

In the court of Sub Divisional Judicial Magistrate ,(Mufassil)
Biswanath Chariali, Sonitpur.

Gr Case No. 166/2010
u/s 341/323/ 506/34 IPC

State

Vs

Shri Mithun Munda

Shri Kabir Munda

Shri Shrawan Munda.....Accused

Present:- Mrs Audri Bhattacharyya.

SDJM(M).-Biswanath Chariali, Sonitpur.

Appearances:-

For the prosecution: Shri B.C. Sarma, Addl. P.P.

For the accused: Shri Arjun Prasad Kurmi .(Advocate)

Date of recording evidence: 26-03-2014,26-05-2014

Date of hearing argument : 26-05-2-14.

Date of Judgment : 26-05-2014.

JUDGMENT

Prosecution case in brief is that complaint was filed by the informant Md. Kayamuddin Ansari alleging inter alia that on 01-04-2010 at about 6.00 p.m. as he was returning home from Dekapathar after dropping down workers from Brick kiln , the accused persons namely

Shri Kabir Munda, Shri Mithun Munda and Shri Mithun Munda illegally restrained him on his way at Dhemaji Goan and assaulted with pieces of bricks. He was injured in his head . The accused persons also showed him criminal intimidation .

On receipt of the ejahar by i/c Gingia O.P, vide GDE No. 29 dated 02-04-2010, the same was forwarded to O.C. Behali P.S. for registering a case. Accordingly Behali P.S. CASE No. 35/2010 u/s 341/325/506/34 I.P.C. was registered and the I.O. taking up the duty of investigation had visited the place of occurrence , drew sketch map and examined the witnesses , and on conclusion of the investigation submitted chargesheet u/s 341/323/506/34 I.P.C. against the accused persons.

The chargesheet on being placed before Learned SDJM (M) was accepted and kept in the file of Learned SDJM (M) for disposal.

On taking cognigance , summons were issued to the accused persons and on receipt of summons the accused person appeared before the Court and were furnished with copies of relevant documents. Particulars of offence u/s/ 341/323/506/34 I.P.C. was read over and explained to the accused persons to the accused persons to which they pleaded not guilty and claimed to be tried.

Prosecution had examined 4 witnesses including the informant and the injured . On closure of prosecution witness the statement of the accused persons u/s 313 Cr.P.C. was recorded. From the cross examination of the prosecution witness and the examination of the accused it appears that the accused person's plea is of total denial. The accused person did not adduce any evidence.

I have heard the argument advanced by Learned Counsel for both the sides.

Points for determination

(i) Whether the accused persons with common intention on 01-04-2010 at about 6 p.m., wrongfully restrained the informant on his way back at Dhemaji Goan and caused hurt to him voluntarily?

(ii) Whether the accused persons with common intention on 01-04-2010 at about 6 p.m., showed criminal intimidation to the informant and threatened him with dire consequences?

Heard argument of the learned counsel for the prosecution and the defence. Perused the materials on record.

DECISION, DISCUSSION AND REASONS THEREOF

As both the points are consistent to each other both the points are taken up together for discussion.

Out of the four prosecution witnesses , PW1 Shri Shyamal Modi deposed that he did not see the occurrence and he heard that there was some altercation in between the accused and the informant . He did not mention as to from whom he had heard about the occurrence.

PW2 Smti Maya Mudi also deposed that she does not know anything about any occurrence .

PW3 Shri Palash Gore deposed that he was present when the informant was returning back home after dropping the labours from Brick

Kiln. There was some exchange of words in between the accused and the informant . But this witness is silent as to showing of any criminal intimidation or the accused causing voluntary hurt to the informant.

PW4 Md. Kayamuddin Ansari is the informant of the case He deposed that he lodged the Ejahar because someone had assaulted him . He exhibited the Ejahar as Exhibit 1 and his signature as Exhibit 1(1).

The evidence of PW4. the informant / victim is silent as to any causing of wrongful restraint by the accused persons or as to showing of any criminal intimidation by the accused persons. Further PW3 who deposed that he was present with the informant on his way back on the day of occurrence is silent as to causing any hurt by the accused persons. The element of common intention is also not reflected from the evidence of the prosecution witnesses.

Hence it is held that prosecution failed to prove offences u/s/ 341/ 506/ 323/34 I.P.C. against the accused person beyond all reasonable doubt.

In result, the accused persons are found to be not guilty and are acquitted and set at liberty forthwith. The bailbond for accused stands extended for six months as prayed for.

Judgment is pronounced in open Court and is given under my hand and seal on this the 26th day of May, 2014.

Mrs Audri Bhattacharyya.

SDJM(M).

-Biswanath Chariali, Sonitpur.

