

FORM-A

**IN THE COURT OF
JUDICIAL MAGISTRATE FIRST CLASS,
RANPUR**

Present : Sri Gouri Sankar Panda, B.A., LL.M.,
Judicial Officer's Code No.OD-0693,
J.M.F.C, RANPUR

Date of Judgment-
Dated, this the 11th day of October, 2022.

Case No. GR No.12/2020
T.R No. 172/2021

Status of accused persons: on bail

Details of F.I.R./Crime and Police Station

Ranpur P.S Case No.09 dated-08.01.2020
U/S- 392/34 OF INDIAN PENAL CODE.

Complainant	State of Odisha	
REPRESENTED BY	(1) Sri. Girija Sankar Samantaray Assistant Public Prosecutor, Ranpur	
ACCUSED PERSONS	(A1)	Bapi @ Dinabandhu Khatei, aged about 32 years, S/o- Satyanarayan Khatei, At-Suansia sahi PS-Ranpur, District- Nayagarh
	(A2)	Bhalu @ Susanta Kumar Jena aged about 30 years, S/o- Late Khetrabasi Jena, At-Marthapadar PS-Ranpur District-Nayagarh

REPRESENTED BY	Sri P. Praharaj and Associates, Advocates, Ranpur
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FORM-B

Date of Offence					07.01.2020		
Date of FIR					08.01.2020		
Date of Charge sheet					22.01.2021		
Date of Framing of Charges					22.08.2022		
Date of commencement of evidence					01.09.2022		
Date on which judgment is reserved					11.10.2022		
Date of Judgment					11.10.2022		
Date of the Sentencing Order, if any					Not applicable		
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. PC.
A1	Bapi @ Dinabandhu Khatei	10.01.2021	10.01.2021	U/s.392/34 IPC	NA	NA	NA
A2	Bhalu @ Susanta Kumar Jena	09.01.2020	17.02.2020	U/s.392/34 IPC	NA	NA	NA

JUDGMENT

- The accused persons named above stand charged for the offence punishable U/S. 392/34 of the

Indian Penal Code (hereinafter shall be referred as I.P.C for brevity).

2. The prosecution case in nut-shell is that on 07.01.2019 at about 10.00 P.M. the informant was returning to his house after searching his family members at Ranpur Mohastab ground. On the way near Habudasingh narrow street the accused A1 and A2 committed robbery of one purse containing Rs.5,000/- and other documents like Adhar card, Pan card, voter card and one Samsung screen touch mobile phone from the informant.

Being aggrieved by this the complainant lodged an F.I.R. at Ranpur police station. Basing on this report the then I.I.C, Ranpur P.S registered a case U/S. 392/34 of the I.P.C vide P.S. case No. 09, dated 08.01.2020 and directed S.I. Sri P. P. Mohanty to take up the investigation of this case. He took up the investigation and during investigation examined the complainant and other witnesses and recorded their statements U/S. 161 of Cr.P.C., visited the spot, prepared spot map. He had also arrested the accused persons and forwarded to the Court. He had further seized the stolen articles and gave those to the complainant in zima. After completion of the investigation he submitted charge-sheet vide C.S. No.18 , dtd. 22.01.2021, U/S-392/34 of IPC against the accused persons giving rise to this trial.

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

4. The following points emerge for determination of this case:-

Whether on 07.01.2020 at about 10:00 PM at Habuda Singh narrow street the accused persons in furtherance of their common intention;

(i) committed robbery from the informant by snatching his purse containing Rs.5,000/- and other documents like Adhar card, Pan card and one samsung screen touch mobile phone?

5. To prove the case, the prosecution has examined five witnesses on its behalf. Out of them P.W. 5 is the informant-cum-victim. P.W.1 is the independent seizure witness. P.W.2, P.W.3 and P.W.4 are the independent witnesses. The case of the prosecution was closed without the examination of rest witnesses as prosecution declined to examine rest C.S. witnesses. Exhibit P-1 to P-3 are marked for prosecution. On the other hand, the defence has examined none and nothing has been marked on its behalf.

6. I perused the entire evidence led by the prosecution. As per the FIR story P.W.5 is the informant-cum-victim of this case. During trial he deposed that he does not know the accused persons standing in the dock. He further expressed his complete ignorance about the case matter. Thereafter he proved

the FIR as Exhibit P-2 and his signature thereon as Exhibit P-2¹. He also proved his signature on injury report as Exhibit P-3. During his cross examination he deposed that he does know the contents of the F.I.R. and that he was not examined by the police. He could not tell how he had sustained injury. P.W.1 the seizure witness deposed that nothing had been seized in his presence but proved his signature on the seizure list as Exhibit P-1. During cross examination he stated that he had signed on a blank paper and he was not examined by police. The rest independent witnesses did not support the prosecution case and no incriminating materials came out against the accused persons from his testimony. Only this much of evidence is available in the case record.

7. While appreciating the entire evidence available in the record, it is found that the witnesses have not uttered a single word regarding the exact occurrence and overt act of the accused persons in the alleged crime. The informant-cum-victim also could not tell anything incriminating the accused persons. Though F.I.R has been marked on behalf of the prosecution vide Exhibit P-1, but P.W. 5, who is the informant-cum-victim of this case has not supported the facts mentioned therein. It is well settled law that the F.I.R is not a substantive piece of evidence and it is simply being used for the purpose of corroboration or

contradiction of the maker thereof. As in the present case the contents of the F.I.R have not been proved, the same does not endure any benefit to the prosecution.

8. From all the above mentioned discussions, this court has come to a conclusion that the allegation of the prosecution projected towards accused persons is not sustainable. There is no incriminating material against the accused persons which would implicate them with the commission of the alleged offence. Thus in absence of cogent and convincing evidence, I hold, the prosecution has failed to prove the charge against the present accused persons beyond all reasonable doubts. As such, the accused persons are entitled to a clean acquittal.

9. In the result, I hold the accused persons named above not guilty of commission of the offence U/S. 392/34 IPC and they are acquitted there from as per the provision of Sec. 248(1) of the Cr.P.C. Accused persons be set at liberty forthwith and be discharged from their bail bonds along with sureties.

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

The seized cash, if any, be given to the actual claimant after making necessary verification four months after the expiry of period of limitation of appeal if no appeal is preferred and in the event of an appeal the same be dealt as per the order of the

appellate court. Send the extract of this disposal order to the IIC, Ranpur P.S. for information and necessary action.

Sd/-

**Judicial Magistrate First Class,
Ranpur**

This judgment is typed and corrected by me and pronounced in the open court today this the 11th day of October, 2022 under my hand and seal of this court.

Sd/-

**Judicial Magistrate First Class,
Ranpur**

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 AND OTHER WITNESS)
P.W. 1	Dillip Biswal	Seizure Witness
P.W. 2	Pravat Kumar Sahu	Independent Witness
P.W.3	Sukanta Jena	Independent Witness
P.W.4	Basanta Jena	Independent Witness
P.w.5	Suresh Barik	Informant
B. Defence Witnesses, if any:		

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS AND OTHER WITNESS)
Nil	Nil	Nil
C. Court Witnesses, if any:		
RANK	NAME	NATURE OF EVIDENCE (Eye witness, police witness, expert witness, medical witness, Panch witness and other witness)
Nil	Nil	Nil
LIST OF PROSECUTION / DEFENCE/ COURT EXHIBITS		
A. Prosecution Exhibits		
Sl. No.	Exhibit Number	Description
1.	Ext. P-1	Signature of P.W.1 on Seizure list
2.	Ext. P-2	F.I.R.
3.	Ext. P-2 ¹	Signature of P.W.5 on Ext. P-2
4.	Ext. P-3	Signature of P.W.5 on injury report
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
Nil	Nil	Nil

Sd/-

**Judicial Magistrate First Class,
Ranpur**