

Gr. Case No.613/2019
(CNR- WBBK0A-000738-2022)

(J.O.C.WB01015)

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE,
KHATRA, BANKURA

Present: Smt. Parna Bhattacharya,
Additional Chief Judicial Magistrate,
Khatra, Bankura.

Case No- G.R.613/2019

T.R. No-1632 T/2022

[Reg. No. 535/2022]

State of West Bengal

vs.

1. Shyam Das,
2. Nimai Das,
3. Manu Das,
4. Anath Das,
5. Kartick Das,
6. Pratima Das and
7. Malati Das @ Mala Das all of village Motgoda under P.S.-Raipur,
Dist - Bankura..... Accused Persons

U/s 341/325/326/354/427/34 of the Indian Penal Code, 1860.

Judgment Delivered On 25th Day of June, 2024

J U D G M E N T

This is a case U/S- 341/325/326/354/427/34 of Indian Penal Code, 1860.

The lis of the case of the prosecution in nutshell is that one Arun Pal, the de-facto complainant of this case has lodged written complaint before P.S.-Sarenga to the effect that on 05.12.2019 at about 02:00 P.M., over the issue of cleaning of the land, in order to keep paddy, a dispute broke out in between the said de-facto complainant and the accused persons. When the de-facto complainant raised protest, the

accused persons armed with lathi, katari, axe, shabol etc. came to the place of occurrence and chopped of all the trees belonging to the said de-facto complainant. Thereafter the accused persons have physically assaulted Tarun Pal, Angura Pal, Pintu Pal and Arun Pal with katari, axe, lathi etc. As a result, all of them sustained injury to their persons. Subsequently, this case has been initiated.

On the basis of the aforesaid complaint Sarenga P.S. Case No. 65/19 dated 05/12/19 was initiated against the accused persons, U/S- 341/325/326/354/427/34 of the Indian Penal Code, 1860.

The case was endorsed to S.I. Ashok Pani of Sarenga P.S. for investigation. After completion of investigation, I.O. submitted Charge Sheet, being Sarenga P.S. C.S. No. 62/19 dt. 22.12.2019, U/s 341/325/326/354/427/34 of the Indian Penal Code, 1860, against the accused persons, namely, 1.Shyam Das, 2. Nimai Das, 3. Manu Das, 4. Anath Das, 5. Kartick Das, 6. Pratima Das and 7. Malati Das @ Mala Das as a prima facie case was well established against the accused persons. Cognizance was taken. Thereafter the record was transferred this Court for disposal.

After receiving the record in its personal file, this Court allowed the accused persons to remain on bail as earlier.

Thereafter, upon hearing both sides, the charge was framed against the accused persons U/S 341/325/326/354/427/34 of I.P.C. on 18.06.2023 and the contents are read over and explained to the accused persons to which they has pleaded not guilty and claimed to be tried.

Thus, commenced the trial and the case was posted for evidence. The prosecution in support of its case has examined nine

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witnesses namely,

1. Arun Pal, as P.W-1 (De facto complainant),
2. Madhab Mondal as P.W-2,
3. Pintu Pal as P.W-3,
4. Tarun Kr. Pal as P.W-4 and
5. Angur Pal as P.W-5,

This apart, the written complaint is marked as **Exhibit-P-1/(P.W-1)**.

After closure of the evidence for prosecution the accused persons were examined U/s 313 of Cr.P.C. on 25.06.2024, where they have pleaded innocence yet again but declined to adduce any evidence in their support.

Heard Argument on behalf of the State as canvassed by Ld. A.P.P. and Ld. Defence Counsel.

POINTS FOR DETERMINATION

1. Whether the prosecution has been able to prove its case U/S 341/325/326/354/427/34 of the Indian Penal Code, 1860 against the accused persons beyond all reasonable doubts or not?

DECISION WITH REASON

The points for consideration are taken up together for discussion for the sake of convenience and brevity.

Now, let us find out how far the prosecution has been successful in proving the case against the accused persons beyond all reasonable doubts.

The D/C, Arun Pal in his testimony has not uttered anything incriminating against the accused persons and maintained his stark silence regarding occurrence of the incident by merely stating that he cannot remember anything about the incident and harbour no grudge against the accused persons.

P.W-2, P.W-3, P.W-4, and P.W-5 have not throw any light about the incident by merely stating unequivocally that they do not know anything about the incident.

This being position, under such facts and circumstances, I find that the prosecution has failed to establish this case beyond the shadow of every reasonable doubts, as none of the prosecution witnesses from P.W-2 to P.W-5 have shed any light about the incident. As a result, I find that the prosecution has failed to prove the allegation of wrongful restrained of the de-facto complainant and his family members by the accused persons along with the allegation of voluntary causing grievous hurt with dangerous weapons within the ambit of Section 320 of I.P.C., besides, outraging the female modesty of the family members of the de-facto complainant, besides causing mischief by damaging trees of the complainant amounting to Rs.50/- and upwards. In absence of all such ingredients the prosecution case does not stand as believable and the charge becomes infructuous.

As a result, prosecution case fails and the accused persons are entitled to get order of acquittal, under such facts and circumstances, to meet the best interest of justice.

Hence, it is,

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ORDERED,

that the accused persons, namely, 1. Shyam Das, 2. Nimai Das, 3. Manu Das, 4. Anath Das, 5. Kartick Das, 6. Pratima Das and 7. Malati Das @ Mala Das are found not guilty of the offence U/S- 341/323/325/326/354/427/34 of the Indian Penal Code, 1860.

They are, accordingly, acquitted from this offence as well as this case U/s 248(1) Cr.P.C. They be set at liberty at once.

The sureties are discharged from their respective bail-bonds.

Seized alamats, if any, be disposed off according to law after expiry of the period of appeal.

The victim has the right to prefer an appeal against this Judgment and order of acquittal in terms of proviso of Section 372 of the Cr.P.C and to avail free legal aid service as per entitlement and let a copy of this order be forwarded to District Magistrate and Chairman SDLSA in terms of the decision of Hon'ble High Court at Calcutta dated 29.03.2022 in Sabitri Bhunya vs. State of West Bengal and others (CRA 266 OF 2020/ CRAN 1 of 2020).

This Judgment and order is pronounce in open Court on this 25th Day of June, 2024.

Dictated & Corrected by

Sd/-
(SMT. P. BHATTACHARYA)
A.C.J.M., Khatra

Sd/-
(SMT. PARNA BHATTACHARYA)
Additional Chief Judicial Magistrate,
Khatra, Bankura