence of events. The Investigating Officer has also not been examined to show as to how the alleged offence took place and what all came up in his investigation.

11.6 Thus, the prosecution has not been able to establish an unbreakable chain of circumstances as has it been unable to support its case with cogent and independent evidence as a result of which, it has not been able to prove its case to shift the burden of proof upon the defence.

11.7 A1-A3 are all thus, acquitted of the charges u/s. 341/34, 342/34, 323/34, 504/34, IPC.

12 Thus, regard being had to the materials placed before this court and the discussion made above, this court is of the considered opinion that the prosecution has failed to establish that A1, A2 and A3 committed the alleged offence and has thereby failed to substantiate the charges u/s. 341/34, 342/34, 323/34, 504/34, IPC. Hence, A1, A2 and A3 are all hereby **acquitted** in this case. They and 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 31st May, 2023

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