

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 : 03.12.2014

Date of Judgment : 08.12.2014

G.R. No. 1886/2002  
Trial Case No. 276/2009

S t a t e

vrs

Rabindra Patra, aged about 54 years,  
S/o. Aparti Patra,  
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 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 11.50 P.M the informant Chandramani Jena appeared at Balipatna PS and presented a written report to the effect that on the same night at about 8.00 P.M at Village-Jhintيسان in front of the shop of Krushna Ch. Tripathy, the accused abused the informant in obscene languages. The accused assaulted the informant by means of umbrella, as a result he sustained injuries on his person. Basing upon such report of the informant Balipatna PS Case No. 76 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 ;
  - (i) Whether on 24.06.2002 at about 8.00 P.M at Village-Jhintيسان the accused wrongfully restrained the informant from proceeding to any direction which he had got right to proceed ?
  - (ii) Whether on the aforesaid date, time and place of occurrence, the accused voluntarily caused hurt to the informant ?
  - (iii) Whether on the aforesaid date, time and place of occurrence, the accused abused the informant by uttering any obscene words in or near a public place causing annoyance to the informant and others ?
5. In order to prove its case, prosecution has examined only one witness, P.W.1, Chandramani Jena 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. PW.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, PW.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> ay of December, 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 Chandramani Jena

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 P.W.1 on Ext.-1.

List of documents admitted in evidence for defence

N I L

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

