

FORM-A

IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS, DASPALLA J.O.Code: OD-0706 Present: Sri Soumya Ranjan Prusty, LL.M., J.M.F.C, Daspalla. Date of Judgment :- 08.04.2024 <u>G.R.58 of 2014</u> T.R. No.47 of 2015 (Arising out of Daspalla PS Case No.37/dt.01.04.2014)	
COMPLAINANT	STATE OF ODISHA
REPRESENTED BY	Ld. APP, Daspalla
ACCUSED PERSONS	Nisa Mandal, aged about 58 years, W/o. Late Kailash Mandala @ Kangali Mandala, of Village- Haridabadi, PS.-Daspalla, District: Nayagarh. Accused
REPRESENTED BY	Advocate Sri Alok Senapati & associates.

FORM-B

Date of Offence	01.04.2014
Date of F.I.R.	01.04.2014
Date of Charge Sheet	28.02.2015
Date of Framing of Charge	30.04.2018
Date of commencement of evidence	30.07.2018
Date of which judgment is reserved	08.04.2024
Date of Judgment	08.04.2024
Date of the Sentencing Order, if any	N.A.

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 Detention undergone during Trial for purpose of section 428 Cr.P.C.
01	Nisha Mandal	27.10.2014	27.10.2014 Bailed by police as per direction of Hon'ble High Court vide BLAPL No.7940/ dt.06.05.2014	U/s.341/323/294/354/506 of IPC	Acquitted	N.A.	N.A.

J U D G M E N T :

1. The above named accused stand charged for the offences punishable U/s.341/323/294/354/506 of the Indian Penal Code.

2. Case of the prosecution in a nutshell is as follows :-

The informant namely Ramamani Panda has lodged FIR that on 01.04.2014 at about 11.30 A.M. while she was returning to her home after taking bath Bereni pond in the village Haridabadi, on the way the accused detained the informant, abused her by using obscene language and assaulted her by means of first

blows and kicks, caught hold the informant by her hair and turn around her and forcibly pulled her wearing apparels and made her naked. The accused also pressed the neck of the informant to kill her. When daughter came there to the spot, interfered in the matter and rescued the informant. Then the informant took shelter of law. Hence this case.

Basing upon the written complaint of the informant, IIC Daspalla PS registered PS case No.37/dt.01.04.2014 U/s.341/323/294/354/506 of the Indian Penal Code and directed A.S.I. G.K. Pradhan to take up investigation. After investigation, C.S. was submitted U/s.341/323/294/354/506 of Indian Penal Code against the accused. The charge was framed under the said sections and the accused persons faced his trial accordingly. Hence, this case.

3. The plea of defence is of complete denial and false implication.

4. Following point is to be determined for adjudication of this case:-

Whether on 01.04.2014 at about 11.30 A.M. the at Haridabadi near tota road beside main road accused:

i) wrongfully restrained the informant and thereby committed an offence punishable u/s.341 of IPC?

ii) abused the informant in obscene language in or near a public place and thereby caused annoyance to her and others, and thus committed an offence punishable u/s.294 of IPC?

iii) voluntarily caused hurt to the informant by assaulting her by means of fist, slaps and kicks and thereby committed an offence punishable u/s.323 of IPC?

iv) used criminal force upon the informant with intent to outrage her modesty by dragging her wearing apparels and making her naked, and thereby committed an offence punishable u/s.354 of IPC ?

v) Criminally intimidated the informant by threatening to kill her and thereby committed an offence punishable U/s.506 of IPC ?

5. In order to prove its case the prosecution has examined six charge-sheeted witnesses out of seven CSWs including the informant as P.W.2. The prosecution has exhibited two documents. On the other hand, the defence has neither examined any witness nor exhibited any document from its side.

6. On analysis of the evidence available on case record, the observation is as follows:

P.W.2 namely Ramarani Panda, the informant

has deposed that occurrence took place four years prior to Septemeber 2018 at about 11.30 A.M. while she was returning after took my bath from Bereni Pond towards her home, the accused suddenly came near a mango orchard and abused her in obscene languages and assaulted her by means of fist blows and kicks and forcibly pulled her wearing apparels. Her daughter came to the spot and rescued her. After that she came to police station and then she went to hospital. She identified the FIR is marked as Ext.1 and her signature is marked as Ext.1/1.

P.W.3 namely Yudhistir Panda, husband of the informant has deposed that the occurrence took place prior to Septemeber 2018 at about 11.30 A.M. While his wife was returning after taking bath from Bereni pond towards his home, the accused suddenly came near a mango orchard and forcibly pulled her wearing apparels, as a result of which his wife sustained bleeding injury on her ear. His daughter came to the spot and rescued the informant. After that, they came to police station and then they went to hospital.

P.W.4 Sabita Sasani has deposed that the incident occurred in the year 2014. On that day at about 11 A.M. he along with her mother had been to the village pond. On their way of return the accused Nisha Mandal abused her mother in filthy languages in

saying “dari, bedhei” etc for which his mother felt annoyed. After that they went to the police station. Again said the accused persons pulled the wearing apparels of her mother, so also snatched away the ear flower of her mother, due to which her mother sustained bleeding injury in her right ear. Her husband rescued them. The accused persons also threatened them to take their lives and as a result they got feared.

P.W.5 Dr. Amit Kumar Pattanayak has deposed that on 01.04.2014 the then M.O. at Daspalla CHC. On that day on police requisition he examined one injured namely Ramamani Pradhan W/o- Yudhistir Pradhan and found the following injuries on her person:-

1) found no external injury on his examination.

He identified said injury report marked as Ext.2 and his signature is marked as Ext.2/1.

P.W.6 namely Sarat Jani has deposed that on 01.04.2014 he was working as ASI in Daspalla PS. He has only submitted charge sheet in this case.

P.W.1 Siba Prasad Sahoo has expressed his complete ignorance about this case.

7. On perusal of the evidence, at the outset it is observed that out of seven charge sheeted witnesses six were examined by prosecution and out of them only three charge sheeted witnesses are material to the case.

P.W.2 is the informant described the incident vividly fully corroborating the FIR story. P.W.3 is the husband of the informant deposed partially corroborating the statement of the informant. P.W.4 is the daughter of the informant thoroughly corroborated the FIR story and thye atatement of the informant. P.W.5 is the M.O. who deposed in his chief that on examination of the victim Ramamani Pradhan he does not found any external injury in her body. So the statement of P.W.5 does not reveal any injury of the informant. Further the informant her self has not described any thing regarding injury in her chief. When injury report and the victim her self are completely silent about the injury then presumption of injury can not be drawn by the court basing upon the oral testimony of P.W.3 and P.W.4. Further P.W.3 is not trust worthy. Because in one hand he deposed that the accused persons are his co villagers and in other hand he disclosed in his cross examination that he can not say the name of the persons those were present at the spot. This appealing his double standard character. So the offence U/s.323 of IPC is not proved.

In this case prosecution could not examine the I.O who investigated the case. So regarding seizure of wearing apparels of the informant the record is silent. Except dragging by the accused no materials regarding

wrongful restraint is there on the record. Further the dragging by the accused is not successfully proved by corroborative evidence. So offence U/s.341 and 354 of IPC is not proved by the prosecution.

In this case only the informant (P.W.2) , her husband (P.W.3), and her daughter (P.W.4) are material witnesses and the independent witnesses are absolutely silent. Further except P.W.2 and P.W.4 no witness deposed anything regarding use of abusive languages by the accused. So the offence U/s.294 IPC is not attracted.

If we will discuss about the offence U/s.506 IPC, besides P.W.4 no witness described anything regarding threatening to the informant. So basing upon uncorroborated and untrustworthy testimony of sole witness one accused can not be convicted.

From the above noted statement of the witnesses, and discussion this court hold the prosecution has completely unsuccessful to bring home the allegation leveled against the accused persons beyond all reasonable doubt.

8. Considering the afore-mentioned points, in the instant case, when the entire evidence adduced is put in a crucible for being tested on the touchstone of credibility, it is found that the prosecution has failed to

bring forth requisite quantity and quality of evidence and hence, has failed to prove its case beyond all reasonable doubts against the accused persons.

9. In the result, the accused is found not guilty of the offences punishable U/s.341/294/323/354/506 of the Indian Penal Code and he is acquitted U/s.248(1) of CrPC. The accused be set at liberty forthwith and be discharged from his bail bond.

No order regarding seizure needs to be passed as there is no seizure reported in this case.

Enter the case as mistake of fact.

J.M.F.C., Daspalla

Typed to my dictation, corrected by me,
Pronounced & delivered in the open Court in presence
of the accused on this the 8th day of April, 2024.

J.M.F.C., Daspalla

FORM-C

LIST OF PROSECUTIONS / DEFENCE / COURT WITNESSES		
A. Prosecution Witness		
Rank	Name	Nature of Evidence
P.W.1	Siba Prasad Sahoo	corroborative witness
P.W.2	Ramarani Panda	informant
P.W.3	Yudhistir Panda	corroborative witness
P.W.4	Sabita Sasani	corroborative witness
P.W.5	Dr. Amit Kumar Pattnayak	M.O.

P.W.6	Sarat Jani	I.O.
B. Defence Witnesses, if any:		
Rank	Name	Nature of Evidence
	Nil	
C. Court Witnesses, if any:		
Rank	Name	Nature of Evidence
	Nil	
LIST OF PROSECUTIONS / DEFENCE / COURT EXHIBIT		
A. Prosecution Exhibits		
Sl. No	Exhibit Number	Description
01	Exhibit.1	F.I.R.
02	Exhibit.1/1	Signature of P.W.2 on FIR
03	Exhibit.2	Injury report
04	Exhibit.2/1	Signature of P.W.3 on Ext.2.
B. Defence Exhibits, if any:		
Sl. No	Exhibit Number	Description
	Nil	
C. Court Exhibits, if any:		
Sl. No	Exhibit Number	Description
	Nil	
D. Material Objects:		
Sl. No	Material Object Number	Description
	Nil	

J.M.F.C., Daspalla