

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, (COGNIZANCE), ASKA, GANJAM PRESENT: MS. MONALI BEHERA, J.M.F.C (COGNIZANCE) ASKA, GANJAM J.O CODE: OD00854 [Date of Judgment:06.08.2024] [CASE NO.: GR- 685/2019] [TRIAL NO.:38/2024] State V. Manu Gouda	
FIR NO.375, DTD. 14.10.2019, U/S.341/294/506/34 OF I.P.C, P.S. ASKA, GANJAM	
INFORMANT:	STATE
REPRESENTED BY:	Sri Narayan Jena, Learned A.P.P. Aska.
ACCUSED:	1. Manu Gouda, aged about 55 years, W/o- Rajendra Gouda, village-Magura, PS- Aska, Dist- Ganjam
REPRESENTED BY:	Sri P.S.S Patra and his Associates, Advocate(s), Aska
DATE OF OFFENCE:	09.10.2019
DATE OF F.I.R:	14.10.2019
DATE OF CHARGESHEET:	13.12.2019
DATE OF FRAMING OF CHARGE:	08.01.2024
DATE OF COMMENCEMENT OF EVIDENCE:	23.07.2024
DATE ON WHICH JUGDMENT IS RESERVED:	23.07.2024
DATE OF THE JUDGMENT:	06.08.2024
DATE OF THE SENTENCING ORDER:	-

ACCUSED DETAILS							
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 ALREADY UNDERGONE DURING TRIAL FOR THE PURPOSE OF S.428 OF Cr.P.C
A-1	Manu Gouda	Served notice U/s.41 A Cr.P.C	08.01.2024	U/s.341/294/506/34 of IPC	-	-	-

JUDGMENT

1. In this case, the accused namely Manu Gouda (hereinafter referred to as A.1) stands prosecuted for the commission of offences punishable U/s. 341/294/506/34 of Indian Penal Code, 1860 (hereinafter referred to as IPC), for wrongfully restraining the victim from proceeding in a direction in which he has a right to proceed, for uttering obscenities in or near any public place to the annoyance of others and for criminally intimidating the victim so as to cause alarm to him in furtherance of their common intention.
2. The story of the prosecution in a nutshell is that, on 09.10.2019, at around 11:00 A.M the accused A.1 along with her son came to the house of the complainant Huli Mahankud situated at village Magura, P.S Aska, being armed with lathis and thenga and started abusing the complainant and his family members in obscene language. The accused person also threatened to kill them

in life. On the basis of such facts the complainant had later lodged an F.I.R on 14.10.2019 about the same in Aska P.S. Basing upon the F.I.R, the then A.S.I of Aska P.S., Ganjam named Judhistir Majhi was directed to investigate the matter. After completion of the investigation, charge-sheet vide C.S. No.441, dated 13.12.2019 was submitted by the investigating officer U/s.173(2) of Code of Criminal Procedure, 1973 (hereinafter referred to as Cr.P.C) upon which cognizance was taken U/s.190(b) of Cr.P.C.

3. On the substance of accusation being stated, the accused pleaded not guilty and claimed for trial.

4. POINTS FOR DETERMINATION

- i. *Whether on dated 09.10.2019 at around 11:00 A.M, in front of the house of the complainant situated at village Magura under Aska P.S., Ganjam, the accused in furtherance of the common intention wrongfully restrained the informant from proceeding in a direction in which he had a right to proceed?*
- ii. *Whether on the same date, time and place, the accused in furtherance of the common intention abused the informant in obscene language in or near any public place to the annoyance of others?*
- iii. *Whether on the same date, time and place, the accused in furtherance of the common intention criminally intimidated the informant so as to cause alarm to him?*

iv. *Acquittal for conviction, if any?*

REASONS FOR DETERMINATION

5. As per section 102 of Indian Evidence Act, 1872 (hereinafter referred to as 'I.E.A') the onus of proving these points is on the prosecution. Due to the cardinal principle of criminal jurisprudence viz., the presumption of innocence, the prosecution has to prove the guilt of the accused persons beyond any reasonable doubt.
6. In order to substantiate this case, the prosecution has examined four witnesses and exhibited the F.I.R as Ext.P.1. The rest of the C.S.Ws have been declined by the prosecution as their evidence became redundant. Per contra, none has been examined by the defence and as such nothing has been exhibited from its side.
7. During the course of his testimony, the complainant Huli Mahankuda (PW-3) who also happens to be the informant of this case, though has deposed about the lodging of FIR vide Ext.P.1, but has testified that he does not remember anything about the case. Due to certain misunderstanding, he had lodged the F.I.R at the PS. In his cross-examination, he has stated that the matter has been amicably settled between them and he does not want to proceed further in this case. The other witnesses examined from the side of the prosecution namely, B.Sahadev Patra(PW-1), Bauribandhu Swain (PW-2) and Jayanti Mahankuda (PW-4), while acknowledging their acquaintances with the informant

and the accused, clearly denied of any knowledge about the incident. As stated above, the prosecution declined the evidence of the rest of the witnesses. Thus, there is no iota of evidence to bring home the implication of the accused in this case.

8. On the other hand, though the informant has deposed about the lodging of FIR vide Ext.P.1, but the law in this regard is well settled that FIR is not a substantive piece of evidence and its evidentiary value is confined to the extent of confrontation or corroboration of its contents with the maker thereof. But in this instant case, as the informant examined has not deposed anything, no question of confrontation or corroboration does arise.
9. In view of the foregoing discussion, I hold that the prosecution in this case has hereby failed in proving its case beyond all reasonable doubt. Hence, I find the accused Manu Gouda not guilty of the commission of offence u/s. 341/294/506/34 of IPC and thereby she stands acquitted therefrom u/s.255(1) Cr.P.C.
10. There is no order regarding seizure as nothing has been seized in this case.

“Enter this case as mistake of fact.

J.M.F.C.(Cog.),Aska

The judgment is dictated to the steno directly in the office computer, corrected by me and pronounced in the open Court on this 6th day of August, 2024 under my hand and seal of this Court.

J.M.F.C.(Cog.),Aska

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES		
A. Prosecution Witnesses		
Rank	Name	Nature of evidence
PW-1	B.Sahadev Patra	Independent witness
PW-2	Bauribandhu Swain	Independent witness
PW-3	Laxman Biswal	Informant-cum-victim
PW-4	Jayanti Mahankuda	Independent witness
B. Defence Witnesses, if any		
NIL		
C. Court Witnesses, if any		
NIL		
LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS		
A. Prosecution Exhibits		
Sl.No.	Exhibit Number	Description
1.	Ext.P-1/P.W.3	FIR
B. Defence Exhibits, if any		
NIL		
C. Court Exhibits, if any		

NIL
D. Material Objects
NIL

J.M.F.C.(Cog.), Aska