

Form No (M) 34

FORM A

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, DARJEELING Present : Shri Amar Chandra Das Chief Judicial Magistrate, Darjeeling Date of the Judgment : 11th March, 2026 G.R. Case No. 88 of 2025 Reg. No. 147 of 2025 T.R. No. 90 of 2025 CNR: WBDJ020021212025 Sadar PS Case No. 42 of 2025 dated 16.04.2025 u/s 78(2)/79 of BNS	
Complainant	STATE OF WEST BENGAL
REPRESENTED BY	NAME OF THE ADVOCATE/APP: SHRI PANKAJ PRASAD
ACCUSED	NAME WITH ALL PARTICULARS (A1): 1. N. Vasudeva, s/o Lt. Narsimhapa, R/o 170 NNT Road, Near Sadappa House, Mehaboob Nagar, PO & PS Chintamani, Dist. Chikkaballapur, Karnataka
REPRESENTED BY	NAME OF THE ADVOCATES: Sri. Rishab Agarwal Sri. Adesh Pradhan

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FORM B

Date of Offence	16.04.2025
Date of FIR	16.04.2025
Date of Charge-sheet	29.04.2025
Date of Framing of Charges/ Plea	27.08.2025
Date of commencement of Evidence	10.03.2026
Date on which Judgment is reserved	11.03.2026
Date of the Judgment	11.03.2026
Date of the Sentencing Order, if any	NA

Accused details :

Rank of the Accused	Name of Accused	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, Cr.P. C.
1.	N. Vasudeva	17.04.2025	17.04.2025	u/s 78(2)/79 BNS	Acquitte d	NA	NA

J U D G E M E N T

On the basis of the written complaint lodged by one Pragati Bhattarai the then I/C Sadar P.S. Darjeeling started the instant case vide no. 42 of 2025 dated 16.04.2025 u/s 78(2)/79 BNS against the accused person namely N. Vasudeva. After completion of investigation, a charge-sheet was submitted by the I.O against the FIR accused person u/s 78(2)/79 BNS. Accordingly, after taking cognizance against the charge-sheeted accused person, the instant case was transferred to the personal file for disposal on 19.07.2025.

CASE HISTORY

The factual matrix of the prosecution case in brief is that on 16.04.2025 at about 18.00 hrs when the defacto complainant was passing from the clubside area the accused person was making her video without her consent in his mobile with wrong intention. Hence this case.

CHARGE AND TRIAL

The charge-sheeted accused person namely N.Vasudeva was examined u/s 263 of BNSS and the contents of the allegations u/s 78(2)/79 BNS was read over and explained to him and he pleaded not guilty by saying “kasur chaina” and claimed for trial. Accordingly, the prosecution was directed to produce the witnesses in order to prove the allegations.

During the course of proceedings, the prosecution could examine one witness out of total five charge-sheeted witnesses and cross-examined in full :-

PW1Pragati Bhattarai (Defacto complainant)

The prosecution adduced document in support of the prosecution case as:

Ex.P-1/PW1 FIR

Not a single document has been produced on behalf of the defence.

At the conclusion of the trial, the accused person was examined u/s 351 of BNSS and his detailed answers are recorded in separate sheets and kept in the record. As the accused person declined to adduce any defence witness on his behalf, the matter was heard in argument from both sides at length.

POINTS FOR DETERMINATION

1. Whether the prosecution been able to prove the charge u/s 78(2)/79 BNS against the accused person?
2. Whether the prosecution been able to prove the guilt of the accused person beyond a reasonable doubt?

EVALUATION OF THE PROSECUTION EVIDENCES

The prosecution has been able to produce examine one witness, the de-facto complainant out of five charge-sheeted witnesses. The Ld. APP representing the prosecution case, claimed that the prosecution witness have been able to prove the case beyond the shadow of reasonable doubt and prays for conviction of the accused person facing trial.

On the other hand the Ld. Advocate for the defence side claims that the prosecution has failed to prove his case beyond the shadow of reasonable doubt and pleads for acquittal of the accused person from this case.

Both the points are taken up together for their effective determination as they are connected with each other and will assist in arriving at the just determination of this case.

Let us discuss to find out how far the prosecution has been able to prove his case against the accused person. The prosecution has been able to examine the complainant in this case in order to prove the alleged offences charged against the accused person.

Heard argument from both sides.

Now let us discuss how far the prosecution has been able to prove the case.

PW1 Pragati Bhattarai stated that the incident took place about one year ago at Clubside at around 4.30 p.m. While she was passing through Clubside road to Glenary's the local drivers told her that someone was capturing her video. Then those drivers caught hold of the accused and snatched the phone. At that time the Municipal Chairman was passing through, he was told about the incident then he checked the video on the mobile. She was seen from backside in the said video. Thereafter Chairman called the police and took them to the PS. She proved the FIR which has been marked as **Ext. P-1/PW1**. She has further stated that it is not possible to recall the face of the accused.

In her cross examination she admitted that although she had seen the video but she do not know the duration of the same. She also stated that the PO is a crowded place and she was just walking.

Therefore on scanning the materials placed before this Court in the form of oral and documentary evidence, this Court finds that the most important ingredient to prove the guilt of the accused is his identification during the course of the trial by the alleged victim and witnesses to confirm the accused is involved in the commission of alleged incident. Ironically the case lying in hand depicts that the sole victim of this case failed to identify the alleged accused inspite of standing in the accused dock in the open court where she admitted that she along with the drivers and the accused were all taken to the police station where she lodged FIR which implies that

they remained in the company of each other for considerable period of time. Further she also admitted that she had been seen in the video only from the backside along with the other persons. Generally the tourist come to Darjeeling and take the pictures as well as make videos to capture natural beauty of Darjeeling. Admittedly the accused being a tourist belongs to Karnataka and he was capturing the video. There is no inappropriate way to record the video of the alleged victim by the accused surfaced on the record as it is seen from the same. This court does not find any mala fide intention of the alleged victim of intentionally recording the video of only that lady i.e the victim. Nothing has been brought on record in concrete form by the prosecution indicating the accused for involvement of the alleged offence to prove the guilt beyond all reasonable doubt.

This case clearly lacks of sufficient evidence to prove the guilt of the accused person beyond reasonable doubt for his conviction.

In view of the aforesaid evidence I hold that the prosecution has been unable to make out any case against the accused person. As a result the aforesaid points are decided against the prosecution.

Hence, it is,

ORDERED

that the accused person, namely N. Vasudeva is acquitted, under section 271(1) of the BNSS from the charge u/s 78(2)/79 of BNS.

Seized alat if any be returned to its actual owner after the appellate period is over.

The bail bond which was filed on behalf of the accused person stands extended for a period of six months from today.

Such bail bond shall be governed by the provisions of section 481 BNSS.

Be it mentioned that in this case the defacto complainant, being the PW1 has a right to prefer an appeal under the proviso to section 413 BNSS and, if necessary, to avail free legal assistance through the Legal Services Authorities concerned to prefer and prosecute such appeal.

Copies of this Judgment be forwarded to the District Magistrate, Darjeeling, and the Learned Secretary, D.L.S.A., Darjeeling, for due intimation to the victim about such right.

Note in relevant register and CIS.

Dictated and corrected by me:

(Amar Chandra Das)
Chief Judicial Magistrate,
Darjeeling.

(Amar Chandra Das)
Chief Judicial Magistrate,
Darjeeling.
UID No.WB01231

APPENDIX

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Form C

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES**A. Prosecution**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Pragati Bhattarai	Defacto complainant

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES**B. Defence Witnesses, if any :**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1		
DW2		

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW1		
CW2		

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS**A. Prosecution :**

Sr. No.		Description
1	Exhibit-P-1/PW1	FIR

B. Defence :

Sr. No.		Description
1	Exhibit D-1/DW1	
2	Exhibit D-2/DW2	

C. Court Exhibits :

Sr. No.		Description
1	Exhibit C-1/CW1	
2	Exhibit C-2/CW2	

D. Material Objects :

Sr. No.	Material Object Number	Description
1	MO 1	

(AMAR CHANDRA DAS)
Chief Judicial Magistrate,
Darjeeling
JO Code WB01231