

**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 : 16.09.2014

Date of Judgment : 19.09.2014

G.R. No. 310/2011  
Trial Case No. 1058/2011

S t a t e

vrs

Jatia @ Pratyusha Badajena, aged about 32 years,  
S/o. Pundarika Badajena  
Village: Chandaka, PS- Chandaka, Dist- Khurda.

... Accused

For offences punishable u/s 294/506 of IPC

For the Prosecution : A.P.P

For the Defence : Sangram Pradhan & his Associate  
Advocates.

**J U D G M E N T**

The accused stands prosecuted for offences punishable u/s. 294/506 of IPC for allegedly uttering obscene words in a public place, causing annoyance to others and committing criminal intimidation by issuing threats to the informant.

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

That on 01.06.2011 at about 4.00 PM the informant Jeeban Kumar Gadabada appeared at Chandaka PS and presented a written report to the effect that on 30.05.2011 while the informant along with his friends namely, Ranjan

Gadabada, Nirmal Mahapatra and Rabi Choudhury had been to the crusher situated near Bhola, there was hot altercation between them and accused regarding the supply of materials to their Apartment at Chandaka Bazar. The accused abused the informant and his friends and denied to supply the materials. On 01.06.2011 when the informant and his friends were present in Chandaka Market, the accused again abused the informant and his friends in obscene languages and threatened them to face dire consequences. Basing upon such report of the informant Chandaka PS Case No. 54 dtd. 01.06.2011 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 294/506 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 30.05.2011 and on 01.06.2011 at Chandaka the accused abused the informant and his friends by uttering obscene words in or near a public place causing annoyance to the informant, his friends and others ?

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

5. In order to prove its case, prosecution has examined three witnesses in all out of whom P.W.1, Jiban Kumar Gadabada who is the informant and victim of this case. P.W.2, Ranjan Kumar Gadabada is the

brother of the informant and victim of this case. PW.3, Nirmal Mohapatra is another 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 he admitted to have got no allegation against the accused. PW.2 and PW.3 have not supported the prosecution case. Examination of rest of the witnesses was declined by the prosecution.

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 (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 294/506 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.

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

Dictated, corrected and pronounced in the open court on this the 19<sup>th</sup> 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	Jeeban Kumar Gadabada
PW.2	Ranjan Kumar Gadabada
PW.3	Nirmal Mohapatra

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 P.W.1 on Ext.-1.

List of documents admitted in evidence for defence

N I L

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

