

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 : 15.10.2014

Date of Judgment : 22.10.2014

G.R. No. 849/1999  
Trial Case No. 542/2010

S t a t e

v r s

Chittaranjan Samantaray, aged about 51 years,  
S/o. Brajabandhu Samantaray,  
Village: Purunasasan, PS- Baliana, Dist- Khurda.

... Accused

For offences punishable u/s 341/323/506 of IPC

For the Prosecution : A.PP

For the Defence : Deepak Dash & his Associate  
Advocates.

J U D G M E N T

The accused stands prosecuted for offences punishable u/s.  
341/323/506 of IPC for allegedly wrongfully restraining informant,  
voluntarily causing hurt and for committing criminal intimidation by  
issuing threats to the informant.

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

That on 15.03.1999 at about 4.35 PM the informant Bhimasen  
Jena appeared at Baliana PS and presented a written report to the effect

that on 14.03.1999 at about 1.10 PM while the informant was sitting on the veranda of the rice mill at Budhipada Chowk, the accused frequently focused his torch light on the face of the informant. When the informant protested, the accused chased the informant and assaulted the informant by means of torch light. The accused also threatened the informant to face dire consequences. Basing upon such report of the informant Baliana PS Case No. 38 dtd. 15.03.1999 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 341/323/506 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 14.03.1999 at about 1.10 P.M at Budhipada Chowk 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 ?

(iii) Whether on the aforesaid date and place of occurrence, the accused committed criminal intimidation by issuing threats to the informant with injury to his person with intent to cause alarm in his mind ?

5. In order to prove its case, prosecution has examined only one witness. P.W.1, Bhimasen Jena 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. PW.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, PW.1 stated that he doesn't know the contents of FIR. 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 341/323/506 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.

Dictated, corrected and pronounced in the open court on this the 22<sup>nd</sup> 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            Bhimasen Jena

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

