

In the court of the Special Judicial Magistrate, Khurda

Present ; Shri S.K.Padhy, LL.B.,

Special Judicial Magistrate,

Khurda.

Date of conclusion of argument; 15.9.2014

Date of judgment 15.9.2014

G.R Case No. 522/06

T. R No. 173/13

State

Versus

1. Laxmidhar Nayak age 26 years

S/o Subala Nayak

of village Motta,

P.S Jankia, Dist. Khurda.

Accused .

Counsel

For the prosecution

Shri A.Khan, A.P.P., Khurda.

For the defence

Shri R.C..Ray and associates,

Advocates, Khurda.

J U D G M E N T

1. The above named accused stands prosecuted for the offences punishable u/s 341/323/294 of the Indian Penal Code.

2. Prosecution case is that on 25.5.2006 at about 9 p.m while the informant was returning his home on the way his neighbor (the above named accused) wrongfully restrained him, abused in obscene words and thereby assaulted him by means of a wood split. He sustained injury and shouted for help. Hearing his shout his wife Janaki Nayak, neighbor Laxmidhar Nayak arrived there and had rescued him from the accused. The village gentries advised him for compromise of the matter but the accused did not agree. The informant reported the matter at the P.S and basing on his report a case registered and after completion of the investigation charge sheet u/s 341/323/294 of the I.P.C was submitted against the above named accused. Hence this case.

3. The recording of the statement of the accused is dispensed with as no incriminating material was found against him in the evidence of the prosecution case.

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4. Now the points for determination of this case are as follows:-

i) Whether on the relevant date, time and place the accused had wrongfully restrained the informant so as to prevent the driver from proceeding in the direction which he had right to proceed.

ii) Whether on the relevant date, time and place the accused had abused the informant in obscene words causing annoyance to him and others at or near a public place.

iii) Whether on the relevant date time and place the accused had voluntarily caused hurt to the informant and he was injured and medically treated.

5. In order to prove its case prosecution examined only the wife of the informant and the younger brother of the informant as P.W 1 and 2 and declined the rest of the charge sheeted witnesses since the informant is reported to be dead and they did not tell any thing regarding the commission of the alleged crime by the accused. No Ext. is marked from either side.

6. P.W 1 and 2 categorically deposed that they don't not any thing about this case. Further they deposed that the informant is dead since last one year and three months. In the cross examination they admitted that they have not been examined by the police in connection with this case. In view of the evidence on record, I am of the opinion that absolutely there is no evidence on record for commission of the alleged crime by the present accused. Consequently prosecution has failed to prove the alleged offences u/s 341/323/294 of the I.P.C against the accused beyond all reasonable doubt.

7. In the result the accused is held not guilty u/s 341/323/294 of the I.P.C. He is, therefore acquitted u/s 255(i) of the Cr.P.C.

8. He be set at liberty forthwith and discharged from his bail bond.

9. Enter this case as mistake of fact

Special Judicial Magistrate, Khurda.

This judgment is typed by me and pronounced in the open court this the 15th day of September 2014.

Special Judicial Magistrate, Khurda.

List of witnesses examined for the prosecution

P.W 1 Janaki Nayak

P.W 2 Dhanu Nayak.

List of witnesses examined for the defence

None

List of documents admitted in evidence for the prosecution

Nil

List of documents admitted for the defence for the defence.

Nil

List of M.Os admitted in evidence for the prosecution/ defence.

Nil.

Special Judicial Magistrate, Khurda.