

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 : 24.11.2014

Date of Judgment : 25.11.2014

G.R. No. 147/2012
Trial Case No. 438/2012

S t a t e

v r s

1. Malaya Kumar Das, aged about 30 years,
S/o. Late Mani Charan Das,
2. Khirod Kumar Das, aged about 33 years,
S/o- Late Mani Charan Das,
Both are of Village-Radhacharanpur, PS-Jatni, Dist-
Khurda.
3. Babuli @ Ramesh Barik, aged about 23 years,
S/o- Rabindra Kumar Barik,
4. Smt. Laxmipriya Barik, aged about 56 years,
W/o- Rabindra Kumar Barik,
Both are of Village-Malia, PS- Binjharpur, Dist- Jajpur.

... Accused Persons

For offences punishable u/s 341/323/294/427/354/506/34 of IPC

For the Prosecution : A.P.P.

For the Defence : Rajesh Mohapatra & his
Associates Advocates.

J U D G M E N T

The accused persons stand charged for offences punishable u/s.
341/323/294/427/354/506/34 of IPC for allegedly wrongfully restraining the
informant and her husband, voluntarily causing hurt, uttering obscene words in
or near a public place, for committing mischief by destroying the articles of the

informant, for using criminal force to the informant who is a woman with intent to outrage her modesty and for committing criminal intimidation by issuing threats to the informant and her husband in furtherance of their common intention.

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

That on 29.02.2012 at about 9.00 A.M the informant Smt. Puspalata Das appeared at Jatni PS and presented a written report to the effect that on 27.02.2012 at about 12.00 Noon at Village-Ogalapada, the accused, Babuli Barik plucked bael fruit, coconut and drumstick from the trees of the informant and destroyed the branches of the tree, without taking permission of the informant. While the informant protested, the accused abused the informant in obscene languages. At about 9.00 P.M all the accused persons assaulted the informant and her husband by means of iron rod and bamboo stick, as a result they sustained bleeding injuries on their person. The accused persons also threatened the informant and her husband to kill. Basing upon the report of the informant Jatni PS Case No. 50 dtd. 29.02.2012 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 341/323/294/427/354/506/34 of IPC 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 27.02.2012 at about 12.00 Noon at Village-Ogalapada the accused, Babuli Barik abused the informant by uttering any obscene words in or near a public place causing annoyance to the informant ?

- (ii) Whether on the aforesaid date at 9.00 PM at aforesaid place of occurrence the accused persons in furtherance of their common intention voluntarily caused hurt to the informant and her husband ?
- (iii) Whether on the aforesaid date, time and place of occurrence, the accused persons in furtherance of their common intention wrongfully restrained the informant and her husband from proceeding to any direction which they had got right to proceed ?
- (iv) Whether on the aforesaid date, time and place of occurrence, the accused persons in furtherance of their common intention assaulted or used criminal force to the informant who is woman with intent to outrage her modesty ?
- (v) Whether on the aforesaid date, time and place of occurrence, the accused persons in furtherance of their common intention committed mischief by destroying the branches of drumstick tree worth Rs.50/- and more from the garden of the informant ?
- (vi) Whether on the aforesaid date, time 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 and her husband with intent to cause alarm in their mind ?
5. To substantiate the charge, prosecution has examined six witnesses in all out of whom P.W.1, Puspalata Das is the informant and victim of this case. P.W.2, Puspak Kumar Das is the husband of the informant. P.W.3, Kanhei Nayak, P.W.4, Akrura Nayak, P.W.5, Nirendra Behera and P.W.6, Sania Nayak are the 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 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, PW.3, PW.4, PW.5 and PW.6 have not supported the prosecution case. 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. 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 341/323/294/427/354/506/34 of IPC 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.

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

Dictated, corrected and pronounced in the open court on this the 25th day of November, 2014 under my hand signature and seal of this court.

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

List of witnesses examined for prosecution

P.W.1	Puspalata Das
P.W.2	Puspak Kumar Das
P.W.3	Kanhei Nayak
P.W.4	Akrura Nayak,
P.W.5	Nirendra Behera
P.W.6	Sania Nayak

List of witnesses examined for defence

N o n e

List of documents admitted in evidence for prosecution

NIL

List of documents admitted in evidence for defence

N I L

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

