

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 : 14.10.2014

Date of Judgment : 18.10.2014

G.R. No. 836/2012
Trial Case No. 457/2013

S t a t e

vrs

1. Giridhari Bhoi, aged about 50 years,
S/o. Late Subal Bhoi
2. Biswanath Behera, aged about 48 years,
S/o- Late Dhunda Behera
3. Babuli Behera,
S/o- Late Dhunda Behera
All are of Vill-Srirampur, PS-Balipatna,
Dist-Khurda.

... Accused Persons

For offences punishable u/s 341/294/506/34 of IPC

For the Prosecution : A.PP

For the Defence : P. K. Satapathy & his Associate Advocates.

J U D G M E N T

The accused persons stand prosecuted for offences punishable u/s. 341/294/506/34 of IPC for allegedly wrongfully restraining the complainant, uttering obscene words in a public place and for committing criminal intimidation by issuing threats to the complainant in furtherance of their common intention.

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

That on 21.09.2012 at about 8.00 A.M at village- Srirampur ,

when the complainant, Subasish Pattnaik started the work in his plot to enclose the boundaries with green fence with some labourers in presence of one Pramod Mallick, the accused persons uprooted the green fence and threw it to the outside. The accused persons abused the complainant in obscene languages. The accused persons continued their endeavour to harass the complainant and threatened the complainant to face dire consequences, for which the complainant was publicly defamed and sustained heavy loss of reputation. The complainant filed a complaint petition to that effect before this Court on 09.10.2012 basing upon which ICC 131/2012 was registered and the complaint petition was sent U/s. 156(3) of Cr.PC to Balipatna PS for investigation. Basing upon such complaint petition Balipatna PS Case No. 132 dtd. 19.12.2012 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 341/294/506/500/34 of IPC was submitted against the accused persons to face their trial in court of law. However, cognizance of offence U/s. 341/294/506/34 of IPC was taken excluding the offence U/s. 500 of IPC in view of the bar of cognizance specified U/s. 199 of Cr.PC. 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 on 21.09.2012 at about 8.00 A.M at village-Srirampur the accused persons in furtherance of their common intention wrongfully restrained the complainant from proceeding to any direction which he had got right to proceed ?

(ii) Whether on the aforesaid date and place of occurrence the accused persons in furtherance of their common intention abused the complainant by uttering any obscene words in or near a public place causing annoyance to the complainant and others ?

(iii) Whether on the aforesaid date and place of occurrence the accused persons in furtherance of their common intention committed criminal intimidation by issuing threats to the complainant, with injury to his property and reputation with intent to cause alarm in his mind ?

5. In order to prove its case, prosecution has examined only one witnesses. PW.1, Subasish Pattnaik is the complainant and victim of this case. Examination of the rest witnesses has been declined by the prosecution. Defence has examined none on its behalf.

6. PW.1, the complainant has deposed that due to some misunderstanding there was some dispute with accused persons which he has settled amicably. He doesn't want to proceed further with this case. During cross-examination, PW.1 admitted to have got no allegation against the accused persons. 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 persons. He has not corroborated his own complaint case. The complainant has not corroborated his own complaint petition. Although complaint petition has been marked as Ext.-1 which is turned as FIR in this

case. FIR is not a substantive piece of evidence but it can be used only to corroborate and contradict the maker thereof, while the complainant (PW.1) being the maker of the FIR (Ext.1) does not corroborate the FIR, 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 341/294/506/34 of IPC and acquit them there from u/s 255(1) of Cr.PC. The accused persons 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 18th day of October, 2014 under my hand signature and seal of this court.

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

List of witnesses examined for prosecution

PW.1 Subasish Pattnaik

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

