

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 : 22.09.2014

Date of Judgment : 25.09.2014

G.R. No. 562/2012
Trial Case No. 239/2014

S t a t e

vrs

1. Santosh @ Kedar Prusty, aged about 29 years,
S/o. Madhusudan Prusty
2. Madhusudan Prusty, aged about 43 years,
S/o- Late Brundaban Prusty,
3. Rabindra Pursty, aged about 56 years,
S/o- Late Brundaban Prusty,
All are of Village: Rayat Patna, PS- Balipatna,
Dist- Khurda.

... Accused Persons

For offences punishable u/s 341/294/323/354/506/34 of IPC

For the Prosecution : A.P.P.

For the Defence : For accused no. 1) Manas Ranjan Mishra &
his Associate Advocates.
For accused no. 2) & 3) Rakesh Kumar
Pradhan & his Associate Advocates.

J U D G M E N T

The accused persons stand charged for offences punishable u/s.
341/294/323/354/506/34 of IPC for allegedly wrongfully restraining the
informant, uttering obscene words in a public place, voluntarily causing hurt,
for outraging the modesty of informant who is a woman and for committing

criminal intimidation by issuing threats to the informant in furtherance of their common intention.

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

That on 20.08.2013 at about 10.00 A.M the informant Manasi Prusty appeared at Balipatna PS and presented a written report to the effect that on 19.08.2013 at about 7.00 A.M at Village- Rayat Patna, while the informant was discussing with her husband about partition of homestead land, the accused persons abused the informant in obscene languages, assaulted the informant by means of iron pipe, as a result she sustained bleeding injuries on her person. The accused persons also threatened the informant to face dire consequences. Basing upon the report of the informant Balipatna PS Case No. 97 dtd. 20.08.2013 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 341/294/323/354/506/34 of IPC was submitted against the accused persons to face their trial in court of law. Hence this case.

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 19.08.2013 at about 7.00 A.M at Village- Rayat Patna the accused persons in furtherance of their common intention wrongfully restrained the informant from proceeding to any direction which she had got right to proceed ?

(ii) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention abused the informant by uttering any obscene words in or near a public place

causing annoyance to the informant and others ?

- (iii) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention voluntarily caused hurt to the informant ?
- (iv) 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 ?
- (v) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention committed criminal intimidation by issuing threats to the informant, with injury to her person with intent to cause alarm in her mind ?

5. To substantiate the charge, prosecution has examined three witnesses in all out of whom P.W.1, Manasi Prusty is the informant and victim of this case. P.W.2, Gagan Prusty is the brother-in-law of the informant. P.W.3, Nagendra Prusty is the husband of the informant. Examination of the rest witnesses has been declined by the prosecution. Defence has examined none on its behalf.

6. P.W.1, the informant, P.W.2 and P.W.3 have deposed that due to some misunderstanding there was some dispute with accused persons which they have settled amicably. They don't want to proceed further with this case. During cross-examination, P.W.1 admitted to have got no allegation against the accused persons. During cross-examination, P.W.2 stated that she was not examined by police. 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 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 (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 persons.

In the result, I hold the accused persons not guilty of the offences punishable u/s 341/294/323/354/506/34 of IPC and acquit them there from u/s 248(1) 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 25th 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	Manasi Prusty
PW.2	Gagan Prusty
PW.3	Nagendra Pursty

List of witnesses examined for defence

N o n e

List of documents admitted in evidence for prosecution

NIL

List of documents admitted in evidence for defence

N I L

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