

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 : 01.11.2014

Date of Judgment : 10.11.2014

G.R. No. 464/2011
Trial Case No. 576/2012

S t a t e

vrs

1. Kasinath Nayak, aged about 31 years,
S/o. Late Gunduchi Nayak,
2. Pramila @ Rasa Nayak, aged about 27 years,
D/o- Late Gunduchi Nayak,
Both are of Village-Bodhakhandi, PS- Balipatna,
Dist- Khurda.

... Accused Persons

For offences punishable u/s 498(A)/506/406/34 of IPC r/w Section
4/6(A) D.P Act.

For the Prosecution : A.P.P

For the Defence : J. K. Nayak & his Associates Advocates.

J U D G M E N T

The accused persons stand charged for offences punishable
u/s. 498(A)/506/406/34 of IPC r/w Section 4/6(A) D.P Act.

2. The case of the prosecution in short is as follows:

That on 16.08.2011 at about 10.00 A.M the informant
Pramila Nayak appeared at Balipatna PS and presented a written report
to the effect that the marriage between the informant and the accused,
Kasinath Nayak was solemnized at village-Bodhakhandi as per Hindu

Rites and Customs. After six months of her marriage, the accused Kasinath Nayak being the husband of the informant and accused Pramila @ Rasa Nayak being the sister-in-law of informant subjected the informant to physical and mental cruelty demanding a cash of Rs.50,000/- and a vehicle towards dowry. On 14.08.2011 at about 10.00 A.M while the informant was cooking, the accused persons threatened the informant to face dire consequences. Basing upon the report of the informant Balipatna PS Case No. 107 dtd. 16.08.2011 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 498(A)/506/406/34 of IPC r/w Section 4/6(A) D.P. Act. was submitted against the accused persons to face their trial in court of law. Hence this case.

3. The plea of the accused persons could not be recorded due to want of incriminating material.

4. The points to be determined are as follows ;

(i) Whether after six months of marriage of informant with accused Kasinath Nayak at Village-Bodha Khandi the accused Kasinath Nayak being the husband of the informant and accused Pramila @ Rasa Nayak being the sister-in-law of informant and in furtherance of their common intention subjected the informant to any cruelty for non-fulfillment of demand of any dowry ?

(ii) Whether on the aforesaid period and place of occurrence, the accused persons in furtherance of their common intention being entrusted with the properties of the informant given during her marriage committed criminal breach of trust in respect of such

property ?

(iii) Whether on 14.08.2011 at about 10.00 A.M and aforesaid place of occurrence, the accused persons in furtherance of their common intention committed criminal intimidation by issuing threat with injury on the person of the informant with intent to cause alarm in her mind ?

(iv) Whether prior to marriage, at the time of marriage or thereafter till the date of FIR, the accused persons in furtherance of their common intention demanded any dowry from the informant or her relatives ?

(v) Whether after marriage of informant till the date of FIR, the accused Kasinath Nayak denied conjugal relation to the informant for non-fulfillment of any demand of dowry from the informant or her relatives ?

5. To substantiate the charge, prosecution has examined three witnesses in all out of whom PW.1, Pramila Nayak is the informant and victim of this case. PW.2, Benudhar Nayak is the father of the informant. PW. 3, Niranjan Nayak is the brother of the informant. Examination of the rest witnesses has been declined by the prosecution. Defence has examined none on its behalf.

6. PW.1, the informant has deposed that due to some misunderstanding there was some dispute with accused persons which she has settled amicably. She doesn't want to proceed further with this case. During cross-examination, PW.1 admitted to have got no allegation against the accused persons. During cross-

examination, PW.2 has stated that he was not examined by Police in this case. PW.3 has not supported the prosecution 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 persons. The informant has not corroborated her 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 persons.

In the result, I hold the accused persons not guilty of the offences punishable u/s 498(A)/506/406/34 of IPC r/w Section 4/6(A) D.P Act. and acquit them there from u/s 248(1) of Cr.PC. They be set at liberty forthwith and they are discharged from their bail bonds.

Enter the case as mistake of fact.

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

Dictated, corrected and pronounced in the open court on

this the 10th 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

P.W.1	Pramila Nayak
P.W.2	Benudhar Nayak
P.W.3	Niranjan Nayak

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

