

**IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST
CLASS, KENDRAPARA.**

P R E S E N T Ms.Zarine Khan, LL.M.,
J.M.F.C., Kendrapara.

G.R.Case.No.880 of 2008

T.R No- 184 of 2020

[Arising out of Mohakalapada
P.S.Case No.170 dated 28.12.2008]

S T A T E ... Prosecution

-Versus-

1. Sanatan Mandal,aged about 62 years.
S/o.Late Girish Chandra Mandal.
2. Shyamali Mandal,aged about 51 years,
W/o.Sanatan Mandal.
Both are of village-Bhateni,
P.S.Mohakalapara,
Dist-Kendrapara.

.... Accused persons.

Counsel for the State: Mir Afsar Ali Bakhsh
Sri Ajaya Mohanty
Asst.P.P.Kendrapara.

Counsel for the Accused: Shri Sanjib Ray, Advocate
& Associates

Status of the accused : Accused is on bail

Date of Argument : 21st day of January, 2021

Date of Judgment : 22nd day of January, 2021

**OFFENCES UNDER SECTION
498(A)/323/294/354/506/34 OF INDIAN PENAL CODE**

J U D G M E N T

The above named accused persons are alleged to have committed an offence U/S. 498(A)/ 323/ 294/ 354/ 506/ 34 of Indian Penal Code (here-in-after said as "IPC").

2. The brief facts of the case is that it is alleged that 25.9.2009. that the husband was a simpleton and that the informant was tortured mentally and physically by her inlaws. There was a demand for dowry and the accused no 1 along with accused no 2 abused her in filthy and obscene language. The mother in law gave a blow and by that the informant fell down on the floor. There was a family dispute because of which she has assaulted and threatened to kill. She was asked to deposit 25000 as part of dowry otherwise she will be harassed regularly. And because of which she filed a complaint petition in court.

On receipt of the written complaint, the Officer-In-Charge of Mohakalapada P.S. Case No.170 dated 28.12.2008 was registered and the investigation of the same started. During investigation the I.O. visited the spot, examined the informant and other witnesses and after completion of investigation submitted charge-sheet No.148 dated 31.07.2011 against the accused persons to face trial in the court of law. Hence this case.

3. The plea of the accused is one of complete denial of the allegation of the prosecution and false implication.

4. The points for determination in this case are:

(i) Whether on 15.09.2007 in the evening at 7.30 P.M. the above named accused persons in furtherance of their common intention subjected to cruelty to the informant Puspallata Mandal?

(ii) Whether on the above stated date, time and place the above named accused persons in furtherance of their common intention voluntarily caused hurt to the informant?

(iii) Whether on the above stated date, time and place the above named accused persons in furtherance of their common intention abused the informant in filthy languages in or near a public place causing annoyance of others?

(iv) Whether on the above stated date, time and place the above named accused persons in furtherance of their common intention assaulted or used criminal force to the informant with an intention to outrage her modesty?

(v) Whether on the above stated date, time and place the above named accused persons in furtherance of their common intention committed criminal intimidation by threatening the informant with intent to cause alarm to the said person?

5. In order to prove its case, the prosecution has examined all total six numbers of witnesses. Out of which P.W.4 is the informant of this case. On the other hand the

defence neither examined any witness nor exhibited any documents to disprove the allegation.

6. On perusal of the testimony of P.W.4 who is the informant in this case, it is found that she has not stated anything incriminating against the accused person. In her examination-in-chief she has stated that the occurrence took long time ago and that she doesn't remember anything. Though P.W.1 proved the complaint petition lodged by her vide Ext.1 and her signature vide Ext1/1 but failed to say its contents. In her cross-examination P.W4 also admitted that the matter has been resolved out of court and thus do not wish to proceed further with the case. On perusal of the testimony of PW1, PW2, PW3, PW5, and PW6 in this case it is found that they have not stated anything incriminating the accused persons. In view of the evidence of the informant, prosecution declined to examine rest of charge-sheeted witnesses.

7. Also, though the informant has deposed about lodging of complaint vide Ext.1 and also proved his signature on it vide Ext.1/1, 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 the instant case, as the informant has not deposed anything against the accused, so no question of confrontation or corroboration arises. Since the informant did not want to proceed further with the case the IO in this case was not called for his deposition by the prosecution and the prosecution filed its close memo.

8. Considering the facts of the case, evidence adduced by the witness and aforementioned analysis, it could be concluded that the prosecution has not been able to prove the allegations against the accused person beyond all reasonable doubt. As a result of which, the accused person is held not guilty u/s 498(A)/323/294/34 of The Indian Penal Code and is hereby acquitted there from u/s. 248(1) of CrPC. The Accused persons who are on bail are present in the court today. They be set at liberty and also be discharged from the liability of their bail bond.

9. No order as to disposal of seized property is passed as there was no seizure.

Enter the case as mistake of fact.

J.M.F.C., Kendrapara

This judgment is pronounced in the open court today i.e. on 22nd day of January 2021 under my hand and seal of this court.

J.M.F.C., Kendrapara

List of witnesses examined on behalf of Prosecution

- P.W.1: Susanta Mandal. .
- P.W.2: Bijaya Kumar Das.
- P.W.3: Sanjeb Kumar Jena.
- P.W.4: Puspallata Mandal

P.W.5: Pravansu Sekhar Mandal.

P.W.6: Atul Chandra Mandal.

List of witnesses examined on behalf of Defence

None

List of documents exhibited on behalf of the prosecution.

Ext.1: F.I.R.

Ext.1/ 1: Signature of P.W.4 on F.I.R.

List of documents exhibited on behalf of defence:

Nil.

J.M.F.C.,Kendrapara