

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS
ANGUL**

**PRESENT: Sri Tarini Prasad Sahoo, L.L.M.
J.M.F.C, Angul
(J.O. Code: OD-0789)**

Dated this 18th day of December 2019

DATE OF CONCLUSION OF ARGUMENT : 16.12.2019
DATE OF PRONOUNCEMENT OF JUDGMENT : 18.12.2019

**G.R. Case No. 1144/2010
Trial No. 28/2019
(P.S. Case No. 440/2010)**

State of Odisha

.....Prosecution

-Versus-

Manas@Manu Samal, aged about 44 years,
S/O- Late Mayadhar Samal, Mouza- Rajkishorepada
PS- Angul, Dist- Angul

.....Accused Persons

Counsel for the Prosecution: Sri Sunil Kumar Sahu & Sri
Rohit Kumar Behera (Assistant
Public Prosecutors)

Counsel for the Defence: Sri Himansu Bhusan Samal & Ors

**STATUS OF THE ACCUSED PERSON: THE ACCUSED PERSON IS ON
BAIL AND IS PRESENT BEFORE THE COURT**

**Offences under Section 341/323/353/506 R/W Section 34 of Indian Penal
Code, 1860**

JUDGMENT

1. The above named accused person along with the other accused person in this case namely Narottam@Naru Mishra (Dead) in furtherance of their common intention stand prosecuted for the alleged

commission of the offences of “wrongful restraint”, “voluntarily causing hurt”, “assault or criminal force to deter public servant from discharge of his duty”, “criminal intimidation”, punishable U/Ss. 341/323/353/506 R/W S. 34 of Indian Penal Code, 1860 (hereinafter referred to as I.P.C).

Here, since the accused person Naru@Narottam Mishra is dead since 03.05.2018, the proceeding against him has been abated by the order of this court dated 13.12.2019.

2. The prosecution story in a nutshell is that: On dated 07.09.2010 at about 3.30 PM, the informant G.Sankar Achary, of Nabarangpur lodged a written report to the effect that on 07.09.2010 at about 1.45 PM while the monthly meeting was going on in DRDA Sabhaghar, Naru Mishra along with another called him to outside and threatened him to withdraw the FIR which was lodged by him the day before and to compromise the case otherwise he will be sent to jail by implicating a false atrocity case against the informant.

Basing on the written report the present case was registered by IIC, Angul Police Station vide P.S. Case No. 440 dated 07.09.2010, U/Ss. 341/323/353/506 R/W S. 34 of IPC and directed S.I of Police Tophan Bag to take up the investigation. During the investigation, the Investigating Officer examined the informant and recorded his statement U/S. 161 Cr.P.C. Thereafter he visited the spot in presence of the informant and prepared spot map. There he examined other witnesses regarding the case. On the same day, at about 6.30 PM I.O. visited Rajkishorepada and Hularisinga in search of the accused person Manu@Manas Samal and Naru@Narottam Mishra respectively but could not trace them. On 11.10.2010, accused Naru@Narottam Mishra and Manu@Manas Samal appeared before police station with the order of Hon’ble High Court of Orissa. The I.O. examined both the accused persons where they denied all the charges against them without citing any defence. As prima facie evidence found, I.O. arrested both the accused persons and later as per the order of Hon’ble High Court released them on bail after execution of bail bonds. to face their trial in the court of law. Hence this case.

3. The statement of the accused person U/S. 313 Cr.P.C. has been recorded wherein he denied to have been involved in the commission of the alleged offences.

4. In order to prove the guilt of the accused the prosecution has to prove the following points:

Whether on 07.09.2010 at about 1.45 PM at the Conference Hall of DRDA, the above named accused person along with other accused person in this case namely, Naru@Narottam Mishra (dead), in furtherance of their common intention:

I. Wrongfully obstructed the informant from proceeding in any direction in which he had a right to proceed and thereby committed an offence punishable U/S. 341 R/W S.34 IPC?

II. Voluntarily caused hurt to the informant and thereby committed an offence punishable U/S. 323 R/W S. 34 IPC?

III. Assaulted the informant being a public servant in execution of his duty as such public servant and thereby committed an offence punishable U/S. 353 R/W S. 34 IPC?

IV. Threatened the informant with injury to his person and thereby committed an offence punishable U/S. 506 R/W S. 34 IPC?

5. In order to substantiate its case the prosecution has examined as much as 3 witnesses out of 4 Charge sheeted witnesses. PW 3 is the informant of this case; PWs 1 and 2 are the independent witnesses. Further the Prosecution marked the FIR vide Exhibit 1 in support of their case. On the other hand the accused person preferred not to adduce any evidence, either oral or documentary in support of his plea.

6. Going through the evidences on record, it is found that PW 3 (G. Sankar Achary) who is the informant-cum-victim of this case has deposed before the court and though he supported the prosecution story in his examination-in-chief but in cross examination he deposed that he doesn't recognize the accused persons in this case and he doesn't remember the incident anymore due to passage of so many years since the occurrence took place. That apart the independent witnesses also deposed as to their complete ignorance about the incident. Here the prosecution also didn't preferred to examine them U/S. 154 of Indian Evidence Act. Hence this court is of the opinion that the prosecution

could not bring any iota of evidence in order to substantiate any of the allegations against the accused person.

- 7.** Considering the testimonies on record, it is found that the prosecution has failed to prove any of the offences alleged against the accused persons and this court is of the considered opinion that the accused persons are not guilty of offences U/S. 341/323/353/506 R/W S. 34 of IPC.
- 8.** Hence considering the evidence on record and the result of the above discussion made by this court in the preceding paragraphs, this court is of the considered view that prosecution has failed to prove the guilt of the above named accused persons U/S. 341/323/353/506 R/W S. 34 of IPC and accordingly the accused persons are found to be not guilty of the said offences and accordingly the above named accused person is acquitted U/S. 248(1) of Cr.P.C. The accused person be set at liberty forthwith and the bailor be discharged.

As there is no seizure of any article, no order is passed to that effect.

Enter this case as Mistake of Fact for Statistical purposes.

J.M.F.C, Angul

This Judgment is typed by me and corrected by me and pronounced in open court today on this 18th day of December 2019 under my signature and seal of this court.

J.M.F.C, Angul

List of witnesses examined on behalf of the Prosecution:

PW 1	: Ranjan Pradhan
PW 2	: Gouranga Behera
PW 3	: G. Sankar Achary

List of witnesses examined on behalf of the Defence:

NONE

List of Exhibits marked on behalf of the Prosecution:

Ext. 1 : FIR

Ext. 1/1 : Signature of PW 3 of Exhibit 1

List of Exhibits marked on behalf of the Defence:

NIL

J.M.F.C, Angul