

FORM –A

IN THE COURT OF THE ADDITIONAL SESSIONS
JUDGE, KHALLIKOTE (DISTRICT-GANJAM)

Present: Sri Amiya Ranjan Jena, M.Sc., L.L.M,
Addl. Sessions Judge, Khallikote.
Judicial Officer Code No. OD -00264.

Dated, this the 12th day of August, 2026.

S.T. No. 72/2025

(Arising out of Rambha Police Station case No. 321 dated 28.04.2025 corresponding to G.R. case No. 913 of 2025 of the Court of learned Judicial Magistrate First Class, Khallikote.)

(Details of FIR/ Crime and Police Station)

Complainant	State of Odisha
Represented By	Sri. Sriyapati Pradhan, Addl. P.P, Khallikote.
Accused	Rushia @ Hrushikesh Maharana, aged about 54 years, S/o:- Late Harihara Maharana, Vill:- Badarampalli, P.S:-Rambha, Dist:-Ganjam.
Represented By	Sri. Bimbadhar Behera & his associate advocate.

FORM –B

Date of Offence	28.04.2025
Date of FIR	28.04.2025
Date of Charge Sheet	23.05.2025
Date of Framing of Charges	08.08.2025
Date of commencement of evidence	08.09.2025/09.09.2025

Date on which judgment is reserved						31.07.2026	
Date of Judgment						12.08.2026	
Date of Sentencing Order, if any						12.08.2026	
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 section 468, B.N.S.S
01.	Rushia @ Hrushikesh Maharana	28.04. 2025	U.T.P	u/s.332(c)/115(2)/109(1)/76/75(1)(i)/351(2) of BNS.	Convicted	S.I. for one year and fine of Rs.2,000/-, i/d. S.I. for two months u/s.332(c) of BNS, S.I. for two years and fine of Rs.5,000/-, i/d. S.I. for four months u/s.74 of BNS and S.I. for six months u/s.115(2) of BNS. Sentences shall run concurrently.	28.04. 2025 to 12.08. 2026

J U D G M E N T

01. The accused named above stands charged for commission of offences punishable u/ss. 332(c)/115(2)/109(1)/76/75(1)(i)/351(2) of Bharatiya Nyaya Sanhita (in short B.N.S.), 2023 for entering into the house of the informant, committing sexual harassment and attempting to commit her murder.

02. The prosecution case in short is that on 28.04.2025, around 11.00 a.m., the informant was sleeping in her

house. She was alone. At that time, the accused, her neighbour, entered into her house, lifted her sari and attempted to commit sexual assault on her. When the informant woke up and raised shout, the accused gagged her mouth and constricted her neck. However, hearing her shout, when her neighbours gathered, the accused ran away from the spot and entered into his house. Allegation of threatening the informant with murder has also been made.

Basing on the FIR, police took up investigation and on completion of investigation, submitted charge sheet against the accused u/s.331(5)/126(2)/115(2)/109(1)/76/75/351(2) of BNS. Being committed to this Court, charge u/s.332(c)/115(2)/109(1)/76/75(1)(i)/351(2) of B.N.S. was framed against him and the accused having pleaded not guilty faced the trial.

03. The defence plea is complete denial and false implication. In his statement u/s.351 of B.N.S.S., the accused took a plea that the informant had constant tussle with him relating to their landed properties as both are neighbours and due to such enmity she has lodged a false case against him.

04. The prosecution in order to bring home the charge against the accused, examined seven witnesses. Out of them P.W.2 is the informant-victim. P.W.4 is her son as

well as a post-occurrence witness. P.W.1 is the scribe of the F.I.R. P.W.3, P.W.5 and P.W.6 are the independent witnesses to the occurrence. P.W.7 is the investigating officer. On the other hand, no witness was examined on behalf of the defence.

05. In order to establish its case, the prosecution must prove:-

- (i) That, on 28.04.2025 at about 11.00 a.m., in village Badarampalli, the accused committed house-trespass by entering into the house of the informant used as a human dwelling in order to commit an offence punishable with imprisonment;
- (ii) That, on the alleged date and time, in the house of the informant, the accused voluntarily caused hurt to the informant;
- (iii) That on the alleged date, time and place, the accused attempted to commit the murder of the informant by constricting her neck and mouth with such intention and knowledge and under such circumstances, that if by that act the accused had caused her death, he would have been guilty of murder;
- (iv) That, on the alleged date, time and place, the accused used criminal force to the informant, a woman, with the intention of disrobing her or compelling her to be naked;

(v) That, on the alleged date, time and place, the accused committed physical contact and advances involving unwelcome and explicit sexual overtures; and

(vi) That, on the alleged date, time and place, the accused committed criminal intimidation by threatening the informant with serious consequences with intent to cause to alarm her.

06. PW.2 is the informant as well as the victim. She deposed that on the date of the incident, around 11.00 a.m., while she was sleeping in her house keeping the front door partly open, accused entered into her house, lifted her sari by sitting over her. She next deposed that when she raised shout, the accused closed her mouth and constricted her neck. She struggled to take breath. However, she gave a push to the accused and opened the door. It is next stated that hearing her scream, when her neighbours arrived, the accused ran away, entered into his house and closed his door. According to P.W.2, around 4.00 p.m., she lodged the F.I.R. which she proved as Ext.P-1. She stated that one lady present at the police station scribed the F.I.R. as per her narration. In her cross-examination, she stated that on that day her husband had been to the cashew nut jungle for work and her son was staying outside. She further stated that there

is some vacant space between her house and the house of the accused, but they never had any quarrel over that vacant space.

07. P.W.4 is the son of the informant. According to him, at the time of the incident, he was at Brahmapur. He got the information from one neighbor and immediately returned home. While he was on the way, his mother also telephoned him and told him that the accused gagged her mouth and pressed her neck in order to kill her. Within half an hour he reached his house. When he reached his house, he found the accused leaving their house. His mother (P.W.2) was shouting. Then the accused entered into his house and closed the door. Thereafter, his elder father Dibakar Gouda (P.W.6) and some villagers came and brought him outside by breaking his door. They took the accused near to the village Mandap. Then being informed, police came and took the accused to the police station. In his cross-examination, P.W.4 stated that he received the call from the neighbor in between 12 noon to 12.30 p.m. and from his mother around 12.20 p.m. He further stated that when he received his mother's call, he was at Ranajhali bridge under Purusottampur P.S. which is 10 kms away from his village and he reached his house at about 12.35 p.m. to 12.40 p.m. He also stated that he had not seen exactly who broke the door of the accused.

He again stated that the villagers forcibly opened the back door of the accused and brought him outside since he had locked the front door.

Thus, it is seen that evidence of P.W.4 is merely hearsay. His statement that when he reached home, he found the accused leaving their house cannot be believed simply because as per P.W.2, the incident occurred around 11 a.m. and P.W.4 came from Brahmapur after getting information from a neighbor and reached home around 12.35 p.m. It is not the prosecution case that till that time, the accused was present in the house of P.W.2. Rather, prosecution's case is that when P.W.2 raised shout and neighbours arrived, the accused ran away to his house.

08. P.W.1 is the scribe. He deposed that one day in the year 2025, while he was in his shop at Rambha, the informant approached her for writing an F.I.R. Then as per her version, he scribed the F.I.R. Then he read over and explained the contents to her who put her thumb impression on the F.I.R. in his presence. He also proved the F.I.R. as Ext.P-1 and his signature therein as Ext.P-1/1. Though P.W.2 has stated about one lady having scribed the F.I.R., but this discrepancy is very minor and does not demolish the foundation of the prosecution case.

When we consider that P.W.2 is an illiterate rustic villager, this discrepancy is natural.

09. P.W.3 and P.W.5 are the independent witnesses to the occurrence. But they did not speak anything about the occurrence. P.W.3 was declared as hostile and nothing was elicited from his mouth during cross-examination u/s.157 of the Bharatiya Sakshya Adhiniyam, 2023 (in short B.S.A.) to support the prosecution. On the other hand, P.W.6 stated that hearing the commotion, when he came to the house of P.W.2, she told him that while she was sleeping in her house, the accused came and embraced her. Though P.W.6 is not an eye-witness of the occurrence, but his statement is relevant u/s.4 of the B.S.A. as *res-gestae*, in as much as P.W.2 disclosed to P.W.6 about the conduct of the accused so contemporaneously that it forms part of the same transaction.

10. P.W.7 is the I.O. He deposed that on 28.04.2025, at about 4.10 p.m., on the written report of P.W.2, he registered Rambha P.S. Case No. 321 dated 28.04.2025 and took up the investigation. He further deposed that prior to lodging of the F.I.R., on receipt of a call in the number 112, A.S.I. Sujeet Panigrahi proceeded to the spot, apprehended the accused and brought him to the police station. Then during the course of investigation, he

examined the complainant and recorded her statement, issued injury requisition in favour of the complainant to M.O., P.H.C., Rambha, arrested the accused and forwarded him to the Court on the same day. He further deposed that he visited the spot and prepared the spot map vide Ext.P-2. On the same day, he also received the injury report of the complainant. On 18.05.2025, he sent a query to the medical officer as to whether the injury found on the neck of the complainant could be dangerous if assaulted with a little more force and whether it could cause death of the complainant. On the same day, he received the query opinion from M.O., P.H.C., Rambha who opined that the injury might be dangerous if assaulted with a little more force and could cause death of the injured. He has also deposed that on 20.05.2025, he examined the scribe of the F.I.R. and on 23.05.2025, after completion of investigation, he submitted charge sheet against the accused. In his cross-examination he stated that he had not noticed any mark of violence at the spot of occurrence but he had noticed the nail marks on the neck of the victim. He further stated that A.S.I. Sujeet Panigrahi attended the call and proceeded to the spot around 12.30 p.m. According to the I.O., though the victim and the accused are neighbours, but they do not share a common wall.

11. In *Maniklal Sahu v. State of Chhattisgarh (2025) 10 S.C.R. 212*, it was held that:-

“An offence under Section 307 IPC has the following essential ingredients:- (i) The death of a human was attempted; (ii) That the death was attempted to be caused, or caused in the consequence of the act of the accused; and (iii) That the act was done with the intention of causing death; or that it was done with the intention of causing such bodily injury as: (a). the accused knew to be likely to cause death; or (b). was sufficient in the ordinary course of nature to cause death, or that the accused attempted to cause death by doing an act known to him to be so dangerous that it must in all probability cause: (i). death, or (ii). such bodily injury as is likely to cause death. Thus, from the above, the most important ingredient to constitute the offence of attempt to commit murder punishable under Section 307 of the IPC is the intention or knowledge. To bring home guilt against an accused under this provision, it is necessary for the prosecution to establish that the intention of the accused was one of the three kinds mentioned in Section 300 of the IPC. A person commits an offence under Section 307 of the IPC when he has the intention to commit murder and in pursuance of that intention, does an act towards its commission irrespective of the fact whether that act is the penultimate act or not. The provision requires that the act must be done with such intention, or knowledge, or in such circumstances that if death be caused by that act, the offence of murder will emerge. It is clear as noonday that causing an injury that would endanger life is not an essential condition for the applicability of Section 307 of the IPC. Even if the injuries inflicted are simple in nature, that by itself cannot be a ground for acquittal, if the offence otherwise falls under Section 307 of the IPC. The word “intent” means design, or determination with which a person acts. It presupposes knowledge. It is the purpose to use particular means to effect certain result. The “act” referred in Section 307 of the IPC attempted to must be with the “intention” of killing a human. Intention is a state of mind which cannot be proved by direct evidence as a fact; it can only ordinarily be inferred from proved facts. It may be proved by *res gestae*, by acts or events previous or subsequent to the incident or occurrence, or on admission. We say so because it shows the presence of will in the act which consummates a crime. The relevant circumstances from which the intention can be gathered. We have supplied a suggestive, and not exhaustive list:- 1. the nature of the weapon used; 2. the manner in which the weapon was used; 3. the part of the body where the injuries were inflicted; 4. the

nature of the injuries caused; 5. the opportunity available which the accused gets.”

12. Applying the same principles to the instant case, it will be seen that the prosecution miserably failed to prove that the intention of the accused was to cause the death of the informant. The informant merely stated that when he raised shout, the accused closed her mouth and pressed her neck. The doctor who furnished the injury report was not examined and it is a settled position of law that unless the doctor is examined, the injury report cannot be read in evidence by simply marking it as exhibit as because the doctor is a witness to the fact (i.e. the nature of the injuries). Moreover, from the evidence of P.W.2 it can be simply inferred that the intention of the accused was only to prevent P.W.2 from making a shout. It is not the evidence of P.W.2 that the accused pressed her neck with brutal or sufficient force so that knowledge that it may cause death can be attributed to the accused. So, the necessary ingredients of Sec.109(1) of B.N.S. are clearly missing and the accused is entitled for acquittal on that count.

13. The accused has next been charged u/s.75(1)(i)/76 of B.N.S. In this regard, it is the specific evidence of P.W.2 that while she was sleeping, the accused came and lifted her sari by pouncing upon her and when she raised shout, the accused closed her mouth and pressed her neck.

The evidence of P.W.2 was found to be clear, clinching and beyond reproach. Nothing was elicited in cross-examination to discredit her or disbelieve her testimony. It was argued that there is no independent corroboration to the testimony of P.W.2. But law is well settled that in cases involving sexual violation against a woman, the sole evidence of the victim is sufficient to base a finding of conviction and the Courts should not as a rigid archaic formula seek independent corroboration to her testimony, more so when the defence has not established through evidence that the victim had sufficient reason to falsely implicate the accused. In this case, a mere suggestion was given by the defence that the informant and the accused had previous dispute regarding their common wall which is the reason for the false accusation. But P.W.2 has flatly denied such suggestion and has specifically stated that they did not share a common wall and rather there was a vacant space between their houses, which fact was supported by P.W.7, the I.O. So, I find no reason why P.W.2 would falsely implicate the accused and hence her evidence inspires confidence. That apart, P.W.6 has also to some extent supported the evidence of P.W.2 by deposing that on hearing shout he came to the house of P.W.2 who told him that the accused came to her house and embraced her.

14. Sec. 76 of B.N.S. speaks about use of criminal force with the intention of disrobing a woman or compelling her to be naked whereas Sec. 75(1)(i) B.N.S. provides that a man committing physical contact and advances involving unwelcome and explicit sexual overtures shall be guilty of sexual harassment. In the present case, the accused not only made physical contact with the informant with sexual overtures, but went few notches ahead by pouncing upon her and lifting her sari while she was sleeping. Thus the intention of the accused is crystal clear which was to outrage the modesty of the informant. Therefore, it clearly makes out a case u/s.74 of the B.N.S. Though the accused was not charged u/s.74 of B.N.S. but he was charged under 76 of B.N.S which is a graver offence and in view of Sec.245 of B.N.S.S., the accused can be convicted for the minor offence. Accordingly, I hold him guilty for the offence punishable u/s.74 of B.N.S. and convict him accordingly. But I do not find sufficient material u/s.76 of B.N.S. as the evidence of P.W.2 does not indicate that the intention of the accused was to disrobe her or to compel her to be naked. So, the accused is entitled for acquittal on that count.

15. As the accused committed the offence after entering into the house of the informant which was used as human dwelling and his entry into the house was with the

culpable intention of outraging her modesty finding her alone, Sec.332(c) of B.N.S. is clearly established. It is further established from the evidence of P.W.2 that when she tried to raise shout, the accused gagged her mouth and pressed her neck causing bodily pain to her. P.W.2 has also categorically stated that as the accused constricted her neck, she struggled to take breath. It is not the case of the defence that the accused caused hurt to the informant on grave and sudden provocation which rules out the applicability of Sec.122(1) of B.N.S. Accordingly, I further held the accused guilty u/s.115(2) of B.N.S.

16. Lastly, the accused has been charged u/s.351(2) of B.N.S. But there is no whisper from the mouth of P.W.2 that the accused threatened her with injury to her person, let alone causing alarm to her. She simply stated that the accused gagged her mouth and pressed her neck and when some neighbours arrived hearing her scream, the accused fled away. So, I find no evidence u/s.351(2) of B.N.S. the accused is entitled for acquittal from that charge.

17. In view of the discussions made in the foregoing paragraphs, I am of the opinion that the prosecution successfully established the offences punishable u/s. 332(c)/115(2) of B.N.S. against the accused beyond all reasonable doubt, but failed to drive home the charges against him u/s.75(1)(i)/76/109(1)/351(2) of BNS.

Accordingly, I hold him guilty for commission of the offences punishable u/s.74/332(c)/115(2) of B.N.S. and convict him thereunder as per Sec. 258(2) of B.N.S.S. But I find him not guilty for the offences u/s.75(1)(i)/76/109(1)/351(2) of BNS and acquit him as per Sec.258(1) of B.N.S.S.

18. The accused finding the informant alone in her house, entered inside the house with some lascivious intention. This is the act of a perverted mind and reflects his moral degradation. He did not even bother that she is his immediate neighbour. So, taking into account his despicable conduct and its impact in the society, I am not inclined to provide him with the benefits of Probations of Offenders Act.

Sd/- Sri. A.R.Jena
Addl. Sessions Judge,
Khallikote.
12.08.2026

Typed to my dictation
and corrected by me.

Sd/- Sri. A.R.Jena
Addl. Sessions Judge,
Khallikote.
12.08.2026

HEARING ON THE QUESTION OF SENTENCE

19. Heard the convict, the learned defence counsel and the learned Addl. P.P. The convict still pleaded innocence. The learned defence counsel submitted that the accused is aged about 52 years and he has been incarcerated for more than one year. He has no criminal antecedent. There is every chance of his reformation. There is no other person to support his family. Thus, the learned defence counsel prayed for a lesser punishment.

On the other hand, the learned Addl. P.P. prayed for maximum punishment prescribed for the offences.

While passing the order of sentence, the Court is to see the nature of crime, the manner in which it was committed, the motive for commission of the crime, the conduct of the convict, the physical and psychological impact of the crime on the victim, the collective cry of the society for justice and other attending circumstances. Keeping the above factors in mind, I may sentence convict Rushia @ Hrushikesh Maharana to undergo simple imprisonment for one (01) year and fine of Rs.2,000/- (rupees two thousand) for the offence punishable U/s.332(c) of BNS, simple imprisonment for two (02) years and fine of Rs.5,000/- (rupees five thousand) for the offence punishable U/s.74 of BNS and simple imprisonment for a period of six (06) months for

the offence punishable u/s.115(2) of BNS. In default of payment of fines, the convict shall undergo further simple imprisonment for a period of two (02) months and four (04) months respectively. All the sentences shall run concurrently. The period already undergone by the convict as under trial prisoner shall be set off as per Sec. 468 B.N.S.S.

No order regarding seized article is passed as nothing has been seized by the I.O.

Pronounced the judgment in the open Court today, this the 12th day of August, 2026 under my seal and signature.

Typed to my dictation
and corrected by me.

Sd/- Sri. A.R.Jena
Addl. Sessions Judge,
Khallikote.
12.08.2026

Sd/- Sri. A.R.Jena
Addl. Sessions Judge,
Khallikote.
12.08.2026

FORM –C

LIST OF PROSECUTION / DEFENCE / COURT WITNESSS		
A. Prosecution Witnesses		
Rank	Name of the witness	Description of the witness
P.W.1	Shyam Sundar Behera	Scribe
P.W.2	Chhabi Gouda	Informant
P.W.3	Sanju Behera	Independent

		witness
P.W.4	Sagar Gouda	Occurrence witness
P.W.5	Sushama Gouda	Independent witness
P.W.6	Dibakar Gouda	Independent witness
P.W.7	Kumar Muduli	Investigating officer.

B. Defence Witness, if any		
Rank	Name	Description of the witness
	None	

C. Court Witnesses, if any		
Rank	Name	Description of the witness
	None	

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS.

A. Prosecution Exhibits.			
Sl. No	Exhibit Number	Description	The witness who proved the document.
1.	Ext.P-1	F.I.R.	P.W.1
2.	Ext.P-1/1	Signature of P.W.1 on Ext.P-1.	P.W.1
3.	Ext.P-1/2	Signature and endorsement of P.W.7 on Ext.P-1.	P.W.7
4.	Ext.P-2	Spot map	P.W.7
5.	Ext.P-2/1	Signature of P.W.7 on Ext.P-2.	P.W.7
6.	Ext.P-3	Injury requisition of P.W.2	P.W.7
7.	Ext.P-	Signature of P.W.7 on	P.W.7

	3/1	Ext.P-3.	
8.	Ext.P-4	Query opinion	P.W.7
9.	Ext.P-4/1	Signature of P.W.7 on Ext.P-4.	P.W.7

B. Defence Exhibits, if any.			
Sl. No	Exhibit Number	Description	The witness who proved the document.
		Nil.	

C. Court Exhibits, if any.			
Sl. No	Exhibit Number	Description	The witness who proved the document.
		Nil.	

D. Material Objects on behalf of prosecution /defence.			
Sl. No	Exhibit Number	Description	The witness who proved the object.
		Nil.	

Sd/- Sri. Amiya Ranjan Jena
Addl. Sessions Judge, Khallikote.
12.08.2026