

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 : 01.12.2014

Date of Judgment : 03.12.2014

G.R. No. 2993/1999
Trial Case No. 636/2010

S t a t e

vrs

Kabiraj Rout, aged about 34 years,
S/o. Kanduri Rout,
Village: Raghunathpur, PS- Chandrasekharpur, Dist-
Khurda.

... Accused

For offences punishable u/s 341/323 of IPC

For the Prosecution : A.P.P

For the Defence : S. S. Mohanty & his Associate Advocates.

J U D G M E N T

The accused stands prosecuted for offences punishable u/s. 341/323 of IPC for allegedly wrongfully restraining and voluntarily causing hurt to the informant.

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

That on 23.09.1999 at about 8.50 PM the informant Sisirkant Padhiary appeared at Chandrasekharpur PS and presented a written report to the effect that on the same day at about 8.00 PM at Raghunathpur, the informant and

the accused were playing card. During the game, the accused wrongfully restrained the informant and assaulted the informant by means of iron rod and fist blows, as a result he sustained bleeding injuries on his person. Basing upon such report of the informant Chandrasekharpur PS Case No. 124 dtd. 23.09.1999 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 341/323 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 23.09.1999 at about 8.00 PM at Raghunathpur 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 ?
5. In order to prove its case, prosecution has examined three witnesses in all out of whom PW.1, Krushna Ch. Behera and PW.2, Ajay Kumar Rout are witnesses to occurrence. PW.3, Susanta Padhiary is the cousin brother of the informant. The informant and victim of this case died prior to deposition in court. Examination of the rest witnesses has been declined by the prosecution. Defence has examined none on its behalf.
6. PW.1, PW.2 and PW.3 have deposed that they don't known anything about this case. They also stated that the informant, Sisirkanta Padhiary is dead since the year 2003. During cross-examination, PW.1, PW.2 and PW.3 stated that they were not examined by police in this case. 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. 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 of IPC and acquit him there from u/s 255(1) of Cr.P.C. 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 3rd 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	Krushna Ch. Behera
PW.2	Ajay Kumar Rout
PW.3	Susanta Padhiary

List of witnesses examined for defence

N o n e

List of documents admitted in evidence for prosecution

N I L

List of documents admitted in evidence for defence

N I L

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

