

**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 : 26.11.2014

Date of Judgment : 27.11.2014

G.R. No. 466/2011
Trial Case No. 206/2012

S t a t e

vrs

Pramod Kumar Rout, aged about 34 years,
S/o. Bholu Rout,
Village: Raghunathpur, PS- Nandankanan,
Dist-Khurda.

... Accused

For offences punishable u/s 341/323 of IPC

For the Prosecution : A.P.P.

For the Defence : Sri S. Deo & 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 the informant and voluntarily causing hurt to the informant.

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

That on 17.08.2011 at about 12.30 PM the informant Ananta Charan Pradhan appeared at Nandankanan PS and presented a written report to the effect that on 16.08.2011 at about 4.45 PM, the informant was

the conductor of the City Bus bearing no. OR-02-BH-9271. The accused was one of the passenger of that bus. At Nandankanan road while the informant demanded the bus fare from the accused assaulted the informant by means of slap, as a result he sustained bleeding injuries on his ear. Basing upon such report of the informant Nandankanan PS Case No. 33 dtd. 17.08.2011 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 16.08.2011 at about 4.45 PM at Nandankanan Road 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 only one witness. P.W.1, Ananta Ch Pradhan who 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. 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. Examination of rest of the witnesses was declined

by the prosecution.

7. From the aforesaid evidence of PW.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 (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 of IPC and acquit him there from u/s 255(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 27th 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 Ananta Charan Pradhan

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