

**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 : 25.08.2014

Date of Judgment : 03.09.2014

G.R. No. 354/2012
Trial Case No. 59/2013

S t a t e

vrs

Jagannath Mahana, aged about 39 years,
S/o. Kanhu Charan Mahana
Vill-Uparabasta, PS-Jatni, Dist-Khurda.

... Accused

For offences punishable u/s. 498(A)/323 of IPC

For the Prosecution : A.P.P

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

J U D G M E N T

The accused stands charged for offences punishable u/s.
498(A)/323 of IPC.

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

That on 18.05.2012 at about 11.30 A.M the informant Smt. Usha Mahana appeared at Jatni PS and presented a written report to the effect that since 18 years back, the marriage of the informant was solemnized with accused as per Hindu Rites and Customs at village-Uparabasta. After five months of her marriage, accused abused the informant in obscene languages

for non-fulfillment of demand of dowry . About four days back, to the date of lodging of F.I.R., the accused assaulted the informant by means of a lathi, as a result the informant sustained injuries on her leg. The accused also threatened to face dire consequences. Basing upon such report of the informant Jatni PS Case No. 125 dtd. 18.05.2012 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 498(A)/323 of IPC was submitted against the accused to face his trial in court of law.

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 after marriage of informant with accused about 20 years back and till the date of FIR on 18.05.2012 at village-Uparabasta the accused Jagannath Mahana being the husband of informant Smt. Usha Mahana subjected the informant to any cruelty for non-fulfillment of demand of dowry ?

(ii) Whether four days prior to lodging FIR at village-Uparabasta the accused voluntarily caused hurt to the informant ?

5. To substantiate the charge, prosecution has examined three witnesses in all out of whom P.W.1, Usha Mahana is the informant and victim of this case. P.W.2, Soni Mahana @ Priyanka Priyadarsini is the daughter of the informant and P.W.3, Himansu Mahana is the son 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 has deposed that due to some misunderstanding there was some dispute with accused which she has settled amicably.

She doesn't want to proceed further with this case. During cross-examination, she admitted to have not known the contents of FIR. She deposed that she is residing peacefully with 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 her own FIR story. 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 498(A)/323 of IPC and acquit him there from u/s 248(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 3rd 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	Usha Mahana
PW.2	Soni Mahana @ Priyanka Priyadarsini
PW.3	Himansu Mahana

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

