

**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 : 15.09.2014

Date of Judgment : 18.09.2014

G.R. No. 521/2013
Trial Case No. 262/2014

S t a t e

vrs

1. Chandra Mohan Patra, aged about 60 years,
S/o. Late Manamohan Patra
2. Kishore Kumar Patra @ Rinku, aged about 30 years,
S/o- Chandra Mohan Patra
Both are of Village: Minichinipatna, PS- Chandaka,
Dist- Khurda.

... Accused Persons

For offences punishable u/s 341/323/354/506/34 of IPC

For the Prosecution : A.P.P

For the Defence : S. S. Mohanty & his Associate Advocates.

J U D G M E N T

The accused persons stand prosecuted for offences punishable u/s.
341/323/354/506/34 of IPC.

2. The case of the prosecution in short is as follows:

That on 30.07.2013 at about 11.00 A.M while the informant was
working on her cultivable land situated at Village-Minichinipatna, at that time
the accused persons arrived there and assaulted the informant, her son Bikash,
her brothers namely, Prakash and Prafulla. When the informant, her son and her

brothers were returning to their home at about 5.00 P.M, the accused persons threatened them to face dire consequences. On the written report of the informant Chandaka PS Case No. 82 dtd. 30.07.2013 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 341/323/354/506/34 of IPC was submitted against the accused persons to face their trial in court of law.

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 30.07.2013 at about 11.00 AM at village-Minichinipatna the accused persons in furtherance of their common intention the accused persons in furtherance of their common intention voluntarily caused hurt to the informant, her son, Bikash and her brothers Prafulla and Pramod ?

(ii) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention wrongfully restrained the informant, her son, Bikash and her brothers Prafulla and Pramod from proceeding to any direction which they had got right to proceed?

(iii) Whether on the aforesaid date, time and place of occurrence, the accused persons in furtherance of their common intention assaulted or used criminal force to the informant who is a woman with intent to outrage her modesty ?

(iv) Whether on the aforesaid date, at 5.00 P.M on the way to the house of informant at Village-Minichinipatna, the accused persons in furtherance

of their common intention committed criminal intimidation by issuing threats to the informant, her son and her brothers 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, Kuni Behera who is the informant and victim of this case. P.W.2, Bikash Ranjan Behera is son of the informant. P.W.3, Pramod Behera is the brother of the informant and a witness to the 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 persons which she has settled amicably. She doesn't want to proceed further with this case. During cross-examination, she deposed that she has got no allegation against the accused persons. P.W.2 and P.W.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 persons. The informant has not corroborated her 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 persons.

In the result, I hold the accused persons not guilty of the offences punishable u/s 341/323/354/506/34 of IPC and acquit them there from u/s

255(1) of Cr.PC. The accused persons are represented U/s. 317 of Cr.PC. They 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 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	Kuni Behera
PW.2	Bikash Ranjan Behera
PW.3	Pramod Behera

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

