

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 : 23.12.2014

Date of Judgment : 02.01.2015

G.R. No. 1561/2008
Trial Case No. 438/2011

S t a t e

vrs

1. Smt. Renubala Panda, aged about 44 years,
S/o- Late Sarojranjan Panda,
2. Brajabandhu Panda, aged about 74 years,
S/o- Late Biswanath Panda,
Both are of Village: Haridaspur, PS-Balianta,
Dist-Khurda.

... Accused Persons

For offences punishable u/s 448/323/294/506/379/34 of IPC.

For the Prosecution : A.P.P.

For the Defence : Antaryami Swain & his Associate
Advocates.

J U D G M E N T

The accused persons stand charged for offences punishable u/s. 448/323/294/506/379/34 of IPC for allegedly committing house trespass by entering into the house of the informant with intent to commit an offence, voluntarily causing hurt, uttering obscene words in a public place, for committing criminal intimidation by issuing threats to the informant and for committing theft of two chairs, in furtherance of their common intention.

2. The brief fact of the prosecution case is as follows:

That the accused, Brajabandhu Panda is the father-in-law of the informant and accused, Smt. Renubala Panda is the sister-in-law of the informant. Accused persons and informant were residing separately at Village-Haridaspur. On 10.04.2008 at about 8.00 A.M., the accused persons entered into the house of the informant and abused the informant in obscene languages. The accused persons assaulted the informant by means of kicks, as a result she sustained injuries on her person. The accused persons committed theft of two numbers of chair from the house of the informant. The accused persons threatened the informant to face dire consequence. On the written report of informant Baliana PS Case No. 74 dtd. 12.04.2008 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 448/323/294/506/379/34 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 ;

Whether on 10.04.2008 at about 8.00 A.M. at village-Haridashpur the accused persons in furtherance of their common intention;

- (i) committed house trespass by entering into the house of the informant with intent to annoy and criminally intimidate the informant ?
- (ii) voluntarily caused hurt to the informant ?
- (iii) abused the informant by uttering any obscene words in or near a public place causing annoyance to the informant and others ?
- (iv) committed criminal intimidation by issuing threats to the

informant, with injury to her person with intent to cause alarm in her mind ?

(v) committed theft of two numbers of chair by taking the same dishonestly out of the possession of the informant without her consent ?

5. To substantiate the charge, prosecution has examined three witnesses in all out of whom PW.1, Bandana Dash is the informant and victim of this case. PW.2, Gyanaranjan Panda is the husband of the informant. PW.3, Chittaranjan Panda is the brother-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, PW.2, Gyanaranjan Panda and PW.3, Chittaranjan Panda have deposed that due to some misunderstanding there was some dispute with accused persons which they have settled amicably. They don't want to proceed further with this case. During cross-examination, PW.1 has admitted that she along with accused persons are residing peacefully in their family. She admitted to have got no allegation against the accused person. 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 448/323/294/506/379/34 of IPC and acquit them there from u/s 248(1) of Cr.PC. The accused persons 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 2nd day of January, 2015 under my hand signature and seal of this court.

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

List of witnesses examined for prosecution

PW.1	Bandana Dash
PW.2	Gyanaranjan Panda
PW.3	Chittaranjan Panda

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

