

IN THE COURT OF SPECIAL JUDGE, ATHMALLIK.

Present:-

**Sri Laxminarayan Ray Choudhury, OSJS,
Special Judge, Athmallik.**

Dated, this the 07th day of June, 2023.

Date of argument: - 18.05.2023

Date of judgment: - 07.06.2023

C.T.(Spl) No.25 of 2022

(Arising out of Athmallik P.S Case no.304 dtd.15.12.2022)

S t a t e

-Versus-

- 1.Upendra Pradhan, aged about 39 years,
S/o. Late Mahendra Pradhan of village Bhangamaliha.
 2. Himanshu Sekhar Pradhan, aged about 28 years,
S/o. Amulya Pradhan of village Bandhupali.
- Both are of P.S- Athmallik, Dist- Angul.

..... Accused persons.

Status of the accused persons: Accused persons are on bail
and absent today.

**Offences U/s.341/332/294/506/353/452/34 of IPC r/w Sec.
3(1)(r)(s)(va) of SC & ST (POA) Act**

Counsel for the State :-Spl.P.P., Athmallik.
 Counsel for the accused persons:-S.K.Tripathy & Associates.

J U D G M E N T

The accused namely, accused persons namely, Upendra Pradhan and Himanshu Sekhar Pradhan stand charged for the offence U/s.341/332/294/506/353/452/34 of IPC r/w Sec. 3(1)(r)(s)(va) of SC & ST (POA) Act.

2. The brief case of the prosecution is that:-

On 15.12.2022 the informant namely Sandip Behera working as Jr. Engineer of Athmallik Block lodged a report before the Athmallik police by stating therein that on 13.12.2022 at about 10.30 am there was a meeting held inside the Block office, Athmallik in presence of District Council. After ending of the meeting, two persons namely, Upendra Pradhan and Himanshu Sekhar Pradhan entered into his office room. Suddenly said Upendra caught hold his collar and assaulted him by means of fist blows and abused him in obscene languages by aspersing his caste as “*Sala maghia tu JE dekhei heuchu*”. At that accused Himanshu also assaulted him on his face by means of fist blows and kicks as a result he fell down on the ground. He was rescued from the clutches of the above accused persons by Subash Ratha and Arun Kumar Behera, Jr. Engineer tried.

Basing on the situation, the informant lodged his FIR at Athmallik police station on 15.12.2022. The accused persons were arrested and forwarded before this court on 16.12.2022

and released on bail on 07.01.2023. After completion of investigation police submitted charge sheet vide C.S no.02 dtd.05.01.2023 for the offence U/s.341/332/294/506/353/452/34 of IPC r/w Sec. 3(1)(r)(s)(va) of SC & ST (POA) Act against the above accused persons to face their trial in the court of law.

3. The defence plea of the accused persons is complete denial to the prosecution story and false implication.

4. The points for determination in this case are:-

i. Whether on 13.12.2022 at about 10.30 am at Block office, Athmallik, the accused persons wrongfully restrained the movement of the informant from proceeding in a direction?

ii. Whether on the alleged date, time and place the accused persons voluntarily caused hurt to the informant(J.E, Athmallik) who is the public servant discharge of his duty?

iii. Whether on the alleged date, time and place the accused persons had abused the informant uttering obscene languages in or near a public place causing annoyance to him and others ?

iv. Whether on the alleged date, time and place, the accused persons had committed criminal intimidation on the informant?

v. Whether on the alleged date, time and place, the accused persons assaulted the informant, in the execution of his duty as such public servant?

vi. Whether on the alleged date, time and place, the accused persons committed house trespass by entering into the room of the informant having made preparation for causing hurt to him?

vii. Whether on the alleged date, time and place, the accused persons intentionally insulted with intent to humiliate a member of SC or ST in any place?

viii. Whether on the alleged date, time and place, the accused persons abused the informant by his caste name as 'Keuta' who belongs to a member of SC?

ix. Whether on the alleged date, time and place the accused persons committed any offence specified in the schedule caste against a person, knowing that such person is a member of SC shall be punishable with such punishment as specified under IPC?

5. To prove this case, the prosecution has examined as many as four numbers of witnesses. Out of whom, P.W.1 is the informant. P.W.2 the witness to the occurrence, P.Ws. 3 & 4 are the independent witnesses. During course of trial, the prosecution has proved one document from his side and

defence has examined none and exhibited no such documents on their behalf.

6. i. Now coming to the part of wrongful restrained, it is found in the FIR that during the incident while the informant was working as J.E, Athmallik block on 13.12.2022 at about 10.30 am accused Upendra Pradhan and Himanshu Sekhar Pradhan came and gave two fist blow on the face of the informant holding his collar. During such incident he was rescued by their official staffs namely, Subash Chandra Ratha (P.W.2) and another J.E, Aruna Kumar Behera. In this connection, informant himself examined as P.W.1 deposed that he does not know anything about the case. During course of his cross examination, he deposed that due to some misunderstanding between the accused persons, he has filed this case and now the matter has been amicably settled and he does not want to proceed further in this case. He has proved the FIR as Ext.P-1 and Ext.P-1/1 is his signature. But at the same time he deposed that he has not written the FIR so also he does not know the contents of the FIR. In view of the above, the contents of the FIR could not be proved against the accused persons. In this connection, other independent witnesses those who are examined as P.Ws. 2 to 4 also did not support the case of prosecution. So, in view of above, the prosecution has miserably failed to prove its case U/s.341/34 IPC against the present accused persons in furtherance of their common intention.

ii.Now coming to the part of voluntarily casing hurt to deter public servant from the duty of the informant, it is alleged in the FIR that while the informant was working as J.E under Athmallik block, he was assaulted by the accused persons and for which he has lodged the FIR under Ext.P-1. During course of the evidence, the informant himself did not support the case of prosecution. In this connection, other independent witnesses those who are examined as P.Ws. 2 to 4 did not support the case of prosecution. So, in view of the above the prosecution has miserably failed to prove its case against the present accused persons U/s.332/34 IPC beyond all reasonable doubt in furtherance of their common intention.

iii.Now coming to the part of using obscene languages at public place and causing annoyance to informant and others, it is found in the FIR that during the incident accused persons abused the informant uttering languages such as “*Sala Maghia etc*”. In this connection, informant himself examined as P.W.1 and he did not whisper anything supporting to the case of prosecution. In this case independent witnesses those who are examined as P.Ws.2 to 4 also did not support the case of prosecution. So, in view of the above the prosecution has miserably failed to prove its case against the present accused persons U/s.294/34 IPC beyond all reasonable doubt in furtherance of their common intention.

iv.Now coming to the part of criminal intimidation and threatening the informant by the accused persons, it is alleged

in the FIR that accused persons after giving physical assault to the informant threatened him if he will file any case against them, they will take away his life. Supporting to this case, informant himself examined as P.W.1 but he did not stated anything against the accused persons. In this connection, other independent witnesses those who are examined as P.Ws. 2 to 4 also did not support the case of prosecution. So, in view of the above, the prosecution has miserably failed to prove its case against the present accused persons U/s.506/34 IPC beyond all reasonable doubt in furtherance of their common intention.

v. Now coming to the part of assault/criminal force to deter public servant from discharge of duty of informant, it is alleged in the FIR that while the informant was working as J.E in the office of BDO, Athmallik and performing his official duty, at that time these accused persons came and assaulted him physically. In this connection, informant himself examined as P.W.1 but he did not support his own case. Supporting to this case, other independent witnesses also did not say anything against the present accused persons. So, in view of the above the prosecution has miserably failed to prove its case against the present accused U/s.353/34 IPC beyond all reasonable doubt in furtherance of their common intention.

vi. Now coming to the part of house trespass after preparation or hurt, assault or wrongful restrain, it is found

from the FIR that accused persons entered into the office of J.E working under BDO, Athmallik and assaulted him physically and also abused him uttering obscene language. In this connection, informant himself examined as P.W.1 and he did not support the case of prosecution. Supporting to this case, other independent witnesses also did not say anything against the present accused persons. So, in view of the above, the prosecution has miserably failed to prove its case against the present accused persons U/s.448/34 IPC beyond all reasonable doubt in furtherance of their common intention.

vii. Now coming to the part of intentionally insult or intimidates with intention to humiliate the member of SC & ST in any place, it is alleged in the FIR that these accused persons entered into the office premises of informant and abused him uttering languages such as “*Sala Maghis Keuta tu JE dekhei hauchu*”. In this connection, informant examined as P.W.1 and he did not support the case of prosecution. So also other independent witnesses those who are examined as P.W.2 to 4 also did not support the case of prosecution. So, in view of the above the prosecution has miserably failed to prove its case against the present accused U/s.3(1)(r) IPC beyond all reasonable doubt.

viii. Now coming to the part of commission of any offence against SC or ST in respect of person or property punishable under IPC, it is alleged in the FIR that while the informant was working as J.E under the office of BDO,

Athmallik, at that time accused persons came and assaulted him physically and abused him uttering languages “*Sala Maghis Keuta tu JE dekhei hauchu*”. In this connection, informant (P.W.1) and other independent witnesses examined as P.Ws. 2 to 4 did not support the case of prosecution. So, in view of the above the prosecution has miserably failed to prove its case against the present accused U/s.3(2)(va) IPC beyond all reasonable doubt.

ix. Now coming to the part of abuses to any member of SC or ST using caste name in any place within public view, it is alleged in the FIR that while the informant was working as J.E under the office of BDO, Athmallik, at that time these accused persons abused him uttering languages “*Sala Maghia Keuta tu JE dekhei hauchu*”. In this connection, informant though proved his FIR as Ext.P-1 at the same time he did not admit the content of the FIR and also deposed nothing against the accused persons supporting to the case of prosecution. In this case, other independent witnesses those who are examined as P.Ws. 2 to 4 also did not support the case of prosecution. So, in view of the above the prosecution has miserably failed to prove its case against the present accused U/s.3(1)(s) IPC beyond all reasonable doubt.

7. In the result, the accused persons namely, Upendra Pradhan and Himanshu Sekhar Pradhan stand charged for the offence U/s.341/332/294/506/353/452/34 of IPC r/w Sec. 3(1)(r)(s)(va) of SC & ST (POA) Act and acquitted them

therefrom U/s.235(1) of Cr.P.C. The bail bond of the accused persons shall remain force for six months as per the Sec.437(A) of Cr.P.C and thereafter the accused persons be discharged from their bail bond.

Enter this case as mistake of facts.

The seized weapon of offence, if any, be destroyed after four months of expiry of appeal period, if no appeal is preferred and in case of an appeal, the disposal of the same shall be made as per the order of the Appellate Court.

Special Judge, Athmallik.

The judgment is computerized to my dictation, corrected by me and pronounced in the open court given under my hand and seal of this court this day of 7th June, 2023.

Special Judge, Athmallik.

Date of offence	13.12.2022
Date of FIR	15.12.2022
Date of Charge sheet	05.01.2023
Date of Framing of Charges	27.03.2023
Date of commencement of evidence	28.03.2023
Date on which judgment is reserved	18.05.2023
Date of Judgment	07.06.2023
Date of the Sentencing order, if any	NA

Accused persons Details

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 Detention undergone during Trial for purpose of sec.428 Cr.P.C
01	Uendra Pradhan	16.12.2022	07.01.2023	U/s.341/332/294/506/353/452/34 of IPC r/w Sec. 3(1)(r)(s)(va) of SC & ST (POA) Act	Acquitted	NA	Twenty one days
02	Himanshu Sekhar Pradhan	16.12.2022	07.01.2023	U/s.341/332/294/506/353/452/34 of IPC r/w Sec. 3(1)(r)(s)(va) of SC & ST (POA) Act	Acquitted	NA	Twenty one days

List of Prosecution/Defence/Court witnesses

A. Prosecution Witnesses.

Rank	Name	Nature of evidence (Eye Witness, Police witness, Expert witness, medical witness, Panch witness, other witness)
P.W.1	Sandeep Kumar Behera	Eye witness.
P.W.2	Subash Chandra Ratha	Eye witness
P.W.3	Prasanta Kumar Nanda	Other witness

P.W.4	Sameer Kumar Panda	Other witness
B. Defence Witnesses, if any:		
None		
C. Court Witnesses, if any		
Rank	Name	Nature of Evidence. (Eye Witness, Police witness, Expert witness, medical witness, Panch witness, other witness)
None		
List of Prosecution /Defence/Court Exhibits		
A. Prosecution Exhibits.		
SI No.	Exhibit Number	Description.
1	Ext.P-1	FIR
2	Ext.P-1/1	Signature of P.W.1.
3	Ext.P-2	Signature of P.W.2.
4.	Ext.P-3	Signature of P.W.3.
B.Defence Exhibits, if any		
Nil		
C.Courts, Exhibits, if any		
Nil		
D.Material Objects.		
Nil.		

Special Judge, Athmallik.

