

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 : 21.10.2014

G.R. No. 870/2010
Trial Case No. 1191/2010

S t a t e

v r s

Bichitra Sahoo, aged about 43 years,
S/o. Bidyadhar Sahoo,
Village: Tirimalla, PS- Jatni, Dist- Khurda.

... Accused

For offences punishable u/s 341/323/427/506 of IPC

For the Prosecution : A.P.P

For the Defence : K. Mohapatra & his Associate
Advocates.

J U D G M E N T

The accused stands prosecuted for offences punishable u/s. 341/323/427/506 of IPC for allegedly wrongfully restraining the informant and his father, voluntarily causing hurt, for committing mischief by destroying the articles like Auto of the informant and for committing criminal intimidation by issuing threats to the informant and his father.

2. The case of the prosecution in short is;

That the accused is the brother of the informant. On 14.11.2010

at about 10.10 PM at Tirimalla, the accused who is the elder brother of the informant picked up quarrel with his wife. When the father of the informant and the informant protested, the accused wrongfully restrained the informant and his father. The accused assaulted the informant, as a result he sustained bleeding injuries on his person. The accused damaged the auto-rickshaw of the informant and the accused also threatened the informant and his father to face dire consequences. On the written report of informant Jatni PS Case No. 188 dtd. 14.11.2010 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 341/323/427/506 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 14.11.2010 at Tirimalla the accused wrongfully restrained the informant and his father from proceeding to any direction which they had got right to proceed ?
- (ii) Whether on the aforesaid date and place of occurrence, the accused voluntarily caused hurt to the informant and his father ?
- (iii) Whether on the aforesaid date and place of occurrence, the accused committed mischief by destroying the auto-rickshaw of the informant amounting more than Rs.50/- ?
- (iv) Whether on the aforesaid date and place of occurrence, the accused committed criminal intimidation by issuing threats to the informant and his father with injury to their person with intent to

cause alarm in their mind ?

5. In order to prove its case, prosecution has examined six witnesses in all out of whom P.W.1, Purna Chanda Sahoo who is the informant and victim of this case. P.W.5, Bidyadha Sahoo is the father of the informant. P.W.2, Alok Kumar Sahu, P.W.3, Dinabandhu Sahu, P.W.4, Jitendra Sahu and P.W.6, Pramod Sahu are witnesses to occurrence. 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 he admitted to have got no allegation against the accused. P.W.2, P.W.3, P.W.4, P.W.5 and P.W.6 have 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. The informant 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 (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 341/323/427/506 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.

The zimanama in respect of seized articles be canceled and made absolute after four months from the date of expiry of appeal period if no appeal is preferred and in case of appeal as per direction of Appellate Court.

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

Dictated, corrected and pronounced in the open court on this the 21st 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	Purna Chandra Sahoo
PW.2	Alok Kumar Sahu
PW.3	Dinabandhu Sahu
PW.4	Jitendra Sahu
PW.5	Bidyadhar Sahoo
PW.6	Pramod Sahu

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.
Ext.-2	Seizure list.
Ext.-2/1	Signature of PW.1 on Ext.-2.
Ext.-3	Zimanama.
Ext.-3/1	Signature of PW.1 on Ext.-3.
Ext.-4	Injury Report.

List of documents admitted in evidence for defence

N I L

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

