

**IN THE COURT OF ADDL. CIVIL JUDGE- CUM JMFC,
KEONJHAR.**

Present:-Ms. Adyasha Mishra

Addl. Civil Judge-Cum JMFC, Keonjhar.

JO Code: OD 00914

Date of Judgment: **10.05.2024**

[Case No. G.R. 1532/2022]

(Town P.S. Case No. 316 dtd. 18.08.2022)

Complainant	State of Odisha
Represented By	Sri Ashok Kumar Das, Ld Addl Public Prosecutor
Accused	1. Annapurna Behera W/O Jayanata Sethi, Vill- Ghutur, P.S- Town, Dist- Keonjhar
Represented By	Adv. Sri B B Sethi & Associates

Date of Offence	18.08.2022
Date of F.I.R	18.08.2022
Date of Charge sheet/Final P.R	07.09.2022
Date of Framing Charges	01.12.2023
Date of commencement of evidence	02.05.2024
Date on which judgement is reserved	-
Date of Judgement	10.05.2024
Date of the Sentencing order, if any	N/A

Rank of the accused	Name of the Accused	Date of Arrest	Date of Release on bail	Offences charged with	Whether Acquitted or convicted	Sentence imposed	Period of Detention undergone during trial for purpose of section 428 Cr.P.C
1	Annapurna Behera			U/s. 294/341/323/336/506 of I.P.C	Acquitted	None	N/A

J U D G M E N T

1. The above named accused person stands prosecuted for committing the offences under section 294/323/341/336/506 of Indian penal code (hereinafter referred to as I.P.C in short) for using obscene acts or songs, for voluntarily causing hurt, for causing wrongful restraint, for doing acts endangering life or personal safety of others and for criminal intimidation in furtherance of their common intention.
2. The prosecution case in brief is that: On dtd. 18.08.2022 at 4.00 PM, the complainant Trilochan Behera, S/O Dayanidhi Behera of Village- Ghutur P.S- Town, Dist- Keonjhar lodged a written F.I.R. alleging that on 17.08.2022 at about 03:30 PM, while he was going

to cut his crops, the accused person, namely Annapurna Behera assaulted him by means of fist blows and throwing stones, wrongfully restrained him, abused him in filthy language and threatened to kill him, as a result of which he sustained bleeding injury on his person. Basing on the above report I.I.C. of police, Town P.S. registered P. S case No. 316/2018 dated 18.08.22, directed A.S.I. Udhab Charan to take up the investigation and to submit the charge sheet. During the course of investigation, the I.O. examined the informant and other witnesses u/s. 161 Cr.P.C., visited the spot, issued notice u/s. 41 (A) of Cr.P.C. against the accused persons and thereafter on completion of the investigation, as prima facie materials were well established for the offences punishable u/ss. 323/341/294/506/336 of IPC against the accused persons, IO submitted the charge sheet dated 07.09.2022 u/s. 323/341/294/336/506 IPC against the above noted accused person to face her trial in the court of law. Hence this present trial.

3. The plea of the defence is that of bare denial and false implication.
4. The points for determination in this case are as follows:-
 - i) Whether on dt. 17.08.2022 at about 3.30 PM., the accused person, wrongfully restrained the informant and thereby prevented him from proceeding in a direction where he had a right to proceed and thereby committed the offence punishable U/s.341 IPC or not,
 - ii) Whether on the aforesaid date and time and accused persons caused hurt to the informant without any provocation so as to commit the offence punishable under section 323 of IPC or not.
 - iii) Whether on the aforesaid date and time the accused persons uttered obscene words at or near a public place thereby causing annoyance to others so as to commit the offence punishable under section 294 of IPC or not.

- iv) Whether on the aforesaid date and time the accused persons threatened the informant intend to cause alarm in his mind and thereby committed offence punishable U/s. 506 of IPC or not.
- v) Whether on the aforesaid date and time the accused persons did any act which endangered human life or the personal safety of others and thereby committed offence punishable U/s. 336 of IPC or not.

5. In order to substantiate its case prosecution has examined 3 number of witnesses out of whom P.W.1 is the informant, while the rest 2 are the independent witnesses. All other charge sheeted witnesses are declined by the prosecution. Prosecution has marked the FIR as Ext P1/PW.1 and his signature as Ext. P1¹ /PW.1 thereon. However, the defence has examined none and has not exhibited any evidence on its behalf whether oral or documentary.

6. In their statement u/s 313, the accused person has pleaded her innocence.

7. The informant (P.W.1) in his examination-in-chief has deposed that he knows all the accused persons, who are his co villagers. He has also deposed that on dtd. 17.08.2022 there was a misunderstanding and a resultant scuffle and verbal spat between him and the accused person and that he had lodged the F.I.R in a fit of rage. The F.I.R., was marked as Ext. P1/P.W.1 and his signature was marked Ext. P1¹/P.W.1. He further said that he does not want to proceed with this case against the accused persons as they have mutually settled the matter between themselves and are now living together peacefully. P.W.2 also deposed in a similar fashion and P.W.3 has completely pleaded his ignorance about the dispute. Since the informant is not desirous to prosecute the accused persons, no adverse inference could be drawn against them.

8. After perusal of the evidence on record my considered opinion is that, it is in the interest of the republic to finish any sort of litigation.

Considering the evidence and circumstances of the case this court does not find anything substantial to implicate the accused persons for the offences they are charged with. P.W.1 being the informant of this case does not support the prosecution case as he said that he does not want to proceed in the case further. On further perusal of evidence of the informant it is found that she proved the FIR lodged by him vide Ext.P1/PW.1 and his signature P1¹/PW.1 but it is pertinent to mention here that in the case of **Madhusudan Singh and another vs State of Bihar AIR 1995 SC 1437 Hon'ble Supreme Court** held that FIR cannot be treated as a substantive piece of evidence and it can only be used for contradiction and corroboration of the person lodging the FIR. The ingredients needed to convict the accused person for the offences he is prosecuted with is not fulfilled.

9. Furthermore, the **Hon'ble Supreme Court in Madan Mohan Abbot vs State of Punjab Appeal (Crl.) no 555 of 2008** has emphasized that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. Hence, considering the above decision of the apex court, this court finds it undesirable to interfere into the existing scenario between the accused person and the informant of this case. It is also the well settled principle of law that the law is meant to do justice and not to force the parties for a protracted litigation. As such, when the parties themselves seem to have compromised the dispute, it would be waste of time in going through a mock trial. Hence, the above points for determination do not succeed against the accused person.

10. Taking into consideration the said facts and circumstances, as this court finds no sufficient or cogent evidence on record against the accused person, she is found not guilty for commission of offence punishable u/s. 341/323/294/506/336 of I.P.C. and is acquitted therefrom as per the provision U/s.255 (1) Cr.P.C. She be set at liberty forthwith and discharged from her bail bonds.

Pronounced the judgment in the open court under my signature and seal of the court on this 10th day of May, 2024.

Sd/-

**Judicial Magistrate First Class,
Keonjhar**

This judgment is typed out and corrected by me in my personal computer and pronounced in the open court today on this 10th day of May, 2024 under my hand and seal of this court.

Sd/-

**Judicial Magistrate First Class,
Keonjhar**

There is no seizure. Hence no order is to be passed thereon.
Enter the case as “Mistake of Fact” for statistical purpose.

Sd/-

**Judicial Magistrate First Class,
Keonjhar**

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES		
A. Prosecution witness		
RANK	NAME	NATURE OF EVIDENCE
P.W.1	Trilochan Behera	Informant/Complainant
P.W. 2	Girija Shankar Behera	Independent witness
P.W. 3	Hrudananda Sethy	Independent Witness
B. Defence witness, if any- Nil		
C. Court witness, if any- Nil		
LIST OF PROSECUTION/DEFENCE/COURT EXHIBIT		
A. Prosecution Exhibits :		
Sl No.	Exhibits Marked	Description
1.	P1/P.W. 1	FIR
2.	P1 ¹ / P.W. 1	Sign of P.W.1 on FIR
B. Defence Exhibits, if any: Nil		
C. Court Exhibits, if any : Nil		
D. Material Objects: Nil		

Sd/-
Judicial Magistrate First Class
Keonjhar.