

IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS(O),
BHUBANESWAR, DIST-KHURDA

Present : Sk. Md. Quais, M.A., LL.M.
J.M.F.C.(O), BHUBANESWAR

Date of conclusion
of argument : 14.10.2014

Date of Judgment : 16.10.2014

G.R. No. 104/2013
Trial Case No. 466/2013

S t a t e

vrs

1. Santosh Kumar Pal, aged about 27 years,
S/o. Sanatan Pal,
2. Sanatan Pal, aged about 45 years,
S/o- Late Banamali Pal,
3. Susanta Pal, aged about 20 years,
S/o- Sanatan Pal,
4. Susama Pal, aged about 43 years,
W/o- Sanatan Pal,
All are of Village-San Palasahi, PS- Balipatna,
Dist- Khurda.

... Accused Persons

For offences punishable u/s 498(A)/323/294/506/406/34 of IPC r/w
Section 4/6(A) D.P. of IPC

For the Prosecution : A.P.P.

For the Defence : Biswanarayan Mohanty & his
Associates Advocates.

J U D G M E N T

The accused persons stand charged for offences punishable
u/s. 498(A)/323/294/506/406/34 of IPC r/w Section 4/6(A) D.P.
Act.

2. The case of the prosecution in short is as follows:

That on 13.02.2013 at about 11.00 A.M the informant Rozalin Pal appeared at Balipatna PS and presented a written report to the effect that on 12.05.2008 the marriage between the informant and the accused, Santosh Pal was solemnized at Pala Sahi as per Hindu Rites and Customs. The accused Santosh Pal being the husband of the informant, accused Sanatan Pal being the father-in-law of informant, accused, Susanta Pal being the brother-in-law of informant and accused, Susama Pal being the mother-in-law of informant, subjected the informant to physical and mental cruelty demanding a cash of Rs.1,00,000/- towards dowry. The accused persons abused the informant in obscene languages and also threatened the informant to face dire consequences. Basing upon the report of the informant Balipatna PS Case No. 22 dtd. 13.02.2013 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 498(A)/323/294/506/406/34 of IPC r/w Section 4/6(A) D.P was submitted against the accused persons to face their trial in court of law. Hence this case.

3. The plea of the accused persons could not be recorded due to want of incriminating material.
4. The points to be determined are as follows ;
 - (i) Whether on 12.05.2008 or thereafter at Pala Sahi the accused Santosh Pal being the husband of the informant, accused Sanatan Pal being the father-in-law of informant, accused, Susanta Pal being the brother-in-law of informant and accused, Susama Pal being the

mother-in-law of informant and in furtherance of their common intention subjected the informant to any cruelty for non-fulfillment of demand of any dowry ?

- (ii) Whether on the aforesaid period and place of occurrence the accused persons in furtherance of their common intention voluntarily caused hurt to the informant ?
- (iii) Whether on the aforesaid period and place of occurrence, the accused persons in furtherance of their common intention abused the informant and his family members by uttering any obscene words in or near a public place causing annoyance to the informant ?
- (iv) Whether on the aforesaid period and place of occurrence, the accused persons in furtherance of their common intention committed criminal intimidation by issuing threat with injury on the person of the informant with intent to cause alarm in her mind ?
- (v) Whether on the aforesaid period and place of occurrence, the accused persons in furtherance of their common intention being entrusted with the house hold articles of the informant including one Sansui portable TV committed criminal breach of trust in respect of such property ?
- (vi) Whether prior to marriage, at the time of marriage on 12.05.2008 or thereafter till the date of FIR, the accused persons in furtherance of their common intention demanded any dowry from the informant or her relatives ?

5. To substantiate the charge, prosecution has examined four witnesses in all out of whom PW.1, Rozalin Pal is the informant and

victim of this case. PW.2, Sabita Swain is the mother of the informant. PW. 3, Govinda Ch. Pal is the witness to occurrence. PW.4, Keshab Pal is the uncle-in-law of the informant. Examination of the rest witnesses has been declined by the prosecution. Defence has examined none on its behalf.

6. PW.1, the informant has deposed that due to some misunderstanding there was some dispute with accused persons which she has settled amicably. She doesn't want to proceed further with this case. During cross-examination, PW.1 admitted to have got no allegation against the accused persons. PW.2 has corroborated the evidence of PW.1 regarding settlement of dispute between the parties. PW.3 has deposed that nothing was seized in his presence. PW.4 has deposed that police had seized the household articles of informant in his presence. He is silent about the articles so seized. He is also silent as to from where and from whom it was seized. The examination of the I.O who is the author of seizure has been declined by the prosecution. Under the above circumstances and in absence of any corroboration, the factum of seizure of the property of informant from possession of accused persons is not proved beyond doubt. Examination of rest of the witnesses was declined by the prosecution.
7. From the aforesaid evidence of prosecution witnesses it appears that none of the witnesses has whispered a single word against the accused persons. The informant has not corroborated her own FIR story. Although FIR has been marked as Ext.-1, FIR is not a

substantive piece of evidence but it can be used only to corroborate and contradict the maker thereof, while the informant (PW.1) being the maker of the FIR (Ext.1) does not corroborate the FIR story, Prosecution cannot take any benefit out of the FIR (Ext.-1). Under the above circumstances, I find no incriminating material against the accused persons.

In the result, I hold the accused persons not guilty of the offences punishable u/s 498(A)/323/294/506/406/34 of IPC r/w Section 4/6(A) D.P Act and acquit them there from u/s 248(1) of Cr.PC. They be set at liberty forthwith and they are discharged from their bail bonds.

Enter the case as mistake of fact.

The zimanama be cancelled and made absolute after four months from the date of expiry of appeal period, if no appeal is preferred and in case of appeal as per direction of Appellate Court.

J.M.F.C.(O), Bhubaneswar

Dictated, corrected and pronounced in the open court on this the 16th day of October, 2014 under my hand signature and seal of this court.

J.M.F.C.(O), Bhubaneswar

List of witnesses examined for prosecution

PW.1	Rozalin Pal
PW.2	Sabita Swain
PW.3	Govinda Chanda Pal
PW.4	Keshab Pal

List of witnesses examined for defence

N o n e

List of documents admitted in evidence for prosecution

Ext.-1	FIR
Ext.-1/1	Signature of PW.1 on Ext.-1.
Ext.-2	Zimanama.
Ext.-2/1	Signature of PW.1 on Ext.-2
Ext.-3	Seizure list.
Ext.-3/1	Signature of PW.3 on Ext.-3.
Ext.3/2	Signature of PW.4 on Ext.-3.

List of documents admitted in evidence for defence

N I L

J.M.F.C.(O), Bhubaneswar

