



Counsels for the defence : Shri S.Nayak & associates.  
 .....Advocates, Bhubaneswar.

Date of Conclusion of Argument : 01.12.2014

Date of Pronouncement of Judgment : 22.12.2014

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**Offences under Sections- 341,323,294,506/34 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 offences punishable under section-341,323,294,506/34 of the I.P.C. for in furtherance of their common intentions of committing wrongful restraint, uttering obscene languages, voluntarily causing hurt & criminally intimidating the informant respectively.*

2. *The accusations which led to trial of the accused stated in brief are as follows:-*

*That, one Biswajit Mohanty, S/o- Harekrushna Mohanty of Girima, PS- Gop, Dist- Puri presented a written report before IIC of Khandagiri P.S. The informant made an allegation therein that on 19.10.1995 at about 7pm while the informant had gone to Baramunda Bus Stand to see of his Sister & Sister-in-law of his sister at the toll gate the accused persons assaulted the auto driver and the informant by means of kick, blow and fist. They also committed theft of Rs.1200/- from the pocket of the informant. During the tussle the accused persons abused the informant stating that "Banda Chhodiba". They also threatened to the informant for dire consequences. For the reasons the informant lodged an 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) Bauribandhu Panigrahi, 2) Bibhuti Bhusan Mishra & 3) Nirmal Chandra Sahu*

*under sections 341,323,294,506/34 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 persons is one of outright denial and false implications.*

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

i. *Whether the above named accused persons in furtherance of their common intentions have on the said date, time & place wrongfully restrained the Informant to proceed in any direction to which he has a right to proceed?*

ii. *Whether the above named accused person in furtherance of their common intentions have on the said date, time & place abused the Informant in obscene languages in or near a public place to the annoyance of others?*

iii. *Whether the above named accused persons in furtherance of their common intentions have on the said date, time & place voluntarily caused hurt to the Informant?*

iv. *Whether the above named accused persons in furtherance of their common intentions have on the said date, time & place criminally intimidated to the informant for dire consequences?*

6. *To substantiate its case, the prosecution has examined three vital witnesses out of six i.e. the Informant as P.W.-1, PW-2 & 3 are the occurrence witnesses to this case. On the other hand, defence has examined none.*

7. *After a careful perusal of the evidence of PW-1 who is the informant of this case, he proved the F.I.R. marked as exhibit-1 and Ext-1/1 is his signature thereon. In his evidence PW-1 narrated prosecution story that on 19.10.1995 at about 7pm while the informant had gone to Baramunda Bus Stand to see of his Sister & Sister-in-law of his sister at the toll gate the accused persons assaulted the auto driver and the informant by means of kick, blow and fist. They also committed theft of Rs.1200/- from the pocket of the informant. During the tussle the accused persons*

*abused the informant stating that "Banda Chhodiba". They also threatened to the informant for dire consequences. For the reasons the informant lodged an FIR at Khandagiri Police Station, Khurda. On perusal of the evidences of PW-2 & PW-3 who are the occurrence witnesses of this case, they put their ignorance about the factum of the case. They stated before the court that they have no knowledge as to the occurrence of the offence. Moreover Ld APP filed the close memo without examining the I.O. of this case who is the vital witness of this case & accordingly the prosecution evidence was closed at his own risk. Thus the evidences of these witnesses in no way helpful to the prosecution's case.*

8. *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.*

9. *In the result, I hold that the prosecution has failed to prove its case against the accused persons beyond all reasonable doubt and as such the accused namely 1) Bauribandhu Panigrahi, 2) Bibhuti Bhusan Mishra & 3) Nirmal Chandra Sahu are not found guilty for the offences punishable under sections U/s 341,323,294,506/34 of the IPC and are acquitted thereof under section 248 (1) of Cr.P.C. and he be set at liberty forthwith and be discharged from their bail bonds.*

*As there is no seizure, hence no order is to be passed thereon.*

*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 22<sup>nd</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 : Biswajit Mohanty  
P.W. 2 : Akhyaya Kumar Nayak  
P.W. 3 : Babuli Pradhan

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 PW-1 on the FIR

List of Exhibits marked on behalf of the Defence.

: Nil.

**Judicial Magistrate First Class,  
Bhubaneswar**