

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; 1.9.2014
Date of judgment 1.9.2014

G.R Case No. 10/12
T. R No. 191/14

State

Versus

1. Rabi @ Alok Ranjan Chhotray age 24 years
S/o Godabari Chhotray
of village Nanapada sahi,
P.S Nirakarpur, Dist. Khurda.
Accused .

Counsel

For the prosecution
For the defence

Shri A.Khan, A.P.P., Khurda.
Shri S.Ratha and associates,
Advocates, Khurda.

Offence u/s 341/323/506 of the Indian Penal Code

J U D G M E N T

1. The above named accused stands prosecuted for the offences punishable u/s 341/323/506 of the Indian Penal Code.

2. Prosecution case is that on 31.12.11 the informant along with his friends arranged a feast in the back side of Nirakarpur college of their village. One of his friend invited Rabi Chhotray (accused) to the feast. While all of his friends were talking with each other in joke, suddenly the accused abused him "MAGHIA BESI KATHA KAUCHU" saying so he assaulted. As a result he sustained fracture injury on his hand. The accused also threatened him to kill in life. Out of fear his friends did not interfere. 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 341/323/506 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.

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 him from proceeding in the direction which he had right to proceed.
- ii) Whether on the relevant date, time and place the accused had voluntarily caused hurt to the informant and he was medically treated.
- iii) Whether on the relevant date, time and place the accused had threatened the informant with criminal intention raising alarm in his mind.

5. In order to prove its case prosecution examined only the informant (injured) as P.W 1 and declined the rest of the charge sheeted witnesses since the informant admitted compromise with the accused and stated he does not want to proceed further in this case. F.I.R and the signature of informant are marked as Ext. 1 to 1/1. Defence examined none on its behalf.

6. According to the informant the occurrence had taken place in the year 2012 and he does not remember any thing. He further stated that the accused has compromised the ill feeling with him in presence of the village gentries and they are now pulling on well and he does not want to proceed further in this case. He proves his report Ext. 1 and Ext. 1/1 is his signature. It is admitted that both the parties have compromised the ill feeling between themselves and pulling on well. The informant has also stated he does not want to proceed further in this case. Law is well settled and pronounced in many judicial principle that F.I.R is not the substantial piece of evidence and it can only be used for the purpose of contradiction and corroboration of matters thereof. In the case at hand the informant himself does not support the prosecution version. Hence, in view of the above evidence on record I am of the opinion that there is no evidence on record for commission of the alleged crime by the present accused and prosecution has failed to prove the alleged offence u/s 341/323/506 of the I.P.C against the accused beyond all reasonable doubt.

7. In the result the accused is held not guilty u/s 341/323/506 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 1st day of September 2014.

Special Judicial Magistrate, Khurda.

List of witnesses examined for the prosecution

P.W 1 Pratap Chandra Behera, informant.

List of witnesses examined for the defence

None

List of documents admitted in evidence for the prosecution

Ext. 1 F.I.R

Ext. 1/1 Signature of the informant

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.

