

FORM-A**IN THE COURT OF THE CHIEF JUDICIAL
MAGISTRATE, GANJAM, BERHAMPUR.**

Present: **Smt. Sujata Priyambada Swain,**
Chief Judicial Magistrate,
Ganjam, Berhampur.
JO Code - OD00360.

Dated this 5th day of August, 2026.

G.R. No. 1239 of 2021

E-Filing No. G.R. 267 of 2026

CNR No.ODGM020009752026

(Arising out of Berhampur Sadar P.S. case No. 244 dated 23.7.2021 for the offence U/s 341/294/323/379/506/34 of I.P.C)

Complainant	State of Orissa
REPRESENTED BY	Sri Manoranjan Gouda, Associate Lawyer, Berhampur.
ACCUSED	1. Mitu Jena, aged about 37 years, S/o. Simanchala Jena. 2. Manoj Kumar Jena, aged about 42 yrs, S/o. Late Lokanath Jena. 3. Basista Kumar Jena, aged about 47 yrs. S/o. Late Kama Jena. All are of village Rohigaon, P.S:B. Sadar, District: Ganjam.
REPRESENTED BY	Sri Karuna Kar Panigrahi & Associates. Advocates, Berhampur.

FORM-B

Date of Offence	23.07.2021
Date of FIR	23.07.2021
Date of Charge sheet	07.09.2021
Date of Framing of charge	23.08.2023
Date of commencement of evidence.	26.07.2024
Date on which judgment is reserved/ argument heard.	03.08.2026
Date of the judgment	05.08.2026
Date of the Sentencing Order, if any	--

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 of Detention undergone during Trial for purpose of Sec. 428 of Cr.P.C.

A.I	Mitu Jena	--	--	u/s. 341/ 294/323/ 506/34 of IPC.	Acquitted		
A.II	Manoj Kumar Jena	--	--				
A.III	Basista Kumar Jena	--	--				

J U D G M E N T

The above named accused persons stand charged for the offence punishable under Section 341/294/323/506/34 of Indian Penal Code, 1860 (here-in-after referred to as “the I.P.C”).

2. The case of the prosecution in short is as follows:

On 23.3.2024 one Sanatan Sangram Singh appeared before the Berhampur Sadar P.S and lodged a written report to the effect that, on the same day around 4.30 P.M. he along with his friends namely Ajaya Swain had been to Kukudakahandi Block Office. At that time, the above named accused persons wrongfully restrained him and abused him in filthy language by saying ‘MAGIA GUDICENTI PILA’. It is further alleged that the accused persons assaulted him on his head by means of helmet and threatened to kill him in life like Ashok Jena. When the informant screamed, Ajay Swain intervened in the matter to rescue him, but the accused persons also assaulted him and threatened him to kill in

life. It is also alleged that the accused persons have also taken away cash of Rs.1000/- and one small mobile phone from the informant.

On the basis of such report, the IIC of Berhampur Sadar P.S. registered P.S. case No. 244 dated 23.7.2021 under Section 341/294/323/379/506/34 of the I.P.C. and directed S.I. Sri S.K. Panigrahi to investigate into the case.

During the course of investigation, the I.O. visited the spot, examined the complainant and other witnesses, sent injury requisition in favour of the injured, received the injury report, served notice to the accused persons u/s. 41(A) of Cr.P.C., visited the spot, prepared the spot map and completed all other formalities and on completion of all aspects of investigation, submitted charge sheet under section 341/294/323/506/34 of the IPC against the above named accused persons.

The learned S.D.J.M., Berhampur took cognizance of the offences. This case record has been received on transfer from the court of learned J.M.F.C (Rural), Cog taking, Berhampur.

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

4. Points for determination in this case are:-
- i. Whether on 23.7.2021 at about 4.30 P.M. in front of Kukudakhandi Block Office, the accused persons, in furtherance of their common intention, abused the informant in obscene language in or near a public place causing annoyance to him and others?
 - ii. Whether on the said date, time and place the accused persons, in furtherance of their common intention, voluntarily caused hurt to the informant?
 - iii. Whether on the said date, time and place the accused persons, in furtherance of their common intention, wrongfully restrained the informant to proceed in a direction in which he had the right to proceed?
 - iv. Whether on the said date, time and place, the accused persons, in furtherance of their common intention, criminally intimidated and threatened the informant with dire consequences by threatening the informant to kill him in life?
5. In order to substantiate the case, prosecution has examined as many as 6 witnesses on its behalf.

P.W.3 is the informant of this case, P.Ws. 1,2 and 5 are witnesses to the occurrence, P.W.4 is the medical officer and P.W.6 is the investigating officer of this case. Ext.P-1 to P-6 are marked on behalf of the prosecution. On the other hand, the defence has examined none and marked no document on its behalf.

6. P.W.3 is the informant-cum-victim of this case. It reveals from his evidence that on 23.7.2021 at about 4.30 P.M. he along with one Ajaya Swain had been to block office and they were sitting in the room of vice-chairman. After some time vice chairman went to B.D.O and after interacting with the head clerk, when he was standing outside, Basistha Jena, Narayan Jena, Mitu Jena and Manoj Jena obstructed him and abused him by saying “MAGHIA GUDISETI PILA” and pushed him down by pressing his neck. He has further deposed that when he fell down, Basistha Jena assaulted him on his head by means of a helmet and said ‘TU MAGHIA BESI RAJANITI KARUCHU, TOTE ASHOK JENA BHALIA MARIDEBU’. At that time Ajaya Swain tried to rescue him and the accused persons also assaulted him and threatened to kill in life. He has also deposed that the accused persons threatened him by saying if he will report the matter before police; they will kill him in life

like Ashok Jena. Thereafter, he went to the P.S. and lodged the FIR. He proved the FIR vide Ext.P1.

In his cross-examination he has deposed that inside the room of vice-chairman, he along with vice chairman, Ajaya Swain and E. Ranjan were present at that time; on police requisition he was admitted at CHC, Kukudakhandi; after the date of incident and he was never examined by the police in connection with this case. He has also admitted that the accused persons had also lodged a counter case against him.

7. It reveals from the evidence of P.W.5 that on 24.7.2021 he heard the noise of both the informant and the accused persons and they were abusing each other. He has further deposed that one Ranjan who is a journalist and one Ajaya were present at that time. It reveals from his evidence that on seeing the incident he informed the matter to the BDO and when BDO arrived at the spot, the informant and the accused persons had already left the spot. In his cross-examination he has deposed that he was not examined by the police in connection with this case.

9. The medical officer examined as P.W.4 in his evidence has deposed that on 23.7.2021 at about 8.50 P.M. on police requisition he examined one Ajaya Kumar Swain and found one swelling of size 3 cm x 2

cm over right side cheek, swelling of size 5 cm x 2 cm over left side of cheek, one abrasion of size 3 cm x 1 cm over right side cheek and one abrasion of size 2 cm x 1 cm. over left side cheek. He opined that all the injuries are simple in nature. He proved the injury report marked as Ext.P2/PW4. One the same day he has also examined one Sanatan Sangram Singh and found one swelling of size 3 cm x 2 cm present over the forehead, swelling of size 5 cm x 2 cm over back of head and opined that all the injuries are simple in nature. He proved the injury report marked as Ex.P3/PW4.

10. P.W.1 does not support the case of the prosecution in any manner by deposing that he does not know anything about the occurrence and in his cross-examination he has deposed that he was not examined by the I.O. of this case. It reveals from the evidence of P.W.2 that in the year 2021 there was a disturbance between some people inside the block premises and on hearing hula, he went outside and saw Basista Jena coming to the spot and he does not know anything more about this case. In his cross-examination he has also deposed that he was not examined by the police.

11. The investigating officer examined as P.W.6 in his evidence has deposed that during investigation he examined the complainant and Ajay

Kumar Swain, examined the accused persons; on the same day he sent the complainant and Ajaya Kumar Swain to CHC, Kukudakhandi. He proved the injury requisitions marked as Ext.4/PW6 and Ext.5/PW6 respectively. He received the injury reports of the injured persons, visited the spot, prepared the spot map, examined other witnesses and after completion of investigation, he submitted the charge sheet.

In his cross-examination he has deposed that there are case and counter case between the informant and the accused persons; he cannot say for which work and to whom the informant went to the block office on that day and again says the informant had been to meet the B.D.O. He has also admitted that there are criminal antecedents against the informant and at the time of occurrence only official witnesses were present there as it was about 4.30 P.M. In his cross-examination he has also deposed that it is not a fact that the injury reports do not contain the signatures of the injured persons.

12. From the materials available in the case record as well as from the evidence as adduced from the side of the prosecution, it reveals that both the parties have prior enmity to which a counter case has also been filed by the accused Basista Kumar Jena against the

informant of this case. Now, it is to be seen whether the prosecution is able to substantiate the charges leveled against the accused persons. The FIR reveals that on 23.7.2021 at about 4.30 P.M. the informant and Ajaya Swain had been to Block Office, Kukudakhandi and at that time the accused persons suddenly came near them, abused them and attacked them and also snatched away cash of rupees one thousand and one small mobile phone from the pocket of the informant. The evidence of the informant also reveals that on the alleged date, time and place the accused persons came near him abused him in obscene language and assaulted him and at that time when Ajaya Swain tried to rescue him, the accused persons also assaulted him. The evidence of the informant is completely silent to the fact that the accused persons have snatched away cash of rupees one thousand and one small mobile from his pocket. The informant in his examination-in-chief has deposed that when he was standing outside, the accused persons obstructed him and abused him and pushed him down by pressing his neck. Whereas in his cross-examination he has deposed that inside the room of vice chairman, he along with the vice chairman, Ajaya Swain and one E. Ranjan were present at that time.

13. The contents of the FIR as well as the evidence of the informant categorically reveal that at the time of entire alleged occurrence Ajaya Kumar Swain was very much present with the informant and when he intervened, the accused persons have also attacked him. Said Ajaya Kumar Swain has been examined as P.W.1. In his evidence though he has admitted that he knows the informant as well as the accused persons, but deposed that he does not know anything about the occurrence. Even in his cross-examination he has deposed that he was not examined by the I.O. of this case. The evidence of P.Ws, 2 and 5 reveals that they are not the eye witnesses to the occurrence and hearing the hula, they came to know about the occurrence. The investigating officer in his cross-examination has stated that he cannot say for which work and to whom the informant went to the block office on that day. In para 8, the I.O. has deposed that ‘ it is not a fact that the injury reports do not contain the signatures of the injured persons’. But the injury reports available in the case record does not bear the signatures of the injured persons. It is the case of the prosecution that on the alleged date, time and place the accused persons assaulted the informant and Ajaya Kumar Swain. But Ajaya Swain examined as P.W.1 did not support the case of the prosecution. His evidence is

completely silent to the fact that on the alleged date, time and place he was with the informant and the accused persons assaulted him as well as the informant. Furthermore, the evidence of the occurrence witnesses examined as P.W.2 and 5 does not reveal that on the alleged date, time and place the accused persons assaulted the informant and P.W.1.

14. The evidence of the prosecution witnesses of this case is totally contradictory with their earlier statement as well as the prosecution story. In ultimate analysis of the entire facts of the case vis-à-vis the evidence on record, this court comes to a conclusion that the evidence on record does not prove the involvement of the present accused persons in the alleged occurrence, therefore, the necessary ingredients of the offences as alleged U/s 341/294/323/506/34 of IPC against the accused persons is not proved in accordance with law and ultimately, the accused persons are entitled to an order of acquittal.

15. In the result, the accused persons are found not guilty for the offences punishable under Section **341/294/323/506/34** of IPC and are acquitted therefrom as per provision under Section 248(1) Cr.P.C. The accused persons be set at liberty and their bail bonds stand cancelled.

No order regarding the seized articles is passed as nothing has been seized in this case.

16. Enter this case as ‘mistake of fact’.

***Chief Judicial Magistrate,
Ganjam, Berhampur.***

Dictated to the Steno, transcribed by him, corrected by me and pronounced the judgment in the open Court, this the 5th day of August, 2026 under my hand and seal of the Court.

***Chief Judicial Magistrate,
Ganjam, Berhampur.***

FORM-C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES		
A. Prosecution Witnesses		
RANK	NAME	NATUR OF EVIDENCE
P.W.1	Ajaya Kumar Swain	Occurrence witness
P.W.2	E. Ranjan	Occurrence witness
P.W.3	Sanatan Sangram Singh	Informant
P.W.4	Priyotosh Dash	Medical Officer
P.W.5	Sahab Sabar	Occurrence witness
P.W.6	Sabita Kumari Panigrahi	Investigating Officer
B. Defence Witnesses, if any		
RANK	NAME	NATURE OF EVIDENCE
	None	
C. Court Witnesses, if any		
RANK	NAME	NATURE OF EVIDENCE
Nil	Nil	Nil
LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS		

A. Prosecution Exhibits		
Sl. No.	Exhibit Number	Description
1	Ext.P1/PW3	F.I.R.
2	Ext.P1 ¹ /PW3	Signature of P.W.3
3	Ext.P2/PW4	Injury report
4	Ext.P2 ¹ /PW4	Signature of P.W.4
5	Ext.P3/PW3	Injury report
6	Ext.P3 ¹ /PW3	Signature of P.W.3
7	Ext.P1 ² /PW6	Endorsement of IIC
8	Ext.P4/PW6	Injury requisition
9	Ext.P4 ¹ /PW6	Signature of P.W.6
10	Ext.P5/PW6	Injury requisition
11	Ext.P5 ¹ /PW6	Signature of P.W.6
12	Ext.P6/PW6	Spot map
13	Ext.P6 ¹ /PW3	Signature of P.W.6
B. Defence Exhibits, if any		
Sl. No.	Exhibit Number	Description
Nil	Nil	Nil
C. Court Exhibits, if any		
Sl. No.	Exhibit Number	Description
Nil	Nil	Nil
D. Material Objects:		
Sl. No.	Material object Number	Description
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**Chief Judicial Magistrate,
Ganjam, Berhampur.**