

FORM-A

**IN THE COURT OF JUDICIAL MAGISTRATE
SECOND CLASS, SUNDARGARH**

Present:-Sitesh Mohanty, L.L.M.,
JMSC, Sundargarh.
J.O Code-OD00922

Dated, this 19th day of March, 2024

GR Case No.1873/2021

Trial No. 163/2024

Arising out of Bhasma PS Case No.266
dtd.02.12.2021

U/s. 341/294/323/506 of IPC

Complainant	State of Odisha
Represented by	Smt. Dulari Nag, A.P.P., Sundargarh.
Accused person	Omprakash Barabhuiyan (42) S/o – Shankar Barabhuiyan Vill-Mangaspur PS- Bhasma, Dist- Sundargarh
Represented by	Adv.Sri Basanta Patel & Associates

FORM – B

Date of Offence	01.12.2021
Date of FIR	02.12.2021
Date of Charge Sheet	19.01.2022
Date of Framing of Charges	24.04.2023
Date of commencement of evidence	08.02.2024
Date on which judgment is reserved	19.03.2024
Date of Judgment	
Date of Sentencing Order, if any	-
Accused Details	

Rank Of The Accused	Name Of The Accused
A-1	Omprakash Barabhuiyan
Date Of Arrest	Not arrest as notice 41(A) served
Date Of Release On Regular Bail	
Offences Charged With	U/S. 341/294/323/506 of IPC
Whether Acquitted Or Convicted	Acquitted
Sentence Imposed	--
Period Of Detention Undergone During Trial For Purpose Of Section 428, Crpc	--

JUDGMENT

The above-named accused person stand charged for commission of offences punishable under section 341/294/323/506 of the Indian Penal Code,1860 (in short, the I.P.C).

2. Case of the Prosecution as reveals from the record in nutshell is as follows:

The case of Prosecution as unfolds from the F.I.R in short is that, on the written report of one Niranjana Tanti V-Mangasapur, P.S- Bhasma, D-Sundargarh, a case was registered for investigation under P.S. Case No. 266 dated 02.12.2021. Allegedly, the informant is employed under one villager namely Belarsen Kumura (known as @Milan), encountered an incident on December 1st, 2021 (Wednesday). After finishing his duties, the informant was standing outside a shop namely Pratyush STD Shop when the accused Omprakash Barabhuiyan, S/O Shankar Barabhuiyan, approached him and verbally abused him with vulgar language, alleging that he works for Milan, saying, "TOR STREE KU GIHAEIBI, TOR PUA KU ZIBANARE MARIEBI". Subsequently, the accused physically assaulted the informant with punches, blows and slaps. Witnesses, including villagers Jenamani Gardia and Gouranga Neti, were present at the spot, with one villager namely Munu Pruseth arriving the

spot and intervened them preventing further assault. Additionally, the informant stated that the accused often engages in drunken brawls with the villagers and has even illegally occupied the village graveyard, obstructing the construction of a school wall. Therefore, he lodged this F.I.R. During the course of investigation, the I.O visited the spot of occurrence. Examined the informant and other witnesses. Recorded their statement u/s-161 Cr.P.C. After completion of the investigation the IO submitted the Charge sheet vide C.S. No. 266 Dt.d 19.01.2022 U/s -341/294/323/506 of IPC against the accused persons. Subsequently charge was framed under sections 341/294/323/506 of IPC and its contents were read over and explained to accused to which they pleaded not guilty and claimed for trial. Hence, this trial.

3. The defense sets up the plea of complete denial of the fact alleged against the accused person and of false implications.

4. Such being the rival contentions of the parties, the following points merit for determination: -

Whether on 01.01.2022 at evening at V-Mangaspur, P- Bhasma D- Sundargarh the accused person (Omprakash Barabhuiyan): -

I. Committed wrongful restraint to the informant by preventing him to proceed in any

direction in which he had right to proceed and there by punishable u/s 341 of I.P.C.?

II. Voluntarily caused hurt to informant by causing him bodily pain, disease or infirmity and there by punishable u/s 323 of I.P.C.?

III. Uttered obscene words in or near a public place causing annoyance to others and there by punishable u/s 294 of I.P.C.?

IV. Criminally intimidated the informant by threatening him with injury to the person with intent to cause alarm to her and there by punishable u/s 506 of I.P.C.?

5. In order to prove its case, the prosecution has examined as many as 2(two) vital witnesses in this case. Out of whom P.W.1 is the informant himself; P.W.2 is the eyewitness in this case. The prosecution has also relied on the plane paper F.I.R which is marked as Ext.P-1/P.W.1. On the other hand, no evidence is tendered on behalf of the defense.

When the prosecution concluded its evidence, the accused persons was examined U/S 313 of Cr.P.C. wherein the incriminating evidence were put to him to

which he replied that all allegations against him are incorrect and are false and fabricated.

6. For brevity, all the offences are taken up jointly for consideration. Turning to evidence on record, it is seen that P.W.1, the informant admitted the fact of lodging of FIR (Ext.P-1/PW1) and identified his signature on it (Ext.P-1/1/PW1). In his evidence the informant stated that he lodged the F.I.R, but due to some minor misunderstanding he lodged the FIR then. He further deposed that he doesn't remember anything more about the incident that day and he doesn't want to proceed with the case any further. In his cross examination he stated the same thing that he doesn't want to proceed with the case any further. Apart from this statement, P.W.1 has breathed nothing regarding the incident thereby implicating the accused for the alleged crime.

In a criminal case, FIR is the statement that sets the criminal law into motion but in the case of ***Madhusudan Singh and Anr. vs State of Vihar AIR 1995 SC 1437***, the Hon'ble Supreme Court has held that:-

****"FIR is not a substantive piece of evidence, and it can only be used for corroboration and contradiction of persons lodging the FIR."* ***

Hence, F.I.R not being a substantive piece of evidence and used only for the purpose of contradiction or corroboration. Here the informant has not deposed anything so question leading to contradiction or corroboration doesn't arise. Similarly, P.W. 2 who is the eyewitness in this case stated the same version to that of the informant, that due to minor understanding the informant had lodged the F.I.R and that he doesn't remember anything about the case. Apart from the F.I.R. allegations which are not substantive in nature, there is nothing forthcoming from the evidence on record which goes to prove that on the alleged date, time and place the accused persons had committed wrongful restraint, caused hurt, criminally intimidated and caused annoyance by using obscene words. As such the prosecution has failed to establish the above points for determination against the accused person.

7. The Hon'ble Supreme Court also in the Case of ***Madan Mohan Abbot vs State of Punjab AIR 2008 SC 1969*** has held that

****“We need to emphasize that perhaps it is advisable that in dispute where the questions are of personal in nature, the Court ordinarily accept the terms of compromise in between the parties even in case of criminal proceedings as keeping the matter alive with no possibility of result in favour of prosecution is a luxury which the Courts, grossly*

*overburdened as they are, cannot afford and the time so saved can be utilized in deciding more effective and meaningful litigation.”****

In this result, the court holds that, the prosecution has failed to prove its case beyond all reasonable doubt and the accused person is found not guilty of committing offences punishable under sections 341/294/323/506 of IPC and he is acquitted there from u/s- 255(1) Cr.P.C.

Hence the accused be set at liberty forthwith being discharged from his bail bond and surety.

8. Since no seizure has been made, no order regarding disposal of property has been passed in this case.

Enter this case as “mistake of fact” for statistical purpose.

J.M.S.C., SUNDARGARH

This judgment has been transcribed at my dictation, corrected and pronounced by me in the open court

today on this 19rd March 2024 in presence of the
accused under my hand and seal of this court.

J.M.S.C., SUNDARGARH

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 witnesses)
PW1	Niranjan Tanty	Complainant/FIR
PW2	Munu Purseth	Chance Witness
B. Defence witnesses, if any		
Rank	Name	Nature of Evidence (Eye witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, other witnesses)

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C. Court witnesses, if any		
Rank	Name	Nature of Evidence (Eye witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, other witnesses)
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List of Prosecution/ Defence/ Court Exhibits		
A. Prosecution Exhibits		
Sl. No	Exhibit Number	Description
1	P-1/P.W1	FIR
2	P-1/1/PW1	Signature on FIR
C. Court Exhibits, if any		
Sl. No	Exhibit Number	Description
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D. Material Objects:		
Sl. No	Material Object Number	Description
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J.M.S.C., Sundargarh.

