

FORM-A**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS
(TRANSPORT), BERHAMPUR****Present: SRI SABYASACHI PANDA , J.M.F.C (T), B E R H A M P U R****J.O Code: OD00717****[Date of Judgment: 12.08.2026]****[Case No. G.R.27/2018]****[Trial No.742/2024]****CNR No.ODGM020005102022****STATE****Vs.****N. Kanak Raju and Others**

COMPLAINANT:	STATE OF ODISHA
REPRESENTED BY:	Ld. APP, Berhampur
ACCUSED:	1. N. Kanak Raju , aged about 30 yrs, S/o- Late N. Jagainkullu of Godabarish Nagar, PS.-B.N. Pur, Ganjam. 2. N. Siba Patra , aged about 32 yrs, S/o- Late N. Jagainkullu of Godabarish Nagar, PS.-B.N. Pur, Ganjam. 3. P. Achi Rao , aged about 37 yrs, S/o- P. Krishna Rao of Cooperative Colony, Berhampur, PS.-B.N. Pur, Ganjam.
REPRESENTED BY:	Sri Prasant Kumar Nayak and associates, Adv, Berhampur.

FORM-B

DATE OF OFFENCE:	08.01.2018
DATE OF FIR:	08.01.2018
DATE OF CHARGESHEET/P. R:	28.02.2018
DATE OF FRAMING OF CHARGE/SUBSTANCE OF ACCUSATION STATED	10.04.2018
DATE OF COMMENCEMENT OF EVIDENCE:	16.02.2019
DATE OF ARGUMENT	12.08.2026
DATE OF THE JUDGMENT:	12.08.2026
DATE OF THE SENTENCING ORDER:	-

ACCUSED DETAILS

RANK OF THE ACCUSED	NAME OF THE ACCUSED	DATE OF ARREST/ REMAND/ SURRENDER	DATE OF RELEASE ON BAIL	OFFENCES CHARGED WITH	WHETHER ACQUITTED OR CONVICTED	SENTENCE IMPOSED	PERIOD OF DETENTION UNDERGO NE DURING TRIAL FOR PURPOSE OF SECTION 428, Cr.P.C
1 2 3	N. Kanak Raju N. Siba Patra P. Achi Rao	26.02.2018	17.04.2018 17.04.2018 16.04.2018	U/s. 394/34 of the IPC	ACQUITTED	-	-

Status of the accused persons

Accused persons are on bail.

J U D G M E N T

1. The above named accused persons stand charged for committing offence U/s. 394/34 of the IPC.

The brief facts of the prosecution case is that on 08.01.2018 at about 10.10 PM the informant namely Sanjay Yadav, lodged a written report before the Gosaninuagaon PS alleging therein that on 08.01.2018 at about 5 PM, he parked his teller truck near a ground by the side of Andhapasara road, Berhampur which was carrying a mixture machine. Then at about 7.10 PM the accused persons came to the truck and knocked the door. Then they forcibly entered inside the chamber of the truck. They assaulted him and snatched away his money purse containing cash of Rs.2180/-. Hence, the informant reported the matter at the PS.

On receiving the written report, the I.I.C. Gosaninuagaon P.S registered Gosaninuagaon P.S Case No.02 dtd.08.01.2018 U/S.394/34 of the IPC and directed the IO to take up the investigation. During the course of investigation, the IO visited the spot, prepared the spot map, examined the relevant witnesses, made seizure and executed zimanama in this case. The accused persons were remanded in this case.

After the completion of the investigation, the IO submitted the charge sheet against the accused vide C.S No. 18 dtd.28.02.2018 u/s.394/34 of the IPC. The plea of the accused persons were of complete denial and they claimed for trial. Hence the trial. The case record is split up against the accused Md Mubarak.

2. POINTS FOR DETERMINATION

Whether on 08.01.2018 at about 7.10 PM at Andhapasara Road, Berhampur the accused persons in furtherance of their common intention;

(i) Voluntarily caused hurt while committing or attempting to commit robbery or not?

3. In order to establish its case, prosecution has examined 4 witnesses out of 6 charge sheeted witnesses. P.W.1 to P.W.3 are the independent witnesses. P.W.4 is the informant. Besides oral evidences, prosecution has also relied upon documentary evidences on its behalf vide Ext.P-1 to Ext.P-2. On the other hand, no evidence is adduced by the defence side.

4. BRIEF DISCUSSION OF EVIDENCE ADDUSED BY THE PROSECUTION AND DEFENCE AND APPRECIATION OF EVIDENCE

P.W.1 to P.W.3 stated their ignorance about the case.

P.W.4 stated that the accused persons assaulted him. He does not want to proceed further in this case. He proved the FIR as Ext.P-1/P.W.4 and Ext.P-1¹/P.W.4 is his signature thereon. He proved his signature on the zimanama as Ext.P-2/P.W.4 During his cross examination he stated that he could not say the exact date of incident. He did not know the contents of the zimanama. He had not received Rs.2,180/- in his zima. The incident occurred at the dark night. He had not seen the faces of the accused persons due to the dark night.

In order to attract section 394/34 of the IPC the mere statement of the informant regarding assault will not be helpful for the prosecution case. Here the prosecution has to establish that such assault was committed along with the robbery. But the prosecution has failed to establish the same from the testimony of the prosecution witnesses. Accordingly, the statement of the informant regarding the assault will not attract the offence u/s.394 /34 of the IPC.

In the absence of any incriminating materials from the testimony of prosecution witnesses and considering the statement of the informant as he does not want proceed further in this case, this court does not find it proper to warrant a convict against the accused persons.

5. From the aforesaid discussions, it is concluded that due to lack of credible, cogent and corroborative evidence, the prosecution has miserably failed to establish the alleged offences against the accused persons beyond all reasonable doubts. In the result, it is held that the accused persons are found not guilty for committing the offences U/s. 394/34 of the IPC. Accordingly, they are acquitted under section 248(1) of the Cr.P.C. They be set at liberty and the surety be discharged.

Enter this case as a mistake of fact

6. No order regarding the seizure passed as the split up case record is pending.

Sd-

J.M.F.C (T), Berhampur

The Transcript is typed to my dictation, corrected by me and the judgement pronounced in the open Court on this ***12th day of August, 2026*** under my signature and seal of the Court.

Sd-

J.M.F.C (T), Berhampur.

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FORM C

LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES		
A. Prosecution Witnesses		
Rank	Name	Nature Of Evidence
P.W.1	Jogendra Nayak	Independent Witness
P.W.2	Raja Nayak	Independent Witness
P.W.3	Suresh Panda	Independent Witness
P.W.4	Sanjaya Yadav	Informant
B. Defence Witnesses, If Any:		
Rank	Name	Nature Of Evidence
NIL		
C. Court Witnesses, If Any		
Rank	Name	Nature Of Evidence
NIL		
LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS		
A. Prosecution Exhibits		
Sl. No.	Exhibit Number	Description
1.	EXT.P-1	FIR
2.	EXT.P-1 ¹	Signature of P.W.4 on Ext.P-1
3.	EXT.P-2	Signature of P.W.4 on zimanama
B. Defence Exhibits, If Any		
Sl. No.	Exhibit Number	Description
NIL		
C. Court Exhibit, If Any		
Sl. No.	Exhibit Number	Description
NIL		
D. Material Objects:		
Sl. No.	Exhibit Number	Description
NIL		

Sd-

J.M.F.C (T), Berhampur.