

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 : 04.12.2014

Date of Judgment : 08.12.2014

G.R. No. 1885/2002  
Trial Case No. 277/2009

S t a t e

v r s

Chandramani Jena, aged about 33 years,  
S/o. Budhanath Jena,  
Village: Jhintيسان, PS- Balipatna, Dist- Khurda.

... Accused

For offences punishable u/s 341/323/294 of IPC

For the Prosecution : A.P.P.

For the Defence : Bibhuti Bhusan Mardaraj & his  
Associate Advocates.

J U D G M E N T

The accused stands prosecuted for offences punishable u/s. 341/323/  
294 of IPC for allegedly wrongfully restraining the informant, voluntarily causing  
hurt to the informant and for uttering obscene words in a public place causing  
annoyance to others.

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

That on 24.06.2002 at about 11.45 PM the informant Rabinarayan  
Patra appeared at Balipatna PS and presented a written report to the effect that on  
the same night at about 9.30 PM at Village-Jhintيسان, the accused abused the

informant, his nephew and his wife in obscene languages. The accused assaulted the informant by means of slap, as a result he fell down on the ground. Basing upon such report of the informant Balipatna PS Case No. 75 dtd. 24.06.2002 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 341/323/294 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 24.06.2002 at about 9.30 P.M at Village-Jhintيسان the accused;

- (i) wrongfully restrained the informant, his nephew and his wife from proceeding to any direction which they had got right to proceed ?
- (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 others ?

5. In order to prove its case, prosecution has examined only one witness, P.W.1, Rabinarayan Patra who is the informant and victim of this case. Examination of the rest witnesses has been declined by the prosecution. Defence has examined none on its behalf.

6. P.W.1 has deposed that due to some misunderstanding there was some dispute with accused which he has settled amicably. He does not want to proceed further with this case. During cross-examination, P.W.1 admitted to have got no allegation against the accused. Examination of rest of the witnesses was declined by the prosecution.

7. From the aforesaid evidence of P.W.-1 it appears that he has not

whispered a single word against the accused. He has not corroborated his 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.

In the result, I hold the accused not guilty of the offences punishable u/s 341/323/294 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 8<sup>th</sup> 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            Rabinarayan Patra

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

