

IN THE COURT OF THE SUB-DIVISIONAL JUDICIAL MAGISTRATE, TALCHER Present:Shri Susanta Kumar Nayak, B.Sc., LL.B., S.D.J.M., TALCHER. J.O CODE- OD-00686 Date of Judgment-05.05.2025 <u>G.R. Case No. 643/2019</u> <u>Trial No.257/2025</u> Kaniha P.S. Case No.102 dtd.09.06.2019	
COMPLAINANT	State of Odisha
REPRESENTED BY	Ld. A.P.P., TALCHER
ACCUSED PERSONS	A1-Pinky Sahoo, aged about 27 years, W/o- Girish Chandra Sahoo, A2-Girish Chandra Sahoo, aged about 43 years, S/o- Late Duryodhan Sahoo, Both are of Village-Deranga P.S-Kaniha, Dist-Angul.
REPRESENTED BY	Advocate S. Ray and Associates

FORM-B

Date of Offence	08.06.2019
Date of FIR	09.06.2019
Date of Charge Sheet	22.07.2019
Date of particulars of offences stated to the accused person	16.12.2024
Date of Commencement of evidence	07.01.2025
Date on which judgment is reserved	03.05.2025
Date of the judgment	05.05.2025
Date of the Sentencing order, if any	N.A

Accused Details							
Rank of the	Name of the	Date of	Date of Release	Offences charged	Whether Acquitted	Sentence	Period of

accused	accused persons	Arrest	on Bail	with	or convicted	Imposed	Detention on under one During Trial for purpose of S. 428 CrPC
A1	Pinky Sahoo	Not arrested notice was served by the I.O U/s-41(A) of Cr.P.C to the accused persons and appeared on 16.12.2024 before the court.	16.12.2024	U/s-294/336/427/506/34 of IPC	Acquitted	N/A	N/A

A2	Girish Chandra Sahoo	Not arrested notice was served by the I.O U/s- 41(A) of Cr.P.C to the accused persons and appeared on 16.12.2024 before the court.	16.12.2024	U/s- 294/336/ 427/506/ 34 of IPC	Acquitted	N/A	N/A
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J U D G M E N T

1. The above named accused persons stand prosecuted for the commission of offences punishable U/s-294/336/427/506/34 of IPC.

2. The story of the prosecution case in brief is that:-

On 09.06.2019 the informant namely Ashanti Sahoo, aged about 32 years, W/o-Bibhuti Bhusana Sahoo, Village-Deranga, P.S-Kaniha, Dist-Angul appeared at P.S and lodged a written report before the IIC Kaniha PS alleging therein that on 08.06.2019 at

about 11 A.M while her husband was absent in her house, at that time her sister-in-law namely Pinky Sahoo, W/o-Girish Sahoo, Village-Deranga abused her in obscene languages by saying “Randha Bedha Bajari Bhai Ghaita Karuchu”, when she protested the same, Pinky called her husband over telephone and subsequently her husband came there and they jointly abused her and chased her by holding one stick. Husband of Pinky also threatened her to kill her life. They both threatened her with dire consequences and pelting stones on her window, as a result of which her window was damaged and one stone was also hit on her head.

After received the F.I.R, the I.I.C of Kaniha P.S the registered the same as Kaniha P.S. Case No.102 dtd.09.06.2019, U/s-294/336/427/506/34 of IPC and directed ASI P.K Singh to take up the investigation of the case. During course of investigation he visited the spot, examined the complainant and other witnesses, recorded their statement U/s-161 of Cr.P.C, then he served notice U/s-41(A) of Cr.P.C to the accused persons namely (1) Pinky Sahoo, W/o- Girish Chandra Sahoo, (2) Girish Chandra Sahoo, S/o- Late Duryodhan Sahoo, Both are of Village-Deranga, P.S-Kaniha, Dist-Angul. After completion of the investigation he submitted charge sheet vide C.S No.131 dtd.22.07.2019, U/s-294/336/427/506/34 of IPC against the above named accused persons.

Subsequently, cognizance was taken on the aforesaid offences against the above named accused persons and they faced their trial there under. Hence, this case.

3. The plea of defence is complete denial and that of false implication.

4. The points for determination in the instant case are as follows:-

i.) Whether on 08.06.2019 at about 11 A.M at Village-Deranga in the house of the informant, the above named accused persons, in furtherance of their common intention uttered obscene words in or near a public place causing annoyance to the informant & others?

ii.) Whether on the above mentioned date, time and place, the above named accused persons, in furtherance of their common intention committed an act so rashly or negligently as to endanger human life or personal safety of others?

iii.) Whether on the above mentioned date, time and place, the above named accused persons, in furtherance of their common intention committed mischief and thereby caused loss or damage to the amount of fifty rupees or upwards?

iv.) Whether on the above mentioned date, time and place, the above named accused persons, in furtherance of their common intention, committed criminal intimidation by threatening the informant for dire consequences with intent to cause alarm to her?

5. In order to substantiate its case the prosecution have examined as many as two (02) nos. of witnesses out of whom P.W-1 is the informant/victim, P.W-2 is the husband of the informant and declined to examine rest of the C.S witness and exhibited some document on its behalf marked as Ext.P-1/P.W-1 to Ext.P-1¹/P.W-1. On the other hand the defence have neither examined any witnesses nor exhibited any documents on its behalf to disprove the allegation levelled against the accused persons.

6. Coming to the evidence of P.W-1 who is the informant/victim of this case, she deposed in her evidence that due to misunderstanding she had lodged FIR against the accused person and now the matter has been amicably settled outside the court in presence of the village gentries. At present they both the parties are pulling well and she does not want to proceed with this case. She proved the FIR marked as **Ext.P-1/P.W-1** and her signature thereon marked as **Ext.P-1¹/P.W-1**. During the cross examination she admitted that due to amicable settlement at present they both the parties are

pulling well and she does not want to proceed with this case. She admitted that she cannot say the contents of the FIR.

Coming to the evidence of P.W-2, who is the husband of the informant, he deposed in his evidence that due to misunderstanding his wife had lodged FIR against the accused persons and now the matter has been amicably settled outside the court in presence of the village gentries. At present they both the parties are pulling well and they do not want to proceed with this case. During the cross examination he admitted that at present they both the parties are pulling well and they do not want to proceed with this case. He admitted that he cannot say the contents of the FIR. He has not been examined by the police in this case.

7. In the instant case, the most vital witness of the prosecution i.e. P.W-1 who is the informant/victim and P.W-2 who is the husband of the informant have admitted that the dispute has been amicably settled outside the court in presence of the village gentries and they do not want to proceed with this case. They have not whispered a single word against the accused person of this case. Though the informant has proved the F.I.R but the same will not help the prosecution in any manner to prove the guilt of the accused persons, because the law is well settled that F.I.R is not a substantive piece of evidence and it can be used only for the purpose of corroboration and contradiction to

the maker. The informant has admitted that due to misunderstanding she had lodged F.I.R against the accused persons. There is absolutely no incriminating material available against the accused persons in order to found them guilty for the commission of the alleged offences. That apart if both the parties have amicably settled their matter and the evidence to that effect is in the record, the court should not be a stumbling block. Since the informant/victim is not desirous of prosecuting the accused persons, no adverse inference can be drawn against the accused persons in the light of decision of the Hon'ble Apex Court of India in ***"Madan Mohan Abdot Vrs. State of Punjab"*** reported in (2008) VOL-40 OCR (SC)-699, wherein the Hon'ble Court has observed vide para-5 inter alia that:-

"We need to emphasize that it is perhaps advisable that in dispute where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilised in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground realities and bereft of the technicalities of the law".

As the peace and amity has been restored between the parties and there is absolutely no incriminating material available against the accused persons, they deserve acquittal.

8. Therefore, considering all the above mentioned facts & circumstances of the case, evidence adduced by

the prosecution witnesses, it can be irresistibly concluded that the prosecution has miserably failed to prove its case against the accused persons beyond all reasonable doubt. Hence, the accused persons are held not guilty of the offences punishable U/s- 294/336/427/506/34 of IPC and they are hereby acquitted U/s.255 (1) of the Cr.P.C. The accused persons be set at liberty forthwith and their bail bonds be cancelled and the surety be discharged.

Enter the case as mistake of fact.

As nothing has been seized in this case, there is no order as to disposal of property.

Sd/-

S.D.J.M., TALCHER.

This judgment is transcribed to my dictation, corrected by me and pronounced in the open Court under my signature and seal of this Court on the 5th day of May, 2025.

Sd/-

S.D.J.M., TALCHER.

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 WITNESS)
P.W-1	Ashanti Sahoo	Informant/Victim
P.W-2	Bibhuti Sahoo	Independent witness
a. Defence Witnesses, if any:		
RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
	NIL	NIL
B. Court Witnesses, if any:		
RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
	NIL	NIL
LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS		
A. Prosecution Exhibits		
S.L NO	EXHIBIT NUMBER	Description
1	Ext.P-1/PW-1	FIR
2	Ext.P-1 ¹ /PW-1	Signature of P.W-1 on the FIR
B. Defence exhibits if any		
S.L NO	EXHIBIT NUMBER	Description
	Nil	Nil
C. Court exhibits if any		
S.L NO	EXHIBIT NUMBER	Description
	NIL	NIL
D. Material objects:		

SL. NO	MATERIAL OBJECT NUMBER	Description
	NIL	NIL

Sd/-

S.D.J.M., TALCHER.