

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 : 22.12.2014

Date of Judgment : 03.01.2015

G.R. No. 3377/2002
Trial Case No. 3299/2009

S t a t e

vrs

Sanjaya Kumar Sahoo, aged about 34 years,
S/o- Late Pranakrushna Sahoo,
Village: Nariso, PS-Balipatna, Dist-Khurda.

... Accused

For offences punishable u/s 448/341/323/294/506/380/34 of IPC.

For the Prosecution : A.P.P.

For the Defence : Lingaraj Pradhan & his Associate
Advocates.

J U D G M E N T

The accused stands charged for offences punishable u/s.
448/341/323/294/506/380/34 of IPC for allegedly committing house trespass
by entering into the house of the informant with intent to commit an offence,
wrongfully restraining the mother of the informant, voluntarily causing hurt,
uttering obscene words in a public place, for committing theft of a suit case

containing a sum of Rs.750/- and some gold ornaments from the house of the informant in furtherance of his common intention with deceased accused, Prana Krushna Sahoo.

2. The prosecution case in short is as follows:

That on 20.10.2002 at about 2.30 PM the informant Panchanan Sahu appeared at Balipatna PS and presented a written report to the effect that on 18.10.2002 at about 11.00 A.M at village-Nariso, while the mother of the informant was sleeping in her room, accused persons knocked the door of her room. When his mother opened the door, accused persons entered into the house of the informant and pulled away his mother by tying a napkin in the neck of his mother and threw her on the ground. The accused persons threatened the mother of the informant and his two sons to face dire consequences. The accused persons abused her in obscene languages. The accused persons took away some household articles and a suit case containing a sum of Rs. 750/- and some gold ornaments. Basing upon such report of the informant Balipatna PS Case No. 148 dtd. 20.10.2002 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 448/341/323/294/506/380/34 of IPC was submitted against the accused to face his trial in court of law.

During trial the accused, Prana Krushna Sahoo died and the case against him abated vide order dtd. 22.12.2014. However the trial proceeded against the present accused. Hence this trial.

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 18.10.2002 at about 11.00 A.M at village-Nariso the present accused in furtherance of his common intention with accused, Prana Krushna Sahoo who is dead now;

- (i) committed house trespass by entering into the house of the informant with intent to annoy and criminally intimidate the mother of the informant ?
- (ii) wrongfully restrained the mother of the informant from proceeding to any direction which she had got right to proceed ?
- (iii) voluntarily caused hurt to the mother of the informant ?
- (iv) abused the mother of the informant by uttering any obscene words in or near a public place causing annoyance to the mother of the informant and others ?
- (v) committed criminal intimidation by issuing threats to the mother of the informant and her two sons, with injury to their person with intent to cause alarm in their mind ?
- (vi) committed theft of a suit case containing a sum of Rs.750/- and some gold ornaments from the house of the informant used as a human dwelling and custody of property ?

5. To substantiate the charge, prosecution has examined two witnesses in all out of whom PW.1, Panchanan Sahoo is the informant. PW.2, Pandaba Sahoo is the brother of the informant. Rehati Sahoo, the mother of the informant and victim of this case died prior to the deposition in Court. Examination of the rest witnesses has been declined by the prosecution. Defence has examined none on its behalf.

6. PW.1, the informant, PW.2, brother of the informant have deposed

that due to some misunderstanding there was some dispute with accused persons which they have settled amicably. They don't want to proceed further with this case. During cross-examination, P.W.1 has 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 prosecution witnesses, it appears that none of the witnesses has whispered a single word against the accused. The informant 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 (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 448/341/323/294/506/380/34 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 3rd day of January, 2015 under my hand signature and seal of this court.

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

List of witnesses examined for prosecution

PW.1	Panchanan Sahoo
PW.2	Pandaba Sahoo

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

