

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 : 28.11.2014

Date of Judgment : 02.12.2014

G.R. No. 13/2013  
Trial Case No. 684/2014

S t a t e

vrs

Kabir Mahunta, aged about 38 years,  
S/o. Sridhar Mahunta  
Village: Ogarasuain, PS-Jatni, Dist-Khurda.

... Accused

For offences punishable u/s 341/323/294/506/448/354 of IPC.

For the Prosecution : A.P.P

For the Defence : Sangram Keshari Pradhan & his  
Associate Advocates.

J U D G M E N T

The accused stands prosecuted for offences punishable u/s. 341/323/294/506/448/354 of IPC for allegedly wrongfully restraining the complainant and her sister, for committing house trespass by entering into the house of the complainant with intent to commit an offence, uttering obscene words in a public place and for using criminal force to the complainant who is a woman with intent to outrage her modesty, voluntarily causing hurt and

committing criminal intimidation by issuing threats to the husband of the complainant.

2. The case of the prosecution shortly runs as hereunder ;

That the accused had borrowed a sum of Rs.30,000/- from the husband of the complainant. While the husband of the complainant demanded his money from the accused, the accused abused the husband of the complainant in obscene languages. On 12.08.2012 at about 7.00 P.M at Village-Ogarasuain the accused taking alcohol wrongfully restrained the complainant and her sister and abused the husband of the complainant in obscene languages. While the complainant protested, the accused entered into her house and the accused threatened the husband of the complainant to face dire consequences. The complainant filed a complaint petition to that effect before this Court on 24.09.2012 basing upon which ICC 118/2012 was registered and the complaint petition was sent U/s. 156(3) of Cr.PC to Jatni PS for investigation. Basing upon such complaint petition Jatni PS Case No. 02 dtd. 05.01.2013 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 341/323/294/506/448/354 of IPC was submitted against the accused to face his trial in court of law. Hence this case.

3. The plea of the accused could not be recorded due to want of incriminating material.

4. The points to be determined are as follows ;

Whether on 12.08.2012 at about 7.00 P.M at Village-Ogarasuain the accused

(i) wrongfully restrained the complainant and her sister from proceeding

to any direction which they had got right to proceed ?

- (ii) voluntarily caused hurt to the complainant and her sister ?
- (iii) abused the husband of the complainant by uttering any obscene words in or near a public place causing annoyance to the complainant and others ?
- (iv) committed criminal intimidation by issuing threats to the husband of the complainant with injury to her person with intent to cause alarm in her mind ?
- (v) committed house trespass by entering into the house of the complainant with intent to annoy and criminally intimidate the complainant ?
- (vi) assaulted or used criminal force to the complainant who is a woman with intent to outrage her modesty ?

5. In order to prove its case, prosecution has examined four witnesses in all out of whom PW.1, Nirupama Mohanty is the complainant and victim of this case. PW.3, Somyaranjan Mohanty is the husband of the complainant. PW.2, Muralidhar Swain and PW.4, Satyabhama Barik are witnesses to occurrence. Examination of the rest witnesses has been declined by the prosecution. Defence has examined none on its behalf.

6. PW.1, the complainant has deposed that due to some misunderstanding there was some dispute with accused which she has settled amicably. She doesn't want to proceed further with this case. During cross-examination, P.W.1 admitted to have got no allegation

against the accused. PW.2, PW.3 and PW.4 have not supported the prosecution case. Examination of rest of the witnesses was declined by the prosecution.

7. PW.1 and PW.3 who are the victims of this case have not whispered a single word against the accused. PW.1 has not corroborated her own complaint petition. Although complaint petition filed by the complainant turned to FIR later on and was 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 complainant (PW.1) being the maker of the FIR (Ext.1) does not corroborate the FIR, Prosecution cannot take any benefit out of the FIR (Ext.-1). Under the above circumstances, I find no incriminating material against the accused.

In the result, I hold the accused persons not guilty of the offences punishable u/s 341/323/294/506/448/354 of IPC and acquit him there from u/s 255(1) of Cr.PC. The accused be set at liberty forthwith and he is discharged from his bail bond.

Enter the case as mistake of fact.

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

Dictated, corrected and pronounced in the open court on this the 2nd day of December, 2014 under my hand signature and seal of this court.

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

List of witnesses examined for prosecution

PW.1	Nirupama Mohanty
PW.2	Muralidhar Swain
PW.3	Somyaranjan Mohanty
PW.4	Satyabhama Barik

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.

List of documents admitted in evidence for defence

N I L

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

