

FORM-A**IN THE COURT OF SUB-DIVISIONAL JUDICIAL
MAGISTRATE, BIRMAHARAJPUR**

**PRESENT:- MRS. PUNAM SETH, B.SC, LL.M.,
S.D.J.M., BIRMAHARAJPUR
(J.O. CODE: OD-00703)**

[DATE OF JUDGMENT : 23.07.2026]

[G.R. CASE NO. 49/2013]

[DETAILS OF F.I.R./CRIME AND POLICE STATIONS]
THIS CASE ARISING OUT OF SUBALAYA P.S. CASE
NO.09/2013, DTD.26.03.2013, U/S.- 294/506 OF IPC,
CORRESPONDING TO G.R. CASE NO.49/2013

COMPLAINANT	STATE OF ODISHA
REPRESENTED BY	SRI S.B MISHRA, A.P.P & ASSOCIATE APPS, BIRMAHARAJPUR
ACCUSED	SARAT BISWAL, A/A- 42 YEARS, S/O- BAHANA BISWAL, R/O VILLAGE- GOBINDPUR, P.S.- SUBALAYA, DIST.- SUBARNAPUR.
REPRESENTED BY	SRI U.PANDA, REMAND ADVOCATE

FORM-B

Date of Offence	26.03.2013
Date of F.I.R.	26.03.2013
Date of Charge Sheet	16.04.2013
Date of Framing of Charges	04.01.2017
Date of commencement of evidence	23.03.2017
Date of which judgment is reserved	20.07.2026
Date of Judgment	23.07.2026
Date of Sentencing Order, if any	-

Accused Person's Details:

Rank of the Accused persons	Name of the Accused persons	Date of Arrest/ Surrender / Remand	Date of Release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence imposed	Period of Detention undergone during Trial for purpose of section 428, Cr.P.C.
1	Sarat Biswal	Arrested on dtd. 18.05. 2026	In custody	U/s. 294/506 of IPC	Acquitted		From 18.05.2026 to till date

J U D G M E N T

1. The above named accused person stands charged
U/s.- 294/506 of IPC.

2. The case of the prosecution in brief:-

On 26.03.2013 at 4.30 P.M, the informant Mahan Sahu, S/o Ganesh Sahu, R/o village Gobindpur reported at P.S alleging that on the alleged date of occurrence he along with Garuda Sahu, Durjodhan Rout, Sarbeswar Sethy went to the place where 'Bamar' tree was planted, they found that one Sambhu Bhoi, Gouranga Nayak, Choudhary Sahu, Nimai Sahu were cutting the trees and on being asked they said that they cut the trees as per the instructions of the accused Sarat Kumar Biswal the then ward member of village Subalaya and he sold the cutting trees. The villagers along with the informant went to the accused and on asking about the trees, he abused them in obscene languages and threatened for dire consequence.

On the basis of written report of the informant, I/c I.I.C. registered P.S. case No. 09/2013, dtd. 26.03.2013. On completion of investigation, Charge sheet was submitted against the accused Mahan Sahu, **U/s.- 294/506 of IPC** and directed self took up the investigation of this case. In course of investigation the

investigating officer examined the complainant, other witnesses and recorded their statement U/s.- 161 Cr.P.C. On completion of investigation he submitted charge-sheet vide C.S. No.11/2013, dtd. 11.04.2013. Hence, this trial.

3. Plea of the accused person is that of complete denial and false implications.

4. Points for determination:

Whether the accused person on 26.03.2013 in Gobindapur village under Subalaya P.S were cutting the trees and when the informant and other villagers protested;

- i. Uttered any obscene words in or near any public place to the annoyance of others and thereby committed an offence **U/s.- 294 of IPC?**
- ii. Threatened the informant and others with any injury or death to their persons with intent to cause alarm to them within the meaning U/s.- 503 of IPC and thereby committed an offence **U/s.- 506 of IPC?**

5. In order to prove its case the prosecution has examined 09 numbers of witnesses in toto. Out of whom P.W.1 is the informant of this case and P.W.2,

P.W.3, P.W.4, P.W.5, P.W.6, P.W.7 and P.W.8 are the witnesses to the occurrence. P.W.9 is the Investigating Officer, the then A.S.I of Subalaya P.S. Besides this 03 documents were exhibited from the side of prosecution. The details of the witness (es) and document (s) is/are mentioned at the foot of the judgment.

On the other hand, defence has examined none on its behalf.

6. P.W.1, being the informant of this case has deposed that the occurrence took place 5 years ago. He deposed that 'Bamar' trees were planted in the Govt. land in his village. The informant and other villagers called a 'Sabha' in his village for not cutting the trees. When the accused person cut the trees the P.W.1 along with other villagers protested the same and then the accused threatened and abused them.

During cross examination P.W.1 deposed that the villagers were present at the time of occurrence. Further P.W.1 deposed that he cannot say who had scribed the FIR.

P.W.2 deposed that the accused person was cutting 'Bamra' trees in his village by hiring labour and when the villagers opposed he denied. During cross examination P.W.2 deposed that the accused sold

the trees. P.W.4 deposed that there was a dispute in the village with regard to cutting of trees. During cross examination he deposed that he cannot say who had a dispute. P.W.3 deposed that he does not know anything about the occurrence. During cross examination he deposed that he was not examined by the I.O.

P.W.5, P.W.6, P.W.7 and P.W.8 deposed in a common voice that they do not know anything about the occurrence.

P.W.9 deposed that on 26.03.2013 while he was working as ASI of police at Subalaya P.S. On the same day at about 4.30 PM on the basis of the written report of PW1 he registered the case vide PS case No. 09/2013, U/s.- 294/506 IPC and took up the investigation. He proved the endorsement on the body of the FIR vide Ext.1/2. During the course of investigation P.W.9 examined the witnesses, recorded their statements, visited the spot and prepared the spot map. He proved the spot map vide Ext.3. On the same day he seized the cut pieces of the trees from the spot. He proved the seizure list marked as Ext.2. During cross examination he deposed that the accused was present at the spot.

7. Let us discuss to ascertain whether the prosecution establishes his case against the accused person to prove his guilt. First allegation laid by the

prosecution is whether the above named accused person has committed an offence punishable U/s.- 294 of the I.P.C. The essential ingredients of the offence under this section are as follows:-

- i) an act must have been done in a public place;
- ii) the said act must be obscene; and
- iii) the same must cause annoyance to others.

In this case in order to establish a charge U/s.- 294 of IPC the prosecution must bring forth the exact word uttered by the accused person that are obscene in nature. Here in the instant case, P.W.1 who is the informant of this case has deposed that when he along with other villagers reached to the accused and when protested the accused for cutting of trees, he abused them. Undoubtly, the place of occurrence is a public place, but P.W.1 neither in the body of the FIR nor his testimony deposed the exact used by the accused. Moreover the rest prosecution witnesses are completely silent about the offence U/s.- 294 of IPC. Annoyance by using such word is missing in their evidences. The prosecution by their evidence could not fulfill the ingredients of the said offence. Hence from the discussion of above made. I am of the considered view that prosecution has failed to bring such direct and cogent evidences to establish the vital ingredient of offence **U/s.- 294 of IPC** against the accused person.

So far as Section 506 of IPC is concerned. In order to prove the essential ingredients of offence U/s.- 506 of IPC the evidence available on record is as follows :-

P.W.1 (informant) deposed that the accused threatened to kill him but no prosecution witness had given his evidence in light of any threatening given by the accused to P.W.1 & other villagers present at the spot. Moreover, the spot is a busy place and it is naturally expected the presence of the crowd. Another statement deposed by the I.O during his cross examination is that one Sarbeswar Sethi (P.W.4) & Durjyodhan Rout (P.W.3) were also present at the alleged spot but in view of their statements, they do not support the story of the prosecution. Despite this prosecution is silent. In these circumstances, it is hard to believe the testimony of the informant. Therefore, the Court does not find the accused guilty of offence punishable **U/s.- 506 of IPC**.

On further careful perusal of the evidences of record, FIR and other connected documents available on the record it is found that there is no sufficient material to prove the allegation against the accused person.

Hence, the ingredients of the offences U/s.- 294/506 of IPC have not been proved and the benefit

of doubt goes to the accused person. Hence the prosecution has failed to prove the alleged offences. The accused person cannot be held liable under any of the points for determination as there is no incriminating material on record.

8. Under the facts and circumstances it can be concluded that the prosecution had failed to prove the case against the accused person beyond all reasonable doubt and in the result, the accused person is not held guilty for the commission of the offence **U/s.- 294/506 of I.P.C** and is acquitted there from as per the provision **U/s.- 255(1) of Cr.P.C** and he shall be set at liberty forthwith and discharged from his bail bond(s).

The seized articles i.e., the 05 numbers of 'bamur' tree cut pieces be returned, with the person entitled for possession thereof, after four months of expiry of the appellate period, if no appeal is preferred, if appeal is preferred, then subject to the order of Hon'ble Appellate Court.

Enter this case as "*mistake of fact*".

Sub-Divisional Judicial Magistrate.
Birmaharajpur
Dt.23.07.2026

This judgment is dictated by me and pronounced in the open court today on this the 23rd

day of July, 2026 under my hand and seal of this court.

Sub-Divisional Judicial Magistrate.
Birmaharajpur
Dt.23.07.2026

FORM-C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES		
A. Prosecution Witnesses		
RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
P.W.1	Mahana Sahu	Informant
P.W.2	Garuda Sahu	Occurrence witness
P.W.3	Duryodhan Rout	Occurrence witness
P.W.4	Sarbeswar Sethi	Occurrence witness
P.W.5	Sambhu Prasad Bhoi	Occurrence witness
P.W.6	Shiba Nayak	Occurrence witness
P.W.7	Choudhary Sahu	Occurrence witness
P.W.8	Gouranga Nayak	Occurrence witness
P.W.9	Sambhu Bhusan Dehury, The then A.S.I of Police	Investigating officer
B. Defence Witnesses, if any:		
RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NONE		
C. Court Witnesses, if any:		

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NONE		
LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS		
A. Prosecution Exhibits		
SL No.	Exhibit Number	Description
1	Ext.- 1	FIR
2	Ext.- 1/1	Signature of P.W.1 on the FIR.
3	Ext.- 1/2	Endorsement of P.W.9 (as I/c IIC) on the FIR.
4	Ext.- 2	Seizure list.
5	Ext.- 2/1	Signature of P.W.9 on the seizure list.
6	Ext.- 3	Spot map.
7	Ext.- 3/1	Signature of P.W.9 on the spot map.
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		

Sub-Divisional Judicial Magistrate,
Birmaharajpur
Dt.23.07.2026