

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,**  
**BHUBANESWAR**

Present : - Shri Bishes Kumar Sahu, LL.M.,  
Judicial Magistrate First Class,  
Bhubaneswar.

**C.T. Case No.3372/2013**  
**(Arising out of Khandagiri P.S. Case No. 414/2013)**  
**T.R. No. 1338/2014**

**State: -** .....**Prosecution**

**-Versus -**

- 1) Pravakar Maharana, Aged about 22 yrs,  
S/O- Nilamani Maharana, At- Badadanda Sahi,  
PS- Buguda, Dist- Ganjam..
- 2) Sankar Maharana, Aged about 34 yrs,  
S/O- Nilamani Maharana, At- Badadanda Sahi,  
PS- Buguda, Dist- Ganjam.
- 3) Gourahari Sahoo, Aged about 22 yrs,  
S/O- Laxman Sahoo @ Pabana, At- Gajapati Nagar,  
183/561, PS- Saheed Nagar, Dist- Khurda.

.....**Accused**

Counsels for the Prosecution: Shri Prakash Chandra Panda,  
Shri Laxmidhar Parida &  
Shri Sudhansu Sekhar Tripathy  
.....A.P.P., Bhubaneswar.

Counsels for the defence : Shri R.K.Ray & associates,  
.....Advocate, Bhubaneswar.

Date of Conclusion of Argument : 24.12.2014  
Date of Pronouncement of Judgment : 26.12.2014

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**Offences under Sections- 454, 380, 411,414 of the I.P.C.-1860**

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## J U D G M E N T

1. The accused persons named above stands prosecuted for the offence punishable under section-454, 380, 411,414 of the I.P.C. for lurking house trespass in order to commit theft from a dwelling house, dishonestly receiving stolen property & assisting in concealment or disposal of stolen property, knowing it to be stolen respectively.

2. The abridgement of the prosecution case runs as follows:-

That, one Priyaranjan Patra, S/O- Late Jageswar Patra, of 2RA-54, OUAT Colony, PS- Khandagiri, Dist- Khurda presented a written report before IIC of Khandagiri P.S. The informant made an allegation therein that on 01.09.2013 in between 01pm to 05:30pm while the informant along with his wife were absent, at about 05:30pm on return to their house at Qtr No.2RA-54, OUAT Colony, PS- Khandagiri, Dist- Khurda they found the back door of the quarter was broken, so also the almirah also broken and some unknown culprits committed theft of gold ornament, cash, and wearing apparels from their house. For this reasons the informant lodged a FIR at Khandagiri Police Station, Khurda.

3. Basing upon the written report, law was set into motion and the matter was investigated into. In course of investigation; the concerned investigating officer visited the spot, examined the informant, and the witnesses present in the spot. The statements of the witnesses are also recorded u/s-161 of Cr.P.C. On completion of investigation, the I.O. submitted charge sheet against the accused namely 1. Pravakar Maharana, 2. Sankar Maharana, 3. Gourahari Sahoo under sections 454, 380, 411,414 of the I.P.C. to face their trial in the court of law which gave rise to the present trial.

4. The plea of the accused is one of outright denial and false implications.

5. The points for determination of this case are:-

- i. Whether the above named accused persons, have on the said date, time and place committed lurking house

trespass in a dwelling house used for the custody of the property?

- ii. Whether the above named accused Persons, have on the said date, time and place committed theft of gold ornaments, cash, and wearing apparels from the dwelling house?
- iii. Whether the above named accused persons, have on the said date, time and place dishonestly receiving stolen property knowing it to be stolen?
- iv. Whether the above named accused Persons, have on the said date, time and place assisting in concealment or disposal of stolen property, knowing it to be stolen?

**6.** To substantiate its case, the prosecution has examined as many as five witnesses, out of whom P.W.-1 is the informant; P.W.-2 and 3 are the occurrence witnesses & PW-4 & PW-5 are the Seizure witnesses to this case. On the other hand, defence has examined none.

**7.** After a careful perusal of the evidence of the informant-P.W-1, it is found that he has proved the F.I.R. vides Ext-1 and his Signature vides-Ext-1/1 thereon. It is also found from his evidence that on 01.09.2013 in between 01pm to 05:30pm while the PW-1 along with his wife were absent, at about 05:30pm on return to their house at Qtr No.2RA-54, OUAT Colony, PS-Khandagiri, Dist- Khurda he found the back door of the quarter was broken, so also the almirah also broken and some unknown culprits committed theft of gold ornament, cash, and wearing apparels from their house. For this reasons the informant lodged a FIR at Khandagiri Police Station, Khurda. Let us discuss the evidences of other witnesses.

**8.** During the perusal of the evidence of the P.W.-2 & 3, who are the independent witnesses of this case, it is found that they do not know anything about the case matter and further they did not prefer to grind axe against the accused as they have pleaded their ignorance regarding the factum of the case. On perusal of the evidences of PW-4 & PW-5 who are the seizure

witnesses of this case, it is found they stated that nothing has been seized in their presence. During their cross-examination they stated that they do not know the content of the seizure list and nothing has been seized in their presence. Thus evidences of PW-4 & 5 extended no support to the prosecution case. Moreover prosecution has not examined the I.O. of the case who is the vital witness to this case & close the evidence of the prosecution at his own risk.

9. Considering the evidence adduced on the case record, this court is of the opinion that there is no iota of evidence worthiness to the name to connect the alleged accused persons in the alleged crime.

10. In the result, I hold that the prosecution has failed to prove its case against the accused beyond all reasonable doubt and as such the accused namely 1. Pravakar Maharana, 2. Sankar Maharana, 3. Gourahari Sahoo are not found guilty for the offences punishable under sections U/s 454, 380, 411,414 of the IPC and are acquitted thereof under section 248(1) of Cr.P.C. and they be set at liberty forthwith and be discharged from their bail bonds.

The seized articles which are released in zima be kept with the zimanadar. The zimanama be cancelled after expiry of four months of the period of limitation for appeal if no appeal is preferred and according to the order of the Appellate Court if appeal is preferred.

Enter the case as of "Mistake of Fact".

**Judicial Magistrate First Class,  
Bhubaneswar**

This judgment is typed by and corrected by me and pronounced in the open court on this day i.e.; the 26<sup>th</sup> day of December, 2014 and given under my hand and seal of this Court.

**Judicial Magistrate First Class,  
Bhubaneswar**

List of witnesses examined on behalf of the Prosecution.

P.W. 1 : Priyaranjan Patra  
P.W. 2 : Madhab Chandra Nayak  
P.W. 3 : Loknath Nag  
P.W. 4 : Niranjan Sahoo  
P.W. 5 : Jagmohan Sahoo

List of witnesses examined on behalf of the Defence.

: None

List of Exhibits marked on behalf of the Prosecution.

Ext. 1 : F.I.R.  
Ext. 1/1 : Signature of P.W.1 on the F.I.R.  
Ext. 2 : Signature of P.W.4 on the Seizure List

List of Exhibits marked on behalf of the Defence.

: Nil.

**Judicial Magistrate First Class,  
Bhubaneswar**