

FORM-A

**IN THE COURT OF ADDL.SESIONS JUDGE-CUM-SPECIAL
COURT UNDER POCSO ACT, BHADRAK.**

**Present: Sri Bikash Chandra Dey, B.Sc.(Hons.), LL.M.,
A.D.J.-cum-Special Court under POCSO Act, Bhadrak.**

**Date of Judgment: 08.06.2026
JO Code-OD00296**

**Spl. POCSO Case No. 88 of 2019
CIS Regn. No. 88 of 2019**

(Arising out of Dhusuri P.S. Case No.201 dated 19.10.2019.
U/s. 341/354-A(1)(ii)/506/34 of the IPC read with Sec.12 of the POCSO
Act.)

Details of FIR: FIR No.201 Dated 19.10.2019

Crime: U/s. 341/354-A(1)(ii)/506/34 of the IPC read with Sec.12 of the
POCSO Act.

Police Station: Dhusuri Police Station.

COMPLAINANT	STATE OF ODISHA
REPRESENTED BY	Sri Nityananda Nayak, Spl. Public Prosecutor.

ACCUSED PERSON	1.Hemanta @ Nirmalya Jena, aged 36 years, S/o Mayadhar Jena, 2. Sipunu Jena, aged 23 years, S/o Nimain Jena, 3. Ramakrushna Jena, aged 31 years, S/o. Kumuda @ Bharat Jena, All are of village-Sriganga, Dhaleitisahi, P.S. Dhusuri, Dist- Bhadrak.
REPRESENTED BY	Sri Bikram Keshari Mohanty and Miss. Krutideepa Kar Advocate and other Associates.

FORM-B

Date of offence	03.10.2019						
Date of FIR	19.10.2019						
Date of Charge Sheet	01.03.2021						
Date of framing of Charges	18.05.2026						
Date of commencement of evidence	18.05.2026						
Date on which judgment is reserved/posted	03.06.2026						
Date of judgment	08.06.2026						
Date of the sentencing order, if any.	---						
Accused Details							
Rank of the Accused	Name of the Accused person(s)	Date of Arrest / surrender	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 of Cr.P.C.

A-1	Hemanta Jena	18.05.2026	18.05.2026	u/s. 341/354-A(1)(ii)/506/34 of the IPC r/w Sec.12 of POCSO Act.	Acquitted	---	---
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A-2	Sipunu Jena	18.05.2026	18.05.2026	u/s. 341/354-A(1)(ii)/506/34 of the IPC r/w Sec.12 of POCSO Act.	Acquitted	---	---
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A-2	Ramakrushna Jena	18.05.2026	18.05.2026	u/s. 341/354-A(1)(ii)/506/34 of the IPC r/w Sec.12 of POCSO Act.	Acquitted	---	---
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J U D G M E N T

The accused persons Hemanta Jena, Sipunu Jena and Ramakrushna Jena stand charged for the offences punishable U/s.341/354-A(1)(ii)/506/34 of the Indian Penal Code, 1872 (in short

IPC) read with U/s. 12 of the Protection of Children from Sexual Offences Act, 2012 (in short POCSO Act).

2) The prosecution case in a nutshell is that:-

The informant-cum-mother of the minor victim girl appeared before the Dhusuri police station on 19.10.2019 and presented a written report to the effect that on 03.10.2019 at about 9.00 am, while the minor victim girl was returning towards her house on the way the accused Ramakrushan Jena showed her obscene indications and threatened her. Then the minor victim girl told the said incident to her mother. Then the informant came to know that the accused Ramakrushna Jena was always discussing with the accused Sipunu Jena secretly. On 13.10.2019 at the evening time as per the direction of the accused Sipunu Jena, one boy had taken some earth from in front of the house of the informant and after asking about the same to the said boy, the informant came to know about the said incident. Then on 14.10.2019 at about 3.00 pm the informant had called a village meeting, where the parents of the accused Ramakrushna Jena had quarreled with them. Then the informant lodged the FIR at Dhusuri P.S.

During course of investigation, the I.O examined the informant; seized one certificate issued by the Headmistress of the High School, where the minor victim girl was studied, on production by the informant and prepared seizure list; visited the spot and prepared spot map; made prayer for recording of statement of the minor victim girl u/s 164 of Cr.P.C; seized the Admission Register of the High School, where the minor victim girl was studied on production by the

Headmaster of that school and prepared seizure list; left the same in zima of the Headmaster and prepared zimanama; seized the involved motor cycle bearing registration No. OD-22-F-2094 and prepared seizure list; arrested the accused persons Nirmalya @ Hemanta Jena and Sipun Jena and released them on bail as per the direction of the Hon'ble Court; left the seized motorcycle in zima of its owner and prepared zimanama; arrested the accused Ramakrushan Jena released him on bail as per the direction of the Hon'ble Court and after completion of investigation submitted charge sheet U/s. 354(i)(ii)/506/34 of the IPC read with Sec.12 of the POCSO Act against the accused persons. The accused persons have faced trial being charged for the commission of offences U/s 341/354-A(1)(ii)/506/34 of the IPC read with Sec.12 of the POCSO Act.

3) The plea as reveals from the statement of the accused persons recorded U/s. 351 of BNSS is of complete denial of the prosecution case and false implication.

4) After perusal of the charge so also the record, the following points have emerged for determination in the instant case:-

(i) Whether on 03.10.2019 at about 9.00 am in a village road under Dhusuri P.S., the accused persons in furtherance of their common intention wrongfully restrained the minor victim girl?

(ii) Whether on the said date, time and place, the accused persons in furtherance of their common intention demanded for sexual favours to the minor victim girl?

(iii) Whether on the said date, time and place, the accused persons in furtherance of their common intention criminally intimidated by threatening the minor victim girl with injury to her person with intent to cause alarm to her?

(iv) Whether on the said date, time and place, the accused persons uttered any words or made any sound, or made any gesture with the intention that such word or sound shall be heard by the minor victim girl and constantly followed her?

5) In order to substantiate its case, the prosecution has examined six witnesses out of eighteen witnesses cited in the charge sheet. Among the witnesses examined, P.W.1 is the mother of the minor victim girl and is the informant, P.W.6 is the minor victim girl, P.W.2 is the brother of the minor victim girl and is an occurrence witness, P.W.3. P.W.4 and P.W.5 are the co-villagers of the informant and are occurrence witnesses. The learned Spl.P.P. has declined to examine the rest charge sheeted witnesses of this case. The prosecution has relied upon the documentary evidence vide Ext.P-1 to Ext.P-3².

The accused persons have adduced oral evidence by examining the accused Ramakrushna Jena as D.W.1. But, they have not adduced any documentary evidence on their behalf.

6) Before going to the crux of this case, let me ascertain as to whether on the date of the occurrence, the victim girl was under the age of 18 years or not.

In a case under the POCSO Act so far as the determination of the age of the victim girl is concerned, the Hon'ble Apex Court in the Judgment in **Jarnail Singh Vrs State of Haryana**, reported in **2013 (7) SCC 263** has held that, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Rules thereunder for determination of the age of a child in Conflict with law is to be followed to determine the age of a Child, who is subject to a crime under the POCSO Act, 2012. Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015 provides that, to determine the age of a child in conflict with law; (i) the date of birth certificate of the school, or the Matriculation or equivalent certificate from the concerned Examination Board if available and in absence of thereof (ii) the Birth Certificate given by a Corporation or Municipal Authority or a Panchayat and only in the absence of clause (i) & (ii) above, age shall be determined by ossification test or any other latest medical age determination test.

But, the prosecution has neither produced nor proved any document of the minor victim girl to ascertain her age at the time of the incident. So, in absence of any document, it cannot be concluded that on the date of the incident, the victim girl was under the age of 18 years or not. Hence, from the above discussion, it is concluded that the prosecution has failed to establish that on the date of the incident, the victim girl was under the age of 18 years.

7) It is the settled principle of law that in cases involving sexual offences, the testimony of the prosecutrix is of highest importance and

conviction can be made even on the sole testimony of the victim if the same is found to be trustworthy and credible. On the basis of available evidence on record, I feel it prudent to discuss all the points to be determined in this case simultaneously to find out if the prosecution has proved any of these points to substantiate the charges against the accused persons or not.

8) The minor victim girl while being examined as P.W.6 has not supported the prosecution case and has stated in her evidence that, the occurrence took place about 6 years back and she does not remember anything about this case. She has further stated in her evidence that her statement u/s 164 of Cr.P.C. was recorded by a lady Magistrate. She has proved her statement vide Ext.P-3/P.W.6 and her signatures thereon vide Ext.P-3¹/P.W.6 and Ext.P-3²/P.W.6 respectively.

The learned Spl. P.P. has declared her as hostile, but she has not admitted any of his suggestion. Rather she has admitted in her cross-examination that, the accused persons had not restrained her and had not outraged her modesty and had not threatened her. She has further stated in her cross-examination that she has no allegation against the accused persons and she does not want to proceed in this case.

9) The informant-cum-mother of the minor victim girl while being examined as P.W.1 has not supported the prosecution case and has stated in her evidence that the occurrence took place about 6 years back and she does not remember anything about this case. She has further stated in her evidence that she had lodged the FIR at Dhusuri P.S. She has proved her FIR vide Ext.P-1/P.W.1 and her signature

thereon vide Ext.P-1¹/P.W.1. She has further stated in her evidence that her statement u/s 164 of Cr.P.C. was recorded by a lady Magistrate. She has proved the said statement vide Ext.P-2/P.W.1 and her signatures thereon vide Ext.P-2¹/P.W.1 and Ext.P-2²/P.W.1 respectively.

The learned Spl. P.P. has declared her as hostile, but she has not admitted any of his suggestion. Rather she has admitted in her cross-examination that, the accused persons had not outraged the modesty of her minor victim daughter and had not threatened her. She has further admitted in her cross-examination that, she has no allegation against the accused persons and she does not want to proceed in this case.

10) The son of the informant while being examined as P.W.2 has not supported the prosecution case and has stated in his evidence that he does not know anything about this case.

The learned Spl. P.P. has declared him as hostile, but he has not admitted any of his suggestion. Rather he has admitted in his cross-examination that, police had not examined him.

11) The co-villagers of the informant while being examined as P.W.3, P.W.4 and P.W.5 respectively have not supported the prosecution case and have stated in their evidence that they do not know anything about this case.

12) On going through the evidence adduced from the side of the prosecution it is revealed that the minor victim girl being the star witness of this case has not supported any of the allegations and

assertions of the prosecution against the accused persons. Rather she has given an outright clean chit by stating that the accused persons had not restrained her and had not outraged her modesty and had not threatened her. The informant-cum-mother of the minor victim girl has also not supported the prosecution case and has stated that she has no allegation against the accused persons and she does not want to proceed in this case.

The accused Ramakrushna Jena while being examined as D.W.1 has stated in his evidence that it is a false case foisted against them and no such occurrence has taken place.

The prosecution has also not able to establish as to whether on the relevant date, time and place the accused persons in furtherance of their common intention had wrongfully restrained the minor victim girl or the accused persons in furtherance of their common intention had demanded for sexual favours to the minor victim girl or the accused persons in furtherance of their common intention criminally intimidated by threatening the minor victim girl with injury to her person with intent to cause alarm to her or had uttered any words or made any sound, or made any gesture with the intention that such word or sound shall be heard by the minor victim girl and constantly followed her or not. Hence, from the above discussion it is concluded that the prosecution has miserably failed to discharge its liability in establishing its case beyond all reasonable doubt.

13) In result, I hold the accused persons not guilty for the charges u/s 341/354-A(1)(ii)/506/34 of the IPC read with Sec.12 of the POCSO

Act and acquit them U/s. 235(1) of Cr.P.C. The accused persons be set at liberty forthwith. Their bail bond remains in force for six months as a requirement U/s.437-A of Cr.P.C.

As the minor victim girl has not attributed any act of sexual offence having been committed against her by the accused persons, I am of the considered opinion that the minor victim girl is not entitled to be paid any compensation under Section 33(8) of the POCSO Act.

The zimanamas be cancelled and made absolute and the other seized articles be destroyed after four months of the expiry of the appeal period, if no appeal is preferred and if preferred, be dealt as per the direction of the Hon'ble Appellate Court.

“Enter the case as insufficient evidence for statistical purposes”.

Sd/-

A.D.J.-cum-Special Court
under POCSO Act, Bhadrak.

The judgment is typed to my dictation and corrected by me and pronounced the same in the open Court, on this the 8th day of June, 2026 under my hand, signature and seal of this Court.

Sd/-

A.D.J.-cum-Special Court
under POCSO Act, Bhadrak.

FORM-C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES		
A. Prosecution Witnesses		
RANK	NAME	NATURE OF EVIDENCE

P.W.1	Mother of the minor victim girl	Informant
P.W.2	Brother of the minor victim girl	Occurrence witness
P.W.3	Co-villager of the informant	Independent witness to occurrence
P.W.4	Co-villager of the informant	Independent witness to occurrence
P.W.5	Co-villager of the informant	Independent witness to occurrence
P.W.6	Victim	Minor victim girl
B. Defence Witnesses:		
RANK	NAME	NATURE OF EVIDENCE
D.W.1	Ramakrushna Jena	Defence witness
C. Court Witnesses:		
RANK	NAME	NATURE OF EVIDENCE
	NIL	
LIST OF PROSECUTION/ DEFENCE / COURT EXHIBITS		
A. Prosecution Exhibits:		
Sl. No	Exhibit Number	Description
1	Ext.P-1/P.W.1	FIR
2	Ext.P-1 ¹ /P.W.1	Signature of P.W.1 on Ext.P-1
3	Ext.P-2/P.W.1	Statement of the informant u/s 164 of Cr.P.C.
4	Ext.P-2 ¹ /P.W.1	Signature of P.W.1 on Ext.P-2
5	Ext. P-2 ² /P.W.1	Signature of P.W.1 on Ext.P-2
6	Ext.P-3/P.W.6	Statement of the minor victim girl recorded u/s 164 of Cr.P.C.
7	Ext.P-3 ¹ /P.W.6	Signature of P.W.6 on Ext.P-3

8	Ext.P-3 ² /P.W.6	Signature of P.W.6 on Ext.P-3
B. Defence Exhibits		
Sl. No.	Exhibit Number	Description
NIL		
C. Court Exhibits		
Sl. No.	Exhibit Number	Description
NIL		
D. Material Objects:		
Sl. No.	Material Object Number	Description
NIL		

Sd/-
A.D.J.-cum-Special Court
under POCSO Act, Bhadrak.