

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 : 02.12.2014

Date of Judgment : 05.12.2014

G.R. No. 1910/2001
Trial Case No. 388/2010

S t a t e

vrs

Milu @ Manoranjan Bastia, aged about 37 years,
S/o. Brajabandhu Bastia,
Village: Jagannathpur, PS- Baliana, Dist- Khurda.

... Accused

For offences punishable u/s 341/323/294/379/506 of IPC

For the Prosecution : A.P.P

For the Defence : Ramesh Ch. Patra & his Associate Advocates.

J U D G M E N T

The accused stands charged for offences punishable u/s. 341/323/
294/379/506 of IPC for allegedly wrongfully restraining the informant, uttering
obscene words in a public place, voluntarily causing hurt to the informant, for
committing theft of Rs.450/- and for committing criminal intimidation by issuing
threats to the informant.

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

That on 15.06.2001 at about 8.45 A.M the informant Prasanta Behera
appeared at Baliana PS and presented a written report to the effect that on

14.06.2001 at about 11.00 A.M at Trinath Bazar auto stand, the accused asked the informant to go to cuttack. While informant refused to go to cuttack, the accused abused the informant in obscene languages. The accused dragged the informant on the road and assaulted the informant by means of kick and fist blows, as a result he sustained bleeding injuries on his person. The accused snatched away a cash of Rs.450/- from the shirt pocket of the informant and threatened him to face dire consequences. Basing upon such report of the informant Baliana PS Case No. 87 dtd. 15.06.2011 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 341/323/294/379/506 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 14.06.2001 at about 11.00 A.M at Trinath Bazar auto stand the accused;

 - (i) wrongfully restrained the informant from proceeding to any direction which he 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 the informant and others ?
 - (iv) committed theft of Rs.450/- by taking the same dishonestly out of the possession of the informant without his consent ?
 - (v) issued any threat to the informant with injury to his person with intent to cause alarm in his mind ?
5. To substantiate the charge, prosecution has examined only one

witness, PW.1, Prasanta Kumar Behera. He 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 341/323/294/379/506 of IPC and acquit him there from u/s 248(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.

Dictated, corrected and pronounced in the open court on this the 5th 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

PW.1 Prasanta Kumar Behera

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

