

FORM-A

IN THE COURT OF THE SUB-DIVISIONAL JUDICIAL MAGISTRATE, ATHMALLIK, DISTRICT- ANGUL Present: Smt. Sinkun Ray, LL.M. JO Code No.-OD-0725, S.D.J.M, Athmallik. <u>Dated the 29th day of August, 2024</u> <u>G.R. Case No. 1087/2022</u> <u>T.R. No. 230/2022</u> (Arising Out of Athmallik PS Case No.258 dated. 30.10.2022) U/s. 294/506/34 of Indian Penal Code	
Complainant	State of Odisha
Represented by	Shri Raman Raj, APP Shri B.K. Danta, APP Shri R.K. Behera, APP
Accused person(s)	(1) Narottam Sahu, aged about 35years, S/O- Gurubaria Sahu, R/o- Jadupur Jungle, PS-Athmallik, Dist-Angul (2) Kuni Biswal, aged about 45 years, S/O- Nrusingha Biswal, R/o- Jadupur Jungle , PS-Athmallik, Dist- Angul

Represented by	Sri P.K. Pradhan & Associates Advocates, Athmallik, Dist.-Angul
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FORM-B

Date of offence	26.10.2022
Date of FIR	30.10.2022
Date of Charge Sheet	31.10.2022
Date of Framing of Charges	16.02.2023
Date of commencement of evidence	06.10.2023
Date on which Judgment is reserved	29.08.2024
Date of the Judgment	29.08.2024
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.
01	Narottam Sahu	Notice U/s.41(A) Cr.P.C. was	16.06.2023	U/s.294/506/34 of IPC	Acquitted	NA	NA

		issued on dtd. 10.11.2022					
02	Kuni Biswal	Notice U/s.41(A) Cr.P.C. was issued on dtd. 10.11.2022	16.06.2023	U/s.294/ 506/34 of IPC	Acquitted	NA	NA

JUDGEMENT

1. The above named accused persons stand charged for commission of offences punishable U/s. 294/506/34 of the Indian Penal Code in short I.P.C for abusing in obscene language in or near a public place thereby causing annoyance to others and for criminal intimidation in furtherance of their common intention.

2. The brief facts of the prosecution case as per the FIR is that on 26.10.2022 at 05.30 PM one Prasanta Pradhan, S/O- Chhabi Pradhan of Jadupur Jungle, P.S.- Athmallik, District- Angul lodged a written report before the IIC of Athmallik P.S., District- Angul alleging therein that on 26.10.2022 at evening at about 05.30 PM, the accused persons namely Narottam Sahu and Kuni Biswal came to the amenity centre of Jadupur Jungle in a drunken state and abused the informant in obscene languages by saying, “Madarchod, Sala tate gadi tale pakeidabu” and threatened him to kill. They also insulted the informant by asking him as to how much money he will charge if the wife of the informant spends one night with them. The accused persons also threatened the informant to push his tri-cycle under the bridge if he does not obey them. As per the FIR the accused persons used to torture the informant and his family members taking the advantage of his disability.

Basing on this written report, I.I.C. of Athmallik Police Station registered Athmallik PS Case No. 258

dated. 30.10.2022, U/s. 294/506/34 of Indian Penal Code and directed Nirajkanta Behera, ASI of Police of said PS to take up the investigation of the case.

During the course of investigation, the I.O. examined the informant and other witnesses, visited the spot, prepared spot-map and on completion of investigation, he submitted charge-sheet U/s. 294/506/34 of Indian Penal Code against the accused persons to face their trial in the Court of law.

3. The plea of the accused persons is of complete denial and false implication.
4. The points for determination in this case are as follows:-
 - i. Whether on 26.10.2022 at about 05.30 PM near the amenity centre of Jadupur Jungle, the accused persons in furtherance of their common intention had abused the informant in obscene language in or near a public place?
 - ii. Whether on the above mentioned date, time and place, the accused persons in furtherance of their common intention had committed criminal intimidation by threatening the informant with injury to

their person with intent to cause alarm to the said persons?

5. In order to prove its case, prosecution has examined 3 witnesses out of which P.W.3 is the informant and PWs 1 and 2 are independent witnesses. Further, the prosecution has marked 3 exhibits on its behalf such as Ext.P-1 to P-1/b. Defence has examined none in support of its plea of denial.

6. I have heard the learned APP, learned defence counsel and examined the evidence on record meticulously.

7. PW3 who is the informant in this case, stated in his evidence that on a certain day 2 years back, the incident took place at the amenity center at Jadupur Forest. On that day due to some trivial misunderstanding the accused persons quarreled with him and abused him. Therefore, he had lodged FIR at Athmallik PS. He proved the FIR as Ext.P-1/a/PW3 and Ext.P-1/b/PW3 is his signature thereon.

8. PW1 stated in his evidence that on 30.10.2022 he had scribed the FIR as per the direction of the informant. He proved his signature and endorsement on the FIR as Ext.P-1/PW1.

9. PW2 expressed his ignorance regarding the facts of this case.

10. On perusal of the material available on record and the evidences put forth before the court, it is found that PW1 did not support the case of the prosecution. PW1 also did not corroborate with the FIR i.e., Ext.P-1/PW1. There is no evidence on record that Pw1 was threatened or abused by the accused persons. Rather, he stated to have settled the matter amicably with the accused persons. The independent witness i.e., PW2 has also not stated anything about the incident. The only incriminating material against the accused persons is the FIR, but the same cannot be a ground for holding the accused persons guilty, as the same can only be used for contradiction or corroboration. In the event the victim-informant is not desirous to proceed in this case, if this case is stretched any further, then no fruitful outcome will be achieved. If the parties to the case are desirous for a harmonious co-existence, then there is no point in further delving into the case.

11. This being totality of prosecution case, I am of the opinion that the prosecution has failed to prove the offence leveled against the accused persons beyond reasonable doubt. Hence, on the basis of the above analysis, this Court holds the view that the accused persons namely Narottam Sahu and Kuni Biswal are not guilty of the offences punishable U/s. 294/506/34 of I.P.C. and they are acquitted as per sec. 248(1) of Cr.P.C. They be set at liberty forthwith being

discharged from their bail bonds furnished prior to the conduct of trial.

No order is made with respect of disposal of seized article since no seizure is made.

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

Sd/-

S.D.J.M., Athmallik

Transcribed to my dictation, corrected and pronounced by me in the open Court today on the 29th day of August, 2024 given under my hand and seal of this Court.

Sd/-

S.D.J.M., Athmallik

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

PW 1	Raghunath Nayak	Independent witness
PW 2	Abhay Kumar Sahoo	Independent witness
PW 3	Prasanta Pradhan	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/PW1	Signature and Endorsement of PW1 on FIR
2	Ext.P-1/a/PW3	FIR
3	Ext.P-1/b/PW3	Signature of PW1 on F.I.R.
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/-

S.D.J.M., Athmallik