

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 : 18.09.2014

Date of Judgment : 24.09.2014

G.R. No. 237/2012
Trial Case No. 370/2012

S t a t e

v r s

Laxman Pal, aged about 49 years,
S/o. Bhabagrahi Pal
Village:Palasahi (Nua Diha), PS- Balipatna,
Dist-Khurda.

... Accused

For offences punishable u/s 341/506 of IPC

For the Prosecution : A.P.P

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

J U D G M E N T

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

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

That on 08.04.2012 at about 9.35 P.M the informant Basudeb Pal appeared at Balipatna PS and presented a written report to the

effect that on 07.04.2012 at about 6.00 PM at Village-Rajasa when the informant was returning to his house, at that time accused wrongfully restrained the informant and his co-villager, Bipin Bihari Bhoi. The accused tried to caught hold the handle of motorcycle of the informant. The accused also threatened the informant to face dire consequences. Basing upon such report of the informant Balipatna PS Case No. 30 dtd. 08.04.2012 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 341/506 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 07.04.2012 at about 6.00 PM at Village-Rajasa the accused wrongfully restrained the informant and his co-villager, Bipin Bihari Bhoi from proceeding to any direction which they had got right to proceed ?

(ii) Whether on the aforesaid date, time and place of occurrence, the accused committed criminal intimidation by issuing threats to the informant and his co-villager, Bipin Bihari Bhoi with injury to their person with intent to cause alarm in their mind ?

5. In order to prove its case, prosecution has examined two witnesses in all out of whom P.W.1, Basudev Pal is the informant and victim of this case. P.W.2, Bipin Bihari Bhoi is the witness to occurrence. 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 he deposed that he doesn't know the contents of FIR. PW.2 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. The informant has not corroborated his 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.

In the result, I hold the accused not guilty of the offences punishable u/s 341/506 of IPC and acquit him therefrom 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 24th day of September, 2014 under my hand signature and seal of this court.

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

List of witnesses examined for prosecution

PW.1	Basudev Pal
PW.2	Bipin Bihari Bhoi

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

