

FORM -A

<u>IN THE COURT OF JUDICIAL MAGISTRATE FIRST</u> <u>CLASS, PATRAPUR</u>	
Present: Smt. Krushna Mishra, LL.M. J.M.F.C, PATRAPUR JO CODE: OD00868	
<u>GR:438/2022</u> Trial No.79/2024	
(Arising out of Jarada, P.S. No. 333 dated 30.10.2022, U/S 341,294,323,379,506,34 of The IPC)	
Complainant	State of Odisha
Represented by	Sri. Golakha Kumar Nayak Assistant Public Prosecutors, Patrapur
Accused Persons	1.Dusmanta Sahu (38) S/o Duryadhan Sahu 2. Bibhuti Bhusan Sahu (34) S/o Duryadhan Sahu 3.Ripan Kumar Patra (30) S/o-K. Purna Chandra All are of vill - Turubudi, PS- Jarada District- Ganjam
Represented by	Sri. Jyotiraj Behera, Advocate, Patrapur

FORM- B

Date of Offence	30.10.2022
Date of FIR	30.10.2022
Date of Charge-sheet	30.11.2022
Date of Framing Charge	19.02.2024
Date of commencement of evidence	19.02.2024
Date on which judgment is reserved	21.02.2024
Date of the Judgment	21.02.2024
Date of 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 Section 428, Cr.P.C.
1	Dusmanta Sahu	N/A	19.02.24	U/S- 294/323/341/379/506/34 of IPC	Acquitted U/S- 294/323/341/379/506/34 of IPC	N/A	N/A
2	Bibhuti Bhusan Sahu	N/A	19.02.24	U/S- 294/323/341/379/506/34 of IPC	Acquitted U/S- 294/323/341/379/506/34 of IPC	N/A	N/A
3	Ripan Kumar Patra	N/A	19.02.24	U/S- 294/323/341/379/506/34 of IPC	Acquitted U/S- 294/323/341/379/506/34 of IPC	N/A	N/A

JUDGMENT

1. The above named accused persons stand charged for the commission of offences punishable under Sections 294/323/341/379/506/34 IPC of the Indian Penal Code, 1860 (herein after referred to as IPC in short) for abusing the informant in obscene words, causing hurt to informant, wrongfully restraining the informant, taking away money and a gold chain from the possession of the informant and threatening the informant of dire consequence.

2. The prosecution case in brief is that:

On 30.10.2022 at 8.00 A.M at Turubudi the accused persons abused the informant using obscene words. Then the accused persons assaulted the informant by fist blows. Then the accused persons took away Rs.7,480/- and one gold chain from the informant. Then the accused persons threatened the informant of dire consequences. On the same day the informant lodged FIR at Jarada Police Station for taking legal action against the accused persons.

On the basis of written report of the informant the then IIC of Jarada Police Station registered the matter as P.S. case no. 333, dated 30.10.2022, under Sections 341,294,323,379,506,34 of IPC, 1860 and directed the then Assistant Sub-Inspector Sri Prafulla Chandra Satapathy to take up the investigation of the case. The IO visited the spot, prepared spot map and examined the informant and witnesses. On completion of investigation, he submitted charge-sheet against the present accused persons under Sections 341,294,323,506,34 of IPC, 1860 which has resulted in this trial.

3. The plea of Defense is of complete denial and false implication. In their examination under Section 313 CrPC the accused persons stated that the informant has lodged this false case due to misunderstanding.

4. The points for determination in this case is whether the accused persons on 30.10.2022 in furtherance of their common intention

i) abused the informant in obscene words and thereby committed an offence punishable under section 294 IPC?

ii) assaulted the informant, caused hurt and thereby committed an offence punishable under section 323 IPC?

iii) wrongfully restrained the informant from proceeding in a direction in which he had legal right to proceed and thereby committed an offence punishable under section 341 IPC?

iv) took away money and a gold chain from the possession of the informant without his consent and thereby committed an offence punishable under section 379 IPC?

v) caused criminal intimidation to the informant and thereby committed an offence punishable under section 506 IPC?

5. In order to prove its case, prosecution has examined 3 witnesses and proved several documentary evidence. The remaining prosecution witnesses were declined after a prayer by prosecution and after ensuring that their non examination will not caused prejudice to either side. A detailed list of the witnesses and exhibits is appended at the foot of this judgment.

On the other hand, the defense has examined no witness on its behalf.

6. During the course of argument the Learned Assistant Public Prosecutor submitted that the matter be left at the discretion of Court for interest of justice.

On the other hand, the Learned Defense Counsel argued that none of the eye witnesses have supported the case. That no ingredients of Sections 341,294,323,379,506,34 of IPC are satisfied. It was further submitted that the parties have amicably settled the matter between themselves and hence they do not want to proceed in this case. Lastly the Learned Defense counsel pleaded to acquit the accused persons.

7. In view of the foregoing the court finds it important to analyse the evidence on record in light of the offences the accused persons have been charged with.

The informant **PW1** is the most crucial witness in this case. In his FIR he has implicated the accused persons but he did not support the prosecution case in his evidence. In his examination in chief, he deposed that he cannot recollect anything regarding the occurrence. That he had lodged the FIR due to misunderstanding.

In his cross examination PW1 stated that he does not know the contents or scribe of the FIR. That

he was not examined by the IO in connection to this case. That he does not have any allegation against the accused persons and he does not want to proceed in this case. That he is residing peacefully with the accused persons.

PW2 and **PW3** are alleged eye witnesses of the occurrence. In their examination in chief they deposed that they do not know anything regarding the occurrence.

In their cross examination they stated that they were not examined by the I.O in connection to this case. That they had amicably settled the matter among themselves in their presence. That the informant and accused are in good terms with each other.

8. All the points of determination involve common question for discussion and hence are taken together for consideration. In this case none of the Prosecution witnesses have stated anything substantial to prove the guilt of the accused persons. The eye witnesses did not state anything regarding the occurrence. The informant did not state anything regarding the alleged occurrence. Next, there is no evidence on the specific words used by the accused persons. Next, the informant had admitted in his cross examination that he does not know the contents of the FIR. The contents of the FIR could not be proved. Further the law is well

settled that FIR is not a substantive piece of evidence and it holds no value in absence of any incriminating materials in the evidence on record.

After thorough analysis of evidence on record this court finds no documentary or oral evidence to link the accused persons with the alleged offences under the aforementioned sections of IPC. Hence the Prosecution could not prove the guilt of accused persons beyond reasonable doubt.

9. As a result, this court holds the accused persons not guilty for the commission of offences punishable U/Ss 294/323/341/379/506/34 of IPC. The accused persons are found not guilty and acquitted therefrom under section 248 of The Code of Criminal Procedure. The accused persons are hereby set at liberty forthwith.

The bail bonds shall stand cancelled.

There is no order regarding seizure as nothing has been seized in this case.

This Court is of the opinion that this is not a fit case for awarding compensation to the victim.

10. Enter this case as 'mistake of fact' for statistical purpose.

Sd/-

J.M.F.C, PATRAPUR

The Judgment is typed as per my dictation, corrected and pronounced by me in the open Court under my

hand and seal of this Court, on this the **21st day of**
February, 2024.

Sd/-

J.M.F.C, PATRAPUR

<u>A. Prosecution Witnesses</u>		
<u>Rank</u>	<u>Name</u>	<u>Nature of Evidence</u>
<u>1</u>	Saroj Bihari Pattnaik	INFORMANT
<u>2</u>	Kailash Gouda	OTHER <u>WITNESS</u>
<u>3</u>	Deba Mohanty	OTHER <u>WITNESS</u>
<u>B. Defence Witness, if any:</u>		
<u>Rank</u>	<u>Name</u>	<u>Nature of Evidence</u>
NIL		
<u>C. Court Witnesses, if any</u>		
<u>Rank</u>	<u>Name</u>	<u>Nature of Evidence</u>
NIL		

<u>List of Prosecution/Defence/Court Exhibits</u>		
<u>A. Prosecution Exhibits</u>		
<u>Sl. No.</u>	<u>Exhibit Number</u>	<u>Description</u>
<u>1</u>	Exhibit P-1/PW1	FIR
<u>2</u>	Exhibit P-1 ¹ /PW1	Signature of PW1 on FIR
<u>B. Defence Exhibits, if any</u>		
<u>Sl. No.</u>	<u>Exhibit Number</u>	<u>Description</u>
	NIL	
<u>C. Court Exhibits, if any</u>		
<u>Sl. No.</u>	<u>Exhibit Number</u>	<u>Description</u>
NIL		

<u>D. Material Object:</u>		
<u>Sl. No.</u>	<u>Exhibit Number</u>	<u>Description</u>
<u>NIL</u>		

Sd/-
J.M.F.C., PATRAPUR