

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS <i>Present: Nikhat Ayesha</i> <i>Judicial Magistrate First Class</i> <i>Giridih</i> Dated, Giridih, the 18th day of September, 2024 District : Giridih <u>G.R CASE NO. 1994/2016</u> (Arising out of Giridih (Town) PS Case No. – 214/2016)	
Informant	State of Jharkhand through Sujeet Kumar Singh
Represented by	Sri Ajay Kumar Gyansagar, Ld. APP
Accused Persons	1. Raj Kishore Singh, S/o Late Shivdayal Singh, 2. Mahesh Prasad Pathak, S/o Late Kameshwar Pathak, 3. Bharat Bhushan Jamuar, S/o Late Chaturbhuj Sahay 4. Haldhar Prasad Ram, S/o Late Madhusudan Rai, all are R/o Copper Field, Barganda, PS Giridih Town, District Giridih
Represented by	Sri Bhawesh Anand

Date of Offence	Since 2012 to 2015
Date of FIR	01.08.2016
Date of Chargesheet	29.11.2016
Date of Explanation of Substance	19.05.2018
Date of Commencement of evidence	17.07.2018
Date of Judgment	18.09.2024

Details of Accused Persons:

Rank of the Accused Persons	Name of the Accused person	Date of Arrest	Date of released on bail	Offences charged with	Whether acquitted or convicted
A1	Raj Kishore Singh	-	10.08.2016	Section 196, 197, 200, 288, 323, 181, 120B, 504 and 506 of IPC	Acquitted
A2	Mahesh Prasad Pathak	-	10.08.2016	Section 196, 197, 200, 288, 323, 181, 120B, 504 and 506 of IPC	Acquitted
A3	Bharat Bhushan Jamuar	-	10.08.2016	Section 196, 197, 200, 288, 323, 181, 120B, 504 and 506 of IPC	Acquitted
A4	Haldhar Prasad Rai	-	10.08.2016	Section 196, 197, 200, 288, 323, 181, 120B, 504 and 506 of IPC	Acquitted

JUDGMENT

1. The above-mentioned accused persons are facing trial under Sections 196, 197, 200, 288, 323, 181, 120B, 504 and 506 of Indian Penal Code. On 19.05.2018, substance of accusation under above mentioned

sections was explained to the above named accused persons and the accused persons pleaded not guilty and claimed to be tried.

BRIEF FACTUAL MATRIX OF PROSECUTION CASE

2. The prosecution case is based on the written report of the informant, one Sujeet Kumar Singh that the accused person no. 1 was involved in constructing a boundary that was dangerous to public and closing the public road by creating potholes thereby causing injury to general public. The accused persons also lodged a false complaint against the informant. The accused person no 2 also constructed his house illegally and established a mobile tower in his house. The accused no 3 used to pass comments on the informant regarding his being from backward classes and also constructed a long wall in front of the informant's house which was dangerous to the public. The accused no. 4 Haldhar Prasad Rai also passed comments on the informant regarding his being from backward classes. The accused persons conspired together to demolish the wall of the informant and file a false complaint against the informant. The informant was the secretary of Sai Chath Ghaat, Barganda, Giridih and was responsible for the management of the ghaat, lighting and decoration every year. In August 2014, a dispute arose between the informant and the accused no. 5 regarding the wrong molding of stairs of Ghaat and the accused persons tried to take over the management of Chath ghat from the informant. Several false cases was lodged against the informant by the accused persons as well as Officer-in-charge in collusion with the accused persons. There were complaints of objectionable nature filed against the informant during elections in order to prove the legality of proceedings under Section 107 and

Section 116(3) CrPC. The informant was called as a terrorist in the complaint dated 17.11.2014 due to which the informant had to face criticism in the village.

3. On the basis of the above facts and circumstances, FIR was registered as Giridih Town P.S. Case No. 214/2016 for the offences under Sections 500, 504, 323, 287, 288, 283 and 120B of Indian Penal Code against accused persons namely ***Rakesh Kumar Rajgariya @ Munna Rajgariya, Raj Kishore Singh, Mahesh Pathak, Haldhar Prasad Rai and Bharat Bhushan Jamuwar*** and investigation was initiated. After completion of investigation, police submitted Chargesheet No. 300/2016 dated 29.11.2016 for the offences under Sections 196, 197, 200, 287, 288, 323, 181, 120B, 504 and 506 of Indian Penal Code against accused persons namely ***Rakesh Kumar Rajgariya @ Munna Rajgariya, Raj Kishore Singh, Mahesh Pathak, Haldhar Prasad Rai and Bharat Bhushan Jamuwar***. Accordingly, cognizance of the offence under Sections 196, 197, 200, 287, 288, 323, 181, 120B, 504 and 506 of Indian Penal Code was taken against the charge sheeted accused persons on 19.12.2016.
4. After appearance of the accused person and after hearing on point of substance, substance of accusation under Sections 196, 197, 200, 288, 323, 181, 120B, 504 and 506 of Indian Penal Code was explained to the above named accused persons on 19.05.2018 and the same was read over to the accused persons in Hindi, to which they pleaded not guilty and claimed to be tried.
5. On 17.07.2018, the case record was fixed for prosecution evidence and Accordingly, summons were issued upon the witnesses on 29.08.2018,

bailable warrant was also issued on 07.09.2022 and thereafter, non-bailable warrant was also issued on 18.04.2023. After giving sufficient time to the prosecution, the prosecution evidence was closed on 17.01.2024, but since a petition under Section 311 CrPC was allowed, after taking all the evidence, prosecution evidence was finally closed on 11.09.2024. After the prosecution evidence was closed, the statement of the accused persons under Section 313 of Code of Criminal Procedure was recorded on 18.09.2024 and upon the oral submission of Ld. Defence counsel, the defence evidence was closed on the same day. The arguments were heard from both the sides and thereupon, the judgment was pronounced on 18.09.2024.

6. It is pertinent to highlight that the accused Rakesh Kumar Rajgariya @ Munna Rajgariya died on 05.12.2020 and hence, further proceedings of the above named accused was dropped vide order dated 18.09.2024.

PROSECUTION EVIDENCE

7. The prosecution, in order to prove the case, has produced and examined witness to substantiate its case which is as follows:

List of Prosecution Witness:

Rank	Name	Nature of Evidence
PW1	Raj Kumar Singh	Related Witness
PW2	Md. Kalim	Independent Witness
PW3	Vidhyanand Rai	Independent Witness
PW4	Narendra Kumar Singh Nilam	Related Witness
PW5	Dinanath Ram	Independent Witness
PW6	Sujit Kumar Singh	Informant

List of Prosecution Exhibits:

S.No	Exhibit	Description
1.	Exhibit P1/PW6	Signature of informant on Typed Petition
2.	Exhibit P1/1/PW6	Signature of informant on Typed Petition

3.	Exhibit P1/2/PW6	Signature of informant on Typed Petition
4.	Exhibit P1/3/PW6	Signature of informant on Typed Petition
5.	Exhibit P1/4/PW6	Signature of informant on Typed Petition
6.	Exhibit P1/5/PW6	Signature of informant on Typed Petition
7.	Exhibit P1/6/PW6	Signature of informant on Typed Petition

EXAMINATION OF ACCUSED PERSON UNDER SECTION 313 CRPC

8. On 18.09.2024, the statement recorded under Section 313 Cr.P.C, the accused persons pleaded their innocence. The defence case is based on absolute denial of occurrence and non-involvement of the accused persons in the alleged occurrence of offence.

DEFENCE EVIDENCE

9. No defence evidence has been adduced by or on behalf of the accused persons in their defence and has mainly relied on the lacuna in the prosecution evidence.

10. Now the only point of determination before this Court is whether the prosecution has been able to prove the charges leveled against the accused persons beyond all reasonable shadow of doubt or not?

ARGUMENTS

11. During the course of argument Ld. Defense Counsel submitted that in the prosecution has miserably failed to prove its case and prosecution has examined in total six witnesses, out of which three witnesses have been declared hostile by the prosecution. In fact, the informant of this case has stated that he has no personal loss due to this incident. He also stated that he doesnot want to proceed further with the case. Further, the prosecution has failed to examined the IO of this case. Lastly, he submitted that it is a fit case for acquittal and therefore, the accused persons may be acquitted in this case.

12. During the course of argument, the learned APP for prosecution left the outcome of this case on the wisdom of this court.

13. This Court has heard learned counsels appearing on behalf of the parties to this case. After hearing learned counsels appearing on behalf of the parties to this case and perusing the case record, this court records the following;

FINDINGS

14. Having heard the contention of both the sides and after careful appreciation of material available on record, it transpires that the prosecution has examined altogether six witnesses in this case. In this regard it is very important and pertinent to highlight that the prosecution has examined the star witness, that is, the informant of this case and therefore his evidence is essential to be scrutinized before moving forward. PW6, the informant of this case has stated that the incident took place between 2012 to 2015 and has supported the entire factum of typed complaint. He has also stated about the 18 feet long boundary constructed by accused Rakesh Kumar Rajgariya which may have caused death of general public and also created potholes on the road by using JCB. He also stated that due to intervention of the police, the accused had to demolish his boundary and fix the potholes. He also deposed that the accused was illegally cutting mango trees standing alongside the road. The accused Raj Kishore Singh also constructed his house illegally and established a mobile tower in his house. The accused Bharat Bhushan took contract of constructing a ghaat on the Chath Ghaat, of which, the informant was the secretary in the year 2008 and due to the wrong work of the accused, the informant complained

about him and this accused also conspired together with other accused to defame the informant. He also deposed that in August 2014, the accused persons tried to take over the management of Chath ghat from the informant. He also stated that during elections in 2014, the accused persons conspired and the informant's name was reflected in the list of gundas and on 17.11.2014, the accused persons sent a complaint to Central Government in which they mentioned that the informant is a terrorist. However, in cross examination, he deposed that he did not had any personal loss due to the occurrence of these incidents and the wall constructed by the accused did not fall. He also deposed that he has not brought the complaint in which he was called as terrorist. He also stated that there was no involvement of the accused persons in the cases lodged against him. He also deposed that he is not willing to proceed further with the case and he has no objection if the accused persons are acquitted in this case. Similarly, PW1 and PW4 has supported the entire case of prosecution but are related witnesses. However, PW2, PW3 and PW5 have stated that they have no knowledge about the incident.

APPRECIATION OF EVIDENCE

Let the allegations leveled against the accused persons be examined in light of the representations presented by the experienced counsels, having addressed the panoramic principles as indicated above in conjunction with the factual matrix of this case.

Having heard the contention of both the parties and careful appreciation of material available on record, I am of the opinion that prosecution examined six witnesses. It is also pertinent to highlight that the informant who is star witness of this case has been examined by the prosecution and though he

has supported the case of prosecution but has stated that he is not willing to proceed further with the case and he has not suffered any personal loss due to the incident. This leads me to build the opinion that in the case at hand with so many lapses, there is nothing on record to establish the guilt of the accused persons. Further, three witnesses have not supported the case and denied the occurrence of incident. It is also pertinent to highlight that the prosecution has failed to examine IO of this case who has recorded the statement of witnesses which renders the prosecution case less believable. Furthermore, manner and place of occurrence could not be established due to non examination of IO. Furthermore, it is a cardinal principle of criminal jurisprudence that prosecution is supposed to prove its case beyond reasonable doubts by leading reliable, cogent and convincing evidence. Hence, it appears from the evidences brought on record that no ingredient under Sections 196, 197, 200, 288, 323, 181, 120B, 504 and 506 of Indian Penal Code is made out.

ORDER

*Following the explanation above, it is obvious that the evidences presented on behalf of the prosecution has not been able to prove the case of prosecution beyond shadow of all reasonable doubt against the accused personx. Therefore, after scanning the entire record and keeping in view the above discussion, in the absence of testimony of eye witnesses on record, in my considered opinion, the prosecution has miserably failed to prove the present case against the accused persons and hence, the accused persons, namely, **Raj Kishore Singh, Mahesh Pathak, Haldhar Prasad Rai and Bharat Bhushan Jamuwar** are not guilty and are hereby acquitted of all the charges leveled against them under Sections 196, 197, 200, 288, 323,*

181, 120B, 504 and 506 of Indian Penal Code. Accordingly, they and their bailors are also discharged from the liabilities of their respective bail bonds.

Pronounced by me in open court on 18th day of September, 2024.

Nikhat Ayesha
Judicial Magistrate First Class
Giridih
JO Code: JH02037

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