

(I) FORM-A	
IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE, BONAI	
Present :	
Sri Ashutosh Dash, L.L.M, Addl. Sessions Judge, Bonai.	
<u>J.O. Code No. OD - 0251.</u> Dated the 6th June, 2026.	
<u>S.T. Case NO. 27 OF 2025</u> (e-registration no.27/2025)	
<i>(Arising out of Bonai P.S. Case No.107 dated 03.06.2023, U/s. 341/294/307/506/34 of IPC read with Sec. 4 (1) Odisha Prevention of Witch-Hunting Act, 2013 corresponds to G.R. No. 426 of 2023 of the file of S.D.J.M., Bonai, committed to this Court on 10.04.2025)</i>	
(ACCUSED IS ON BAIL)	
Complainant	State of Odisha
Represented by	Sri B.K.Sen, Addl. P.P., Bonai
Accused	1. Khageswar Sahu, aged about -41 years, Son of – Kartika Sahu, of Village- Gopinathpur, P.S. - Bonai, District–Sundargarh, by occupation- Cultivator.
Represented by	Sri. M.R. Pati, Advocate, Bonai.

(II) FORM –B

Date of Offence	03.06.2023
Date of FIR	03.06.2023
Date of Charge sheet	31.07.2023
Date of Framing of Charges	13.11.2025
Date of commencement of evidence	11.12.2025
Date on which judgment is reserved	05.06.2026
Date of the Judgment	06.06.2026
Date of the 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	Khageswar Sahu	04.06.2023	20.07.2023	U/s. 341/294/307/506/34 of IPC read with Sec. 4 (1) of OPWH Act, 2013	Acquitted	-	-

JUDGMENT

The above named accused stood charged under sections 341/294/307/506/34 of the Indian Penal Code (hereinafter referred to as ‘the I.P.C.’ in short), read with Sec. 4 (1) Odisha Prevention of Witch-Hunting Act, 2013.

2. The averments made in the F.I.R. are that the informant, Mishri Pradhan appeared before the I.I.C., Bonai P.S. on 03.06.2023 and lodged a written report to the effect that on the same day, at about 7.00 A.M., while she had been to Anganwadi Center with her grandson, on the way, the accused, Khageswar Sahu followed her by holding an axe and told her that, she had applied witchcraft over his niece, brother and wife and he

assaulted her by means of an axe with intent to kill in life and immediately, she ran away and entered inside the Anganwadi Center and locked the door and saved her life.

Basing on such report, the Inspector, Ranjan Kumar Nayak of Bonai P.S. registered P.S. Case No.107 dt. 03.06.2023, under sections 341/294/307/506/34 of IPC, read with Sec. 4 (1) Odisha Prevention of Witch-Hunting Act, 2013 against the accused and directed to S.I., P.K. Purohit to take up the investigation of the case.

During investigation, the I.O., Sri. Purohit examined the informant and scribe of the FIR and recorded their statements U/s. 161 of Cr.P.C., visited the spot and prepared the spot map in presence of witnesses, apprehended the accused, examined him and on examination, he confessed his guilt, seized weapon of offence i.e. one axe in presence of witnesses and as prima-facie evidence was well established against the accused, Khageswar Sahu, the I.O. arrested him, verified the character antecedent of the accused, forwarded the accused to the Court of S.D.J.M., Bonai, examined other witnesses and recorded their statements.

On 07.06.2023, the I.O. handed over the charge of the investigation to the IIC of Bonai P.S., as he has been transferred from Bonai P.S. to Sec-7 P.S., Rourkela as per order vide DO No. 1282 dtd. 02.06.2023 along with connected papers and on 09.06.2023, Sri. S. Panda, S.I. of

Bonai P.S. received charge of the investigation from the IIC of Bonai P.S., Sri R.K. Nayak.

Subsequently, he re-examined the complainant and other witnesses and after completion of investigation, the I.O. submitted C.S. No. 141 dtd. 31.07.2023, U/s. 341/ 294/ 307/ 506 of the IPC, read with Sec. 4 (1) Odisha Prevention of Witch-Hunting Act, 2013 against the accused, Khageswar Sahu to face his trial in the Court of Law. After commitment of the case by the learned S.D.J.M., Bonai, charge under sections 341/ 294/ 307/ 506 of the IPC, read with Sec. 4 (1) Odisha Prevention of Witch-Hunting Act, 2013 was framed against the accused to which, he pleaded not guilty and claimed to be tried.

3. The plea of the defence is complete denial and of false implication.
4. The points for determination in this case are:-
 - (i) Whether on 03.06.2023, at about 7.30 A.M., at village-Ghosara (Gopinathpur), under Bonai P.S. the accused wrongfully restrained the informant, Mishri Pradhan?
 - (ii) Whether on the aforementioned date, time and place, the accused uttered obscene languages to the informant, Mishri Pradhan at the spot, which is a public place, causing annoyance to her and others?
 - (iii) Whether on the aforementioned date, time and place, the accused attempted to commit murder of the informant, Mishri Pradhan by means of an axe,

with such intention or knowledge and under such circumstances that if by that act, the accused had caused the death of the informant, he would have been guilty of murder?

- (iv) Whether on the aforementioned date, time and place, the accused committed criminal intimidation by threatening the informant, Mishri Pradhan, to do away with his life, with intention to cause alarm to her?
- (v) Whether on the aforementioned date, time and place, the accused was practicing black magic?

5. To prove the charge against the accused, the prosecution has examined altogether 14 numbers of witnesses and out of whom P.W.10, Mishri Pradhan is the informant, P.W.11 Suneli Pradhan is the scribe of the FIR, P.W.1 Kartika Sahu is the father of the accused, P.W.9 Aditya Pradhan is the witness to the seizure of weapon of offence i.e. axe and rest witnesses are the independent witnesses of this case.

Furthermore, two numbers of documents have been marked as exhibits from the side of the prosecution.

On the other hand, the accused has examined himself as D.W.1 in his defence. It is also made clear that no Material Object has been produced in this case from either side.

6. P.W. 10, who is the informant of this case, has stated that three years back, on a day, at about 7.30 to 8.00 A.M., near the Anganwadi Center of her village, the occurrence took place and she had taken her grandson to the said Anganwadi Center and at that time, the accused came to her and told that “mo jhiariki pangi deichhu, tate hanidebi” and thereafter, the accused being armed with an axe chased her to kill and out of fear, she rushed to the house of Sesadeb Pradhan which is situated near the said Anganwadi Center and then, Sesadeb Pradhan left her in her house by his vehicle and then, she went to the P.S. and lodged the FIR and Ext.P-2/P.W.10 is the said FIR and Ext. P-2¹/P.W.10 is her signature thereon.

In her cross-examination, she had stated that she has no allegation against the accused and she does not want to proceed further in this case and the matter has been amicably settled between them and she has further deposed that she could not say the names of the persons, who were present at the spot during the occurrence and she also could not say the date and day of the occurrence.

P.W. 11, who is the scribe of the FIR, has stated that due to certain misunderstanding and being misguided by his co-villagers, his mother had gone to the P.S. and lodged the FIR, which was scribed by him and Ext. P-2/P.W.10 is the said FIR and Ext.P-2²/P.W.11 is his signature and endorsement thereon.

In his cross-examination, he had stated that he has got no allegation against the accused and he does not want to proceed with this case. He has further deposed that the matter has been amicable settled between them and he had not scribed the FIR as per direction and dictation of his mother and she had not narrated the incident before him.

P.W.9 is the witness to the seizure of this case, has stated that the I.O. of this case seized the weapon of offence i.e. one axe and prepared the seizure list and Ext.P-1/P.W.9 is the said seizure list and Ext.P-1¹/P.W.9 is his signature on it.

During his cross-examination by the defence, he could not say the description and size of the said weapon of offence and stated that he had signed on the seizure list as per instruction of the I.O. in the P.S.

The rest witnesses are independent witnesses have expressed their ignorance about the case and prosecution has also not declared them hostile.

7. It is the settled principle of law that FIR itself is not suffice to prove the guilt of the accused beyond all reasonable doubts, rather, it is incumbent for prosecution to prove its own case, standing on his own footing/pleas/evidence (except in the cases where burden of proof U/s.106 of Indian Evidence Act is shifted on defence).

8. So far as offences punishable U/s. 341/307 of IPC concerned, prosecution has to prove that the accused had wrongfully restrained the informant in her village road and attempted to kill the informant by means of an axe with such intention and knowledge and under such circumstance that, if by such assault he would have cause death of the informant, he could have been guilty of murder.

Here, in this case, now we have to see what the evidence adduced by prosecution to prove the case. When the scribe of the FIR was examined, he told that due to certain misunderstanding and being misguided by his co-villagers, his mother had gone to the P.S. and lodged the FIR, which was scribed by him. It is the settled principle as per Sec. 6 of Evidence Act that facts though not in issue, become relevant, if they are so closely connected with the relevant facts in issue so as to form, part of the same transaction and it is needless to say that when the scribe had scribed the FIR at the instance of the informant after 24 hours of the incident especially where the scribe was not present at the spot, his evidence cannot fall within the ambit of *res-gestae*.

Here, the entire burden of proof rests on the shoulder of the informant, who is the eye-witness to the entire transaction. It is also the settled principle of law that even basing on the testimony of informant,

conviction can lie but here in this case, though the informant in her examination in chief has stated that the accused attempted to kill her by means of an axe, but in her cross-examination, she has stated that she has no allegation against the accused and she does not want to proceed further in this case and the matter has been amicably settled between them. In **Ved Prakash Kharwanda v. Vimal Bindal, 198(2013) DLT 555**, it was held that *truth should be the guiding star in entire judicial process. Truth is the foundation of justice. Dispensation of justice, based on truth is an essential feature of justice delivery system.* Hon'ble Justice Krishna Iyer, in **Jasraj Inder Singh v. Hemraj Multanchand (1977)2 SCC 155** described that *truth, like song, is whole and half truth can be noise. Justice is truth, is beauty and strategy of healing injustice is discovery of the whole truth and harmonizing human relations. law's finest hour is meditating on abstractions but in being the delivery agent of full fairness.* Informant, being the eye-witness and being the star witness is presumed to speak the truth and the entire truth and shall not spare the real culprit. Here, in this case, the informant has stated nothing incriminating to prove the wrongful restraint, assault or murderous assault by the accused. As such, from the evidence of the above witnesses, it is crystal clear that prosecution has failed to prove its case

U/s. 341/307 of IPC.

9. So far as allegation U/s. 294 of IPC is concerned, it was the bounden duty of prosecution to prove that at the alleged date, time and place, the accused abused the informant in a public place, in vile language causing annoyance to her and others present there. In the present case in hand, the informant has whispered nothing regarding utterance of any such foul words spoken by the accused. Narration of few lines in the FIR without corroborating evidence on record does not prove the guilt of the accused as needed to punish. Here, this Court puts reliance on the authority reported in **2022 (2) crimes 304 (Orissa)**, wherein it was held that Court has to accept all those evidence which are cogent, consistent, clear and believable. Court need not dissect the evidence into bit and part.

10. As So far as the charges U/s. 506 of IPC and Sec. 4 (1) Odisha Prevention of Witch-Hunting Act, 2013 are concerned, it was also the duty of prosecution to prove that the accused had threatened the informant with dire consequences with intent to cause alarm to her and the accused was practicing black magic, but except in FIR, no where any incriminating material is found on the record to hold the accused guilty under the said charges. It is well settled principle of law that FIR is not the substantive piece of evidence and hence,

this is the humble view of the Court that prosecution has again failed to prove its case U/s. 506 of IPC and Sec. 4 (1) Odisha Prevention of Witch-Hunting Act, 2013 against the accused beyond all reasonable doubt.

11. In view of the foregoing discussions and analysis, this Court is of the unhesitant view that the prosecution has miserably failed to prove by evidence that it is the accused, Khageswar Sahu and none else, who is the perpetrator of the crime and as such, the accused is entitled to the benefit of doubt.

12. In the result, therefore, the accused Khageswar Sahu held not guilty of the offences punishable under sections 341/294/307/506/34 of IPC, read with Sec. 4 (1) Odisha Prevention of Witch-Hunting Act, 2013 and accordingly, he is acquitted therefrom as per the provision U/s. 235(1) of Cr.P.C. He be set at liberty forthwith and his bail bonds shall remain in force for six months hence, as per provision U/s. 437-A of the Cr.P.C.

13. The seized articles, if any, be destroyed after four months expiry of the appeal period in case of no appeal and in case of any appeal, as per the orders of the Hon'ble Appellate Court.

Enter the case as mistake of fact.

Sd/-
Addl. Sessions Judge, Bonai.

The judgment is dictated by me to the Steno, transcribed by him and corrected by me and pronounced in the open Court on this the **6th day of June, 2026** under my hand and seal of this Court.

Sd/-
Addl. Sessions Judge, Bonai

FORM-C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES		
<u>A. Prosecution Witnesses</u>		
Rank	Name	<u>Nature of Evidence</u> (Eye witness, Police witness, Expert witness, Medical witness, Panch witness, Other witnesses)
P.W.1	Kartika Sahu	Father of the accused
P.W.2	Hiradhar Pradhan	Other witness (independent)
P.W.3	Kedharnath Sahu	Other witness (independent)
P.W.4	Megha Naik	Other witness (independent)
P.W.5	Sesha @ Seshadev Pradhan	Other witness (independent)
P.W.6	Prasanna Kishan	Other witness (independent)
P.W.7	Jayadeb Behera	Other witness (independent)
P.W.8	Debendra Sahu	Other witness (independent)
P.W.9	Aditya Pradhan	Seizure witness
P.W.10	Mishri Pradhan	Informant
P.W.11	Suneli Pradhan	Scribe of the FIR
P.W.12	Ranjita Kishan	Other witness (independent)
P.W.13	Dharani Patra	Other witness (independent)
P.W.14	Bhairab Charan Pradhan	Other witness (independent)
<u>B. Defence Witnesses, if any</u>		
Rank	Name	<u>Nature of Evidence</u> (Eye witness, Police witness, Expert witness, Medical

		witness, Panch witness, Other witnesses)
D.W.1	Khageswar Sahu	Accused
C. Court witnesses, if any.		
Rank	Name	<u>Nature of Evidence</u> (Eye witness, Police witness, Expert witness, Medical witness, Panch witness, Other witnesses)
NIL		
LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS		
A. Prosecution Exhibits		
Sl. No.	Exhibit Number	<u>Description</u>
1	Ext.P-1/P.W.9	Seizure list (seizure of weapon of offence i.e. an axe)
2	Ext. P-1 ¹ /P.W.9	Signature of P.W.9 on Ext.P-1
3	Ext.P-2/P.W.10	FIR
4	Ext. P-2 ¹ /P.W.10	Signature of P.W.10 on Ext. P-2
5	Ext. P-2 ² /P.W.11	Signature of P.W.11 on Ext. P-2
Sl. No.	Exhibit Number	<u>Description</u>
	NIL	
B. Court Exhibits, if any		
Sl. No.	Exhibit Number	<u>Description</u>
	NIL	
C. Material Objects		
Sl. No.	Material Object Number	<u>Description</u>
	NIL	

Sd/-
Addl. Sessions Judge, Bonai.