

**IN THE COURT OF PRINCIPAL MAGISTRATE JUVENILE JUSTICE
BOARD KHURDA, CIRCUIT AT- BHUBANESWAR**

J.G.R. NO 23/2010

S T A T E.

Vrs.

1. Trilochan Pradhan, aged about 19 years
S/o. Sahadev Pradhan
Narayanpur, PS-Jarada, Dist-Ganjam
A/P.Outhouse of Sambit Residency, GGP Colony,
Rasulgarh, PS-Mancheswar, Dist-Khurda

.....J.C.L

Date of Argument08.12.2014

Date of Judgment09.12.2014

Counsel for the State.....Smt. B. Mohanty (APP).

Counsel for the J.C.L.....Sri B.Behera & Associates

OFFENCE U/S.380 IPC

JUDGMENT

1. The above named JCL has stood enquiry for the offence punishable U/s.380 IPC for committing theft of iron rods, fan etc. from the newly constructed house of the informant.
2. A brief fact of the prosecution case can be excerpted as follows:
On 12.07.2010 at about 10.05 P.M. the informant received a telephone message from his employee Debendra swain that the JCL carrying a bag containing iron rod and fan from his newly constructed building at Plot No.3612-A, GGP Colony, Rasulgarh. His employee caught him raid handed from his backside and being asked the JCL confessed to have committed theft of the fan and iron rod, Motor pumps etc. from his newly constructed house. So he reported the matter to the police in writing for investigation. During investigation police visited the spot, examined the witnesses, seized the articles and left the same into the zima of the informant, arrested the accused and forwarded him to the board. Finally he submitted the chargesheet against the JCL under aforementioned sections of law. Hence this enquiry.
3. The JCL's plea is totally denial to the allegations made form the side of prosecution.

4. Thus the sole point for consideration here is:

Whether the JCL on 12.07.2010 at about 10.05 P.M. had committed theft of iron rod from the newly constructed house of the informant at GGP Colony, Rasulgarh without his consent and dishonestly.

5. In order to establish the case the prosecution has relied upon the oral testimonies of three witnesses of whom P.Ws. 1 and 2 are the witnesses to the occurrence and the seizure and P.W.3 is the informant, apart from the documents exhibited as Exts. 1,2 and 3.

6. The evidence available on record and findings given therein are as follow:

P.Ws. 1 and 2 who are the witnesses to the occurrence and seizure have stated that the incident took place in the year 2010 at the house of the informant but they have no direct knowledge about the same. On further query made by the prosecution, they made it clear that on the subsequent day they heard about the incident but failed to disclose the names from whom they could know the same. Both P.Ws. 1 and 2 have admitted their signature over the seizure list marked Exts. 1 and 1/1 respectively but they did not disclose about what material the police seized except mere saying that they put their signature at the instance of the police. Coming to the testimony of P.W.3 the informant, it reveals that around three years back the incident took place at his newly constructed house at GGP Colony, Rasulgarh, for which he lodged the report before the police in writing marked Ext.2 and Ext.2/1 is his signature therein. Police also left the seized articles into his zima vide zimanama Ext.3.

7. As it transpires, that he is a post occurrence witness having no direct knowledge about the incident. In his cross examination, he states that one Debendra informed him about the incident, who is at present not residing at Bhubaneswar and cannot say his whereabouts. Keeping in view the materials available on record the learned APP filed a memo to close the prosecution evidence which was accepted accordingly. The testimony of the informant P.W.3 or the witnesses P.Ws. 1 and 2 do not inspires confidence to say that the JCL committed theft of those articles alleged to be recovered from his possession. As no seizure witness supports, seizure also not established. It is the bounden duty of the prosecution to establish that the seized articles actually belongs to the informant and the same were taken away by the JCL

without his consent and dishonestly. Absolutely no document procured even during investigation that the said house belongs to the informant and the things were taken away without the consent of the informant. The culmination of the enquiry leads us to say that the JCL, deserves to be free from the allegations levelled against him.

8. In the result we satisfied that the JCL has not committed the offence U/s.380 IPC and set him at liberty.

The seized articles left into the zima of informant be retained by him and the zimanama be cancelled.

Dictated and corrected by me and the judgment is pronounced in open Court today i.e. 09th day of December, 2014, under my hand and seal of this court.

(Dr.P.M.Samal)

Mrs Anuradha Mohanty Mrs. Namrata Chadha Principle Magistrate
Member,J.J.Board Khurda Member,J.J.Board Khurda Juvenile Justice Board
Khurda circuit-at Bhubaneswar.

List of witnesses examined on behalf of the prosecution

P.W.1. Pradipta Kumar Mohanty
P.W.2 Susil Pradhan
P.W.3 Sri Jagyagish Mohapatra

List of witnesses examined on behalf of the JCL

None.

List of documents Exhibited on behalf of the prosecution

Ext.1 Signature of P.W.1 in seizure list dtd.13.07.2010
Ext.1/1 Seizure list
Ext.1/2 Signature of P.W.2 on Ext.1/1.
Ext.2 FIR
Ext.2/1 Signature of P.W.3 in Ext.2
Ext.3 Zimanama
Ext.3/1 Signature of informant

List of documents Exhibited on behalf of the defence.

N I L.

(Dr.P.M.Samal)

Mrs Anuradha Mohanty Mrs. Namrata Chadha Principle Magistrate
Member,J.J.Board Khurda Member,J.J.Board Khurda Juvenile Justice Board
Khurda circuit-at Bhubaneswar.