

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 : 25.11.2014

Date of Judgment : 26.11.2014

G.R. No. 2792/2006
Trial Case No. 741/2009

S t a t e

vrs

Pabitra Samantaray @ Gitua, aged about 38 years,
S/o. Kailash Samantaray,
Village: Malipada, PS- Chandaka, Dist- Khurda.

... Accused

For offences punishable u/s 341/294/323/325 of IPC

For the Prosecution : A.P.P.

For the Defence : Gangadhar Panigrahi & his
Associate Advocates.

J U D G M E N T

The accused stands charged for offences punishable u/s.
341/294/323/325 of IPC for allegedly wrongfully restraining
the informant, for uttering obscene words in a public place and
voluntarily causing grievous hurt to the informant.

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

That on 11.07.2006 at about 10.00 A.M the informant
Debaraj Pattnaik appeared at Chandaka PS and presented a written

report to the effect that on 10.07.2006 at about 8.30 P.M, while the informant was coming from Bhubaneswar to his village-Malipada in front of Durga Temple, accused obstructed the informant and abused the informant in obscene languages. The accused assaulted the informant by means of iron rod, as a result he sustained bleeding injuries on his head and hand. On hearing hullah, some local people rushed to the spot and accused fled away from the spot. Basing upon such report of the informant Chandaka PS Case No. 51 dtd. 11.07.2006 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 341/294/323/325 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 10.07.2006 at about 8.30 P.M at Village-Malipada in front of Durga Temple 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 abused the informant by uttering any obscene words in or near a public place causing annoyance to others ?
 - (iii) Whether on the aforesaid date, time and place of occurrence, the accused voluntarily caused hurt to the informant ?
 - (iv) Whether on the aforesaid date and place of occurrence, the accused voluntarily caused grievous hurt to the informant ?

5. To substantiate the charge, prosecution has examined two witnesses in all out of whom P.W.1, Debaraj Pattnaik is the informant and victim of this case. P.W.2, Rama Chandra Badajena is the witness to occurrence. Examination of the rest witnesses has been declined by the prosecution. Defence has examined none on its behalf.

6. P.W.1, the informant has deposed that due to some misunderstanding there was some dispute with accused which he has settled amicably. He doesn't want to proceed further with this case. During cross-examination, P.W.1 admitted to have got no allegation against the accused. P.W.2 has not supported the prosecution case. 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, the FIR is not a substantive piece of evidence but it can be used only to corroborate and contradict the maker thereof, while the informant (P.W.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 341/294/323/325 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.

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

Dictated, corrected and pronounced in the open court on this the 26th 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

PW.1	Debaraj Samantaray.
PW.2	Rama Chandra Badajena.

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

