

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

J.G.R. NO 36/2006

S T A T E.

Vrs.

N.Prakash, aged about 22 years
S/o. N. Apolo Naidu
Plot no.341 Sikharchandi, PS-Chandrasekharpur
Dist-Khurda.

.....J.C.L

Date of Argument27.01.2015

Date of Judgment28.01.2015

Counsel for the State.....Smt. S.Mishra (APP).

Counsel for the J.C.L.....S.Panda,

OFFENCE U/Ss. 454/380/34 IPC

J U D G M E N T

1. The JCL has faced the enquiry under the provision of the JJ (CPC) Act, 2000 on the allegation U/s. 454/380 read with Section 34 IPC.

2. In short the prosecution case is that the informant Sri Uma Ballava Mohapatra lodged a written report on 30.07.2006 at 8 P.M. before IIC Chandrasekharpur P.S. alleging inter alia that he was staying at Plot No.GA-645, Salishree Vihar, Chandrasekharpur, Bhubaneswar. On the said day he had been to Kalinganagar along with his family to meet his parents at around 12.30 P.M. and on return from Kalinga Nagar at 6.15 P.M.. he saw his house was broken open by the miscreant by cutting locks and entrance grill gate and noticed missing of household articles, brass metal, house construction articles, gold chain, rings etc.

On such report police registered the case and took up investigation. During course of investigation police visited the spot, recorded the statement of the witnesses. Further he arrested the JCL and forwarded him to the Board. He had also seized the articles from the possession of the adult accused persons and which were sold to one of

the accused. While the JCL was in custody also admitted to have sold the articles taken away from the house of the informant to co-accused persons. After completion of the investigation the IO submitted the chargesheet against the JCL and others. Hence this enquiry.

3. The JCL's plea is total denial to the prosecution allegation.

4. Thus the points for determination are as follows:

whether the JCL along with others in furtherance of their common intention on 30.07.2006 in between 12.30 P.M. to 6 P.M. :

(i) had entered into the house of informant at Sailashree Bihar by break opening the lock and key of the house with an intention to commit theft of household articles, ornaments, brass metals etc.?

(ii) had committed theft of gold rings chains household articles brass metal house construction articles from the house of informant without his consent and dishonestly?

5. To prove the case prosecution has examined only three witnesses of whom P.Ws. 1 and 2 are independent witnesses to the occurrence and P.W.3 is the informant. But the JCL declined to adduce any evidence on his behalf.

6. The prosecution was lunched against the JCL for entering into the house of informant on 30.07.2006 with adult accused persons by break opening the lock and key of the house with an intention to commit theft of valuables from his house. Therefore, the informant is the best person to say about the incident and commission of such offence by the present JCL and others. During his examination, P.W.1 has stated that in the year 2006 the incident took place in his absence and on return from his parent's house in the evening hour he noticed damaged grill gate, entrance gate etc. and missing of some household articles, construction materials fittings and gold ornaments by the miscreants. Accordingly he lodged report before the police marked Ext.4 and Ext.4/1 is signature therein. Subsequently, he received some brass materials from the police through zimanama Ext.5 and Ext.5/1 is signature therein. But he admitted in his cross examination that he has no direct knowledge about commission of such offence by the present JCL and he expressed his inability to say from whom the police seized the articles and left into the zima vide Ext.5. Both the independent witness examined in this

case as P.Ws. 1 and 2 expressed that they have no direct knowledge about such case. Even the learned APP declared P.W.1 as hostile witness and leading questions also put to him to elicit the truth from his mouth. But his whole effort went in vein and remained as such the denial of knowledge about incident. No document to show anything recovered from the possession of the present JCL and no direct evidence available even against the present JCL to say that he was involved in commission of the offence along with others. Therefore, the prosecution abysmally failed to prove the allegations against the present JCL. Accordingly on completion of enquiry the Board is satisfied to say that the JCL has not committed the offence U/Ss. 454/380 read with Section 34 IPC and set him at liberty forthwith.

The bail bonds stand cancelled and surety is discharged.

As the original case record bearing No.GR3046/2006 is still pending against the adult accused persons in the court of SDJM, Bhubaneswar no order is passed for disposal of the property .

		(Dr.P.M.Samal)
Mrs Anuradha Mohanty	Mrs. Namrata Chadha	Principle Magistrate
Member,J.J.Board Khurda	Member,J.J.Board Khurd	Juvenile Justice Board
		Khurda circuit-at Bhubaneswar.

List of witnesses examined on behalf of the prosecution

P.W.1	Indramani Sahu
P.W.2	Nihar Kumar Mohapatra
P.W.3.	Umaballava 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 on the seizure list
Ext.2	Signature of P.W.1 in the seizure list

Ext.3 Signature of P.W.1 in seizure list
Ext.4 FIR
Ext.4/1 Signature of P.W.1 in Ext.4
Ext.5 Zimanama
Ext.5/1 Signature of P.W.3 in Zimanama

List of documents Exhibited on behalf of the defence.

N I L.

Mrs Anuradha Mohanty
Member,J.J.Board Khurda

Mrs. Namrata Chadha
Member,J.J.Board Khurd

(Dr.P.M.Samal)
Principle Magistrate
Juvenile Justice Board
Khurda circuit-at Bhubaneswar.