

FORM-A

IN THE COURT OF THE ADDITIONAL
DISTRICT AND SESSIONS JUDGE-CUM-
SPECIAL COURT UNDER POCSO ACT,
ANGUL

Present: Ms. Soumya Subhadarshini, LL.M.,
Additional District & Sessions Judge- Cum-Special
Court under POCSO Act, Angul.

(J.O. Code No. OD00337)

Dated, the 31st day of March, 2026.

Special POCSO Case No. 16 of 2025
(CIS No. Spl.P/16/2025/ T.R. No. 23 of 2025/
F. No. Spl.P/572/2025)

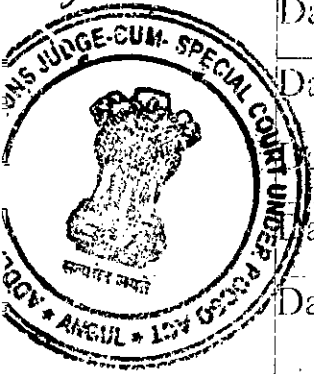
*(Arising out of G.R. Case No. 324 of 2025 of the
Court of J.M.F.C., Chhendipada corresponding to
Industrial P.S.(Nisa) Case No.74, dated 14.03.2015
under Section 137(2)/103(1)/65(2)/238(a) of the
B.N.S. r/w. Sec. 6 of the Protection of Children
from Sexual Offences Act, 2012 and Sec.
3(2)(v)/3(1)(w) of SC & ST (POA) Act)*

Informant	The State of Odisha
Represented by	Sri Dillip Kumar Das, Spl. P.P. Angul.

Accused	(A-1)	Babula Jena, 40 years, S/o Late Lokanath Jena, Village-Jereng, Dehury Sahi, P.S.-Jarapada, Dist.-Angul.
		<u>At present:-</u> At:- Pidhakhman Kuda (Matia Sahi), P.S.- Industrial, Nisa, Dist.-Angul.
Represented by		Sri Binayak Goduka, DCLADC, Angul.

FORM-B

Date of offence	13.03.2025
Date of FIR.	14.03.2025
Date of Charge sheet	09.04.2025
Date of Framing of Charges	02.05.2025
Date of commencement of evidence.	21.05.2025
Date on which judgment is reserved	21.03.2026
Date of the Judgment	31.03.2026
Date of the sentencing Order, if any	Posted for hearing on question of sentence on 10.04.2026



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(A-1)	Babul a Jena	18.03.2025	U.T.P.	U/s 137(2)/103(1)/65(2)/238(a) of B.N.S. r/w Sec. 6 of the POCSO Act and Sec. 3(2)(v)/3(1)(w) of SC & ST (POA) Act.	Convicted in accordance to Sec. 258(2) of BNSS for the offence punishable U/s 137(2)/103(1)/65(2)/238(a) of B.N.S. r/w Sec. 6 of the POCSO Act		
Date of Argument:				21.03.2026			
Date of Judgment:				31.03.2026			

31/3/26



Status of the Accused-The accused is in jail custody

(Offence U/s 137(2)/103(1)/65(2)/238(a) of B.N.S. r/w Sec. 6 of POCSO Act and Sec. 3(2)(v)/3(1)(w) of SC & ST (POA) Act)

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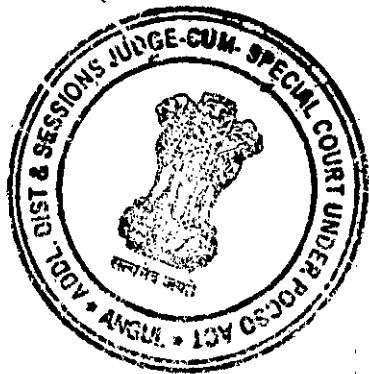
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under Section 137(2)/103(1)/65(2)/238(a) of the
B.N.S. r/w. Sec. 6 of the Protection of Children from
Sexual Offences Act, 2012 and Sec. 3(2)(v)/3(1)(w) of
SC & ST (POA) Act)*



Informant	The State of Odisha
Represented by	Sri Dillip Kumar Das, Spl. P.P. Angul.
Accused (A-1)	Babula Jena , 40 years, S/o Late Lokanath Jena, Village-Jereng, Dehury Sahi, P.S.-Jarapada, Dist.-Angul.
	At present:- At:- Pidhakhaman Kuda (Matia Sahi), P.S - Industrial, Nisa, Dist.-Angul.
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10/4/26



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Date of Charge sheet	09.04.2025
Date of Framing of Charges	02.05.2025
Date of commencement of evidence.	21.05.2025
Date on which judgment is reserved	21.03.2026
Date of the Judgment	31.03.2026
Date of the sentencing Order, if any	10.04.2026

10/4/26





10/4/26

Date of Judgment:	Date of Argument:	(A-1)	Rank of the accused
		Babula Jena	Name of the accused
		18.03.2025	Date of Arrest
		U.T.P.	Date of release on Bail
		U/s-137(2)/103(1)/65(2)/238(a) of B.N.S. r/w Sec. 6 of the POCSO Act and Sec. 3(2)(v)/ 3(1)(w) of SC & ST (POA) Act.	Offences Charged With
		Convicted in accordance to Sec. 258(2) of BNSS for the offence punishable U/s 137(2)/ 103(1)/65(2)/238(a) of B.N.S. r/w Sec. 6 of the POCSO Act	Whether Acquitted or convicted
		The Convict Babula Jena is sentenced to death for the commission of offence punishable U/S-103(1) of B.N.S. and also liable to pay fine of Rs. 10,000/- and in default of payment of fine to undergo R.I. of one year for the offence U/s-103(1) B.N.S. The Convict is sentenced to death for the commission of offence punishable U/S- 6 POCSO Act and also liable to pay fine of Rs. 10,000/- and in default of payment of fine to undergo R.I. of one year for the offence U/s- 6 POCSO Act. The death sentence imposed is to be executed only after confirmation from the Hon'ble High Court of Orissa as per the provision U/S-407 (1) of B.N.S.S. The convict is sentenced to undergo R.I. for seven years and to pay a fine or Rs. 5,000/- in default to undergo R.I. for a term of six months for the commission of offence punishable U/S-137(2) B.N.S. The convict is sentenced to undergo R.I. for seven years and to pay a fine or Rs. 5,000/- in default to undergo R.I. for a term of six months for the commission of offence punishable U/S-238 (a) B.N.S.	Sentence imposed
		From 18.03.2025 to till date 10.04.2026	Period of Detention undergone during Trial for purpose of section 468 of B.N.S.S.
31.03.2026	21.03.2026	Accused Details:	

[4-iv]

JUDGMENT

1. The above named accused stands charged for committing the offences punishable U/s 137(2)/103(1)/ 65(2)/238(a) of Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as "B.N.S.") r/w. Section 6 of the Protection of Children from Sexual Offences Act, 2012 (in short "POCSO Act") r/w Sec. 3(2)(v)/3(1)(w) of Scheduled Caste & Scheduled Tribe (Protection of Atrocities) Act (in short "SC & ST (POA) Act")

The case of the Prosecution in brief is that-

2. On 14.03.2025 at about 11.12 a.m. the informant who is the father of the deceased appeared before the I.I.C., Industrial P.S., Nisha and presented a written report alleging therein that since five years he is residing at Pidhakhaman, Matia Sahi near the Camp of Pratap Kumar Sahu with his wife, daughter, aged about 05 years (hereinafter referred to as the "deceased"). He further alleged that, on 13.03.2025 on Thursday while he was at his work place, he received a telephone message that at about 2 p.m.



while the deceased was playing in front of his house and his wife was sleeping at home, the deceased had gone missing from there. Getting such information, he immediately returned to the home and searched the deceased along with his friends, relatives and co-villagers. He searched the deceased the whole night but did not get her. As he did not get the deceased, finding no other alternative, he lodged this F.I.R. at the P.S.

2.1. On the basis of such report, Industrial P.S. (Nisha) Case No. 0074, dtd.14.03.2025 was registered U/s 137(2) of B.N.S. against an unknown person. After registration of the case, the I.I.C namely Bibekananda Mohanta, Industrial P.S directed Anupama Patra, Inspector of Police to take up the investigation of the case. During investigation being the first I.O., she examined the informant and other witnesses, visited the spot, prepared the spot map, seized the OPD Ticket of mother of the deceased and prepared seizure list and found on 16.04.2020 the deceased was born at D.H.H., Angul. She also searched the deceased in the

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31/3/26

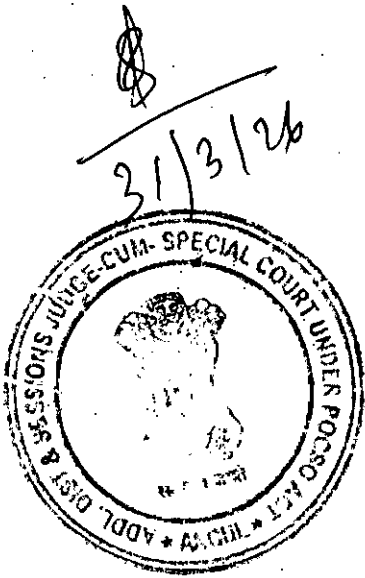


locality as well as Well, canal, ponds and other water bodies near the spot areas but did not trace her out. She also sent messages to all concerned regarding missing of the deceased.

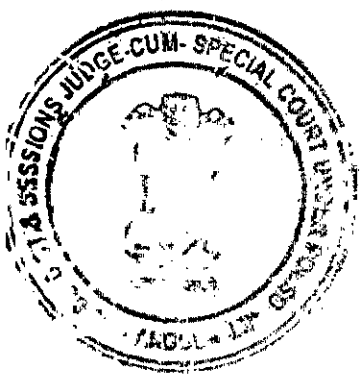
2.2. It is also the case of the prosecution that, on 15.03.2025 at about 6.30 a.m. the I.I.C., Bibekananda Mohanta, Industrial P.S. received an information over phone regarding tracing out of the dead body of the deceased near the house of complainant. On that information, the I.I.C., Industrial P.S. entered the fact in P.S. G.D. vide P.S. G.D.E. No. 14 of dtd.15.03.2025. Thereafter, the I.I.C. along with the first I.O. and other staffs proceeded to the spot. At the spot as the informant-father contended that it was a case of murder and submitted another written report to the I.I.C., Industrial P.S., Nisha regarding murder of the deceased, the case turned to a case of murder under Sec.137(2)/103(1)/238 of BNS, Inspector Bibekananda Mohanta, I.I.C., Industrial P.S. took up investigation of the case.



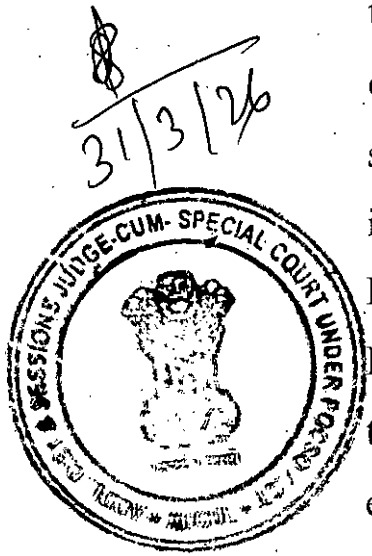
2.3. It is also the case of the prosecution that, during investigation, the second I.O. Bibekananda Mohanta, I.I.C., Industrial P.S. at the spot made a prayer to S.P., Angul for deputation of the scientific team to the spot for collection of clue materials. He also visited the spot and prepared spot map, examined the informant and other witnesses, conducted inquest over the dead body of the deceased and prepared the inquest report. He also seized the blood-stained earth and sample earth from the spot, took the photographs of the deceased and then sent the dead body to the District Headquarter Hospital, Angul for postmortem examination and after the postmortem was conducted, he seized the wearing apparels, the biological samples of the deceased. He also handed over the seized articles in sealed condition to Malkhana In-Charge to keep the same separately and securely. Then after receipt of the order from S.P., Angul vide Order No. 266/SR, dtd. 16.03.2025, he handed over the charge of the investigation of the case to Deputy S.P. Jogeswari Behera, IUCAW, Angul for further investigation.



2.4. It is also the case of the prosecution that after taking of the investigation of the case, the third I.O. Jogeswari Behera, Deputy S.P., IUCAW, Angul, she also sent letter to A.D.M.O., Angul to provide the date of birth certificate of the deceased. She examined the witnesses, visited the spot. She also apprehended the accused Babula Jena. She seized one small key of mobile company, one gamuchha, the other wearing apparels of the accused under the seizure list. She sent intimation to the Court of J.M.F.C., Chhendipada for turning Industrial P.S. Case No. 74 of dtd.14.03.2025 under Sec. 137(2) of BNS to Sec. 137(2)/103(1)/238(a) of BNS further turned to Sec. 137(2)/103(1)/ 238(a)/65(2) of BNS r/w Sec. 6 of the POCSO Act r/w Sec. 3(2)(v) SC/ST (POA) Act. During investigation, the accused Babula Jena also confessed his guilt and also lead the Police to the spot of concealment to give recovery of a pair of silver Paunji and a Mobile phone. As per the statement of the accused, as led by him to the place of concealment, the silver Paunji and one Mobile phone was also seized. She also sent the accused Babula Jena for his medical examination



and prayed the Court of the ADJ-Cum-Spl. Court under POCSO Act for recording of the statement of the accused. She also made requisition to the Tahasildar, Chhendipada and Tahasildar, Telkoi to provide the caste particular of the accused Babula Jena and the deceased to ascertain their caste. She also seized the FTA Card with blood sample of the accused along with the biological samples of the accused Babula Jena on production of the escort party S.I. Pradeep Kumar Pattnaik after medical examination of the accused. She also handed over the seized items to the Malkhana In-Charge for safe custody of the seized items. She also seized one sealed envelope containing foreign body found inside the external genitalia from the escort S.I. Pradeep Kumar Pattnaik. She also received the P.M. Report of the deceased girl. She sent the exhibits to the S.F.S.L., Rasulgarh, Bhubaneswar for chemical examination. She also prayed the Court for conduct of T.I. Parade of seized Paunji. She also received the caste particular of the accused Babula Jena and the deceased and the medical report of the accused Babula Jena. Then after completion of investigation,



she submitted charge sheet against the accused Babula Jena vide C.S. No. 61 of dtd. 08.04.2025 U/s.137(2)/103(1)/238(a)/65(2) of B.N.S. r/w Sec. 6 of the POCSO Act r/w Sec. 3(2)(v)/3(1)(w) of SC & ST (POA) Act to face trial in the Court of law.

Framing of Charge:

3. Cognizance of the said offence was taken and charge under the aforesaid section was framed against the accused as the accused refuted the charges, pleaded not guilty and claims to be tried. In the mean time trial is completed. Hence, this judgment.

Defence Plea in this case:

4. Upon completion of the recording of oral as well as documentary evidence, the statement of the accused was recorded under Section 351 of the BNSS to which he claimed himself to be innocent and had been falsely implicated in the alleged offence. The accused refuted all the incriminating materials put before him during his statement U/s 351 of BNSS, he only answered it as wrong and



false. But he had admitted that police had sent him for medical examination to D.H.H., Angul and there the collection of his biological samples.

So, defence plea of the accused is one of complete denial to the prosecution allegation and false implication.

Points for determination of this case:

5. The points for determination in this case are :-

- (i) *Whether on 13.03.2025 at about 2 P.M. at Pidhakhaman, Matia Sahi, the accused Babula Jena kidnapped the deceased who is a child below 18 years of age from her lawful guardianship and thereby committed an offence punishable U/s 137(2) of B.N.S. ?*
- (ii) *Whether on the above noted date, time and place, the accused committed murder of the deceased and thereby committed an offence punishable U/s 103(1) of B.N.S. ?*
- (iii) *Whether on the above noted date, time and place, the accused committed rape on the deceased who was a child, below 12 years of age and thereby committed an offence punishable U/s 65(2) of B.N.S. ?*



(iv) Whether on the above noted date, time and place, the accused having reason to believe that the offence of murder punishable with death or life imprisonment having committed by him, did cause disappearance of evidence of the said offence of rape and murder with the intention of screening himself from legal punishment and thereby committed an offence punishable U/s 238(a) of B.N.S. ?

(v) Whether on the above noted date, time and place, the accused committed aggravated penetrative sexual assault on the deceased, a child below 12 years of age and thereby committed aggravated penetrative sexual assault punishable U/s 6 of the Protection of Children from Sexual Offences Act, 2012 ?

(vi) Whether on the above noted date, time and place, the accused knowing that the deceased is a member of Scheduled Tribe community and thereafter also committed the offence of kidnap, rape and murder of the deceased and thereby committed an offence punishable U/s 3(2)(v) of SC & ST (POA) Act ?

(vii) Whether on the above noted date, time and place, the accused intentionally



kidnapped the deceased and after her kidnapping, committed rape and murder of the deceased knowing that she belonged to Scheduled Tribe community and thereby committed sexual harassment punishable U/s 3(1)(w) of SC & ST (POA) Act ?

Prosecution Witnesses, Exhibits & Material

Objects:

6. To substantiate its case, the prosecution has examined all total thirty two witnesses:-

- P.W.1 : Suratha Sahu, a Co-villager and independent witness to the seizure,
- P.W.2 : Pratap Kumar Sahu, the Sarpanch of Kankarei G.P., scribe of the F.I.R., the witness from missing of the deceased till recovery of her dead body and also witness to the different seizures,
- P.W.3 : the informant, father of the deceased,
- P.W.4 : the mother of the deceased,
- P.W.5 : Khulana Kandhia, a co-villager, a witness to the extra-judicial



confession, who is also saw the dead body of the deceased first, witness to the different seizures,

P.W.6 : Susanta Behera, a co-villager, who had also last seen the deceased along with the accused Babula Jena,

P.W.7 : Santosh Kandhia, a co-villager, son of Khulana Kandhia, witness to the different seizures,

P.W.8 : Chitrasen Behera, a co-villager,

P.W.9 : Chittaranjan Naik, the A.S.I. of Police, Industrial P.S., witness to the different seizures,

P.W.10 : Kousik Bhoi, OAPF, the official witness to the different seizures,

P.W.11 : Dusmanta Kumar Gartia, Constable, the official witness to the different seizures,

P.W.12 : Nirmal Chandra Behera, Constable, the official witness to the different seizures,

P.W.13 : Pradeep Kumar Pattnaik, the S.I. of Police, the official witness to the



different seizures and Malkhana In-charge of P.S.

P.W.14 : Pravakar Behera, in whose house the accused Babula Jena was residing on rent,

P.W.15 : Bipin Bihari Patra, witness to the confessional statement of the accused and witness to the seizure,

P.W.16 : Jyoti Prasad Sahu, a Co-villager,

p.W.17 : Sambari Birua, a co-villager, witness to the inquest and the spot map,

P.W.18 : Sishir Kumar Kisan, OAPF, the official witness to the seizure,

P.W.19 : Jamuna Tubid, a co-villager, who had seen the deceased along with the accused Babula Jena for the last time,

P.W.20 : Sulochana Ghadei, the A.S.I. of Police, official witness to the seizure,



- P.W.21 : Dr. Nandakishore Sahu, the Medical Officer, who conducted postmortem of the deceased,
- P.W.22 : Dr. Rabindra Nath Patra, the Medical Officer, who examined the accused Babula Jena,
- P.W.23 : Tapan Kumar Pradhan, the Scientific Officer, D.F.S.L., Dhenkanal,
- P.W.24 : Sanjaya Birua, a co-villager, independent witness,
- P.W.25 : Rukmini Khanda, a co-villager, independent witness, a witness to the extra judicial confession.
- P.W.26 : Dr. Maharshi Ranjan Sahoo, who also conducted the postmortem of the deceased along with P.W.21,
- P.W.27 : Anupama Patra, Inspector of Police, the first Investigating Officer,
- P.W.28 : Bibekananda Mahanta, the I.I.C., the second Investigating Officer,



- P.W.29 : Jogeswari Behera, D.S.P., the third Investigating Officer, who submitted the charge sheet
- P.W.30 : Anupama Murmu, the Tahasildar, Telkoi, who submitted caste particular of the informant,
- P.W.31 : Manas Ray, the Tahasildar, Chhendipada, who submitted caste particular of the accused Babula Jena, and
- P.W.32 : Banil Kumar Khatai, the S.D.J.M., Angul who conducted T.I. Parade of the seized "Paunji".

That apart, the prosecution has relied upon all total forty three numbers of documents and some material objects in support of its case;

- Ext.P-1/P.W.1 : is the seizure list in respect of one pot (Dhalo) and torchlight,
- Ext.P-2/P.W.2 : is the missing report (F.I.R.),
- Ext.P-3/P.W.2 : is the inquest report of the deceased-victim,



Ext.P-4/P.W.2 : is the seizure list in respect wearing apparels on production of the scientific team,

Ext.P-7/P.W.3 : is the original referral certificate of C.H.C., Kosala,

Ext.P-8/P.W.4 : Birth Certificate of the deceased-victim girl,

Ext.P-9/P.W.5 : is the zimanama,

Ext.P-10/P.W.5 : is the statement of P.W.5 recorded U/s 183 of BNS,

Ext.P-11/P.W.9 : is the seizure list in respect of biological sample and wearing apparels of the deceased-victim girl and one command certificate,

Ext.P-12/P.W.9 : is the seizure list in respect of biological sample of the accused, F.T.A. Card and one command certificate,

Ext.P-13/P.W.9 : is the seizure list in respect of foreign body found inside the external genitalia in a sealed



packet and one command certificate,

Ext.P-14/P.W.10 : is the seizure list in respect of wearing apparels of the accused,

Ext.P-15/P.W.14 : is the seizure list in respect of lock,

Ext.P-16/P.W.15 : is the confessional statement of the accused Babula Jena,

Ext.P-17/P.W.15 : is the seizure list in respect of mobile phone of the accused and Paunji of the deceased-victim,

Ext.P-19/P.W.18 : is the command certificate issued in favour of P.W.18,

Ext.P-20/P.W.19 : is the seizure list in respect of referral OPD Ticket of C.H.C., Kosala,

Ext.P-21/P.W.21 : is the postmortem report of the deceased-victim girl,

Ext.P-22/P.W.22 : is the medico-legal report of the accused Babula Jena,

Ext.P-23/P.W.23 : is the spot visit report,



- Ext.P-24/P.W.27 : is the spot map,
Ext.P-25/P.W.27 : is the zimanama,
Ext.P-6³/P.W.28 : is the spot map,
Ext.P-18²/P.W.28 : is the second spot map,
Ext.P-5¹/P.W.28 : is the spot map of the house
where the accused was
residing,
Ext.P-26/P.W.28 : is the dead body challan,
Ext.P-27/P.W.29 : is the intimation of the I.O.
(P.W.29) to the Chhendipada
Court regarding turning of the
case,
Ext.P-28/P.W.29 : is the requisition issued to the
Tahasildar, Chhendipada for
demarcation of the spot of
occurrence,
Ext.P-29/P.W.29 : is the requisition issued to the
Tahasildar, Chhendipada to
provide caste particular of the
accused Babula Jena,
Ext.P-30/P.W.29 : is the requisition issued to the
Tahasildar, Telkoi to provide
caste particular of the



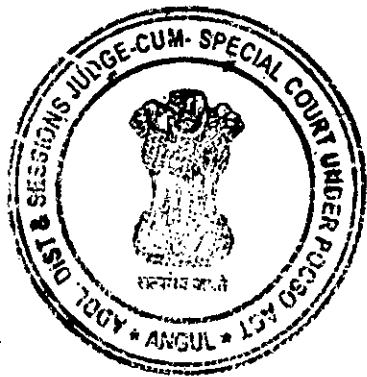
complainant Ranjan Soy @
Munda,

Ext.P-31/P.W.29 : is the prayer of the I.O.
(P.W.29) for sending the
seized exhibits to SFSL,
Rasulgarh, Bhubaneswar for
chemical examination and
DNA analysis,

Ext.P-32/P.W.29 : is the prayer of the I.O.
(P.W.29) to fix the date for
conducting of T.I. Parade of
the seized silver anklet
(Paunji) by the parents of the
deceased-victim girl,

Ext.P-33/P.W.29 : is the report of the Addl.
Tahasildar, Chhendipada
regarding the caste particular
of the accused Babula Jena
and the trace map,

Ext.P-34/P.W.29 : is the report of the Tahasildar,
Telkoi regarding the caste
particular of the complainant,



Ext.P-35/P.W.29 : is the prayer of the I.O. (P.W.29) to the Hon'ble Court for recording of the witnesses JamunaTubid and KhulanaKandhia U/s 183 of BNSS,

Ext.P-36/P.W.29 : is the letter of the I.O. (P.W.29) to the Medical Officers regarding query,

Ext.P-37/P.W.29 : is the acknowledgment receipt of the SFSL, Rasulgarh, Bhubaneswar,

Ext.P-38/P.W.29 : is the query report of the Medical Officers,

Ext.P-39/P.W.29 : is the zimanama of the seized Paunji,

Ext.P-40/P.W.29 : is the Chemical Examination Report,

Ext.P-41/P.W.31 : is the letter of the Tahasildar, Chhendipada along with the report of the R.I., Durgapur regarding the caste particular of the accused Babula Jena,



Ext.P-42/P.W.32 : is the letter vide Memo No.1154(2), dtd. 20.03.2025 regarding the conduct of T.I. Parade of the property i.e. one pair of Paunji (anklet),

Ext.P-43/P.W.32 : is the T.I. Parade report (three sheets) of the property i.e. one pair of Paunji (anklet),

M.O.- I : is the Saree stained with blood,

M.O. - II : is the Lungi stained with blood,

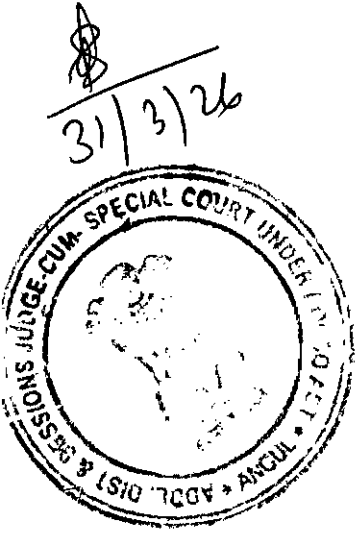
M.O. - III : is the Paunji (anklet),

M.O. - IV : is the Torchlight,

M.O. - V : is the Dhalo (pot),

M.O. - VI : eleven envelopes containing the biological sample of the accused along with a plastic container (Daba) containing the penile of the accused,

M.O. - VII : is the biological sample and wearing apparels of the



deceased-victim kept in a sealed envelope,

M.O. - VIII : is the seized foreign body found inside the external genitalia kept in an envelope,

M.O. - IX : is one Key of Moble company, one red-black-white colour check gamuchha, one green colour half pant and one ganji of black-red-white colour of the accused,

M.O.- X : is one blue colour small lock,

M.O.- XI to XI-21 : Twenty two numbers of printed photographs,

M.O. - XII to XII-6: Seven numbers of photographs of the deceased-victim clicked during the inquest,

M.O. - XIII : is the D.V.D.,

M.O. - XIV : is the D.V.D.,

M.O. - XV : is the mobile phone along with SIM,



- M.O. - XVI : Two numbers of D.V.D. containing the audio visual process of all the two seizure,
- M.O. - XVII : is the C.D. containing the seizure of foreign body found inside external genitalia,
- M.O. - XVIII : is the C.D. containing the seizure of biological sample of the accused, and
- M.O. - XIX : is the C.D. containing the seizure of referral medical certificate (OPD) Ticket.

Defence Witnesses, Exhibits & Material

Objects:

7. The defence did not examine any witness nor proved any document on its behalf.

Determination of age of the victim girl:

8. The case of the prosecution is that the deceased was a child, aged about four years only at the time of occurrence. The accused is facing trial for committing the offence under Sec. U/s 137(2)/103(1)/65(2)/238-a of the B.N.S. r/w.



Section- 6 of the POCSO Act and Sec. 3(2)(v)/3(1)(w) of SC & ST (POA) Act.

Sec. 2(d) of the POCSO Act reads as “**child**” means any person below the age of **eighteen** years.

Sec. 65(2) of BNS speaks whoever commits rape on a woman under **twelve** years of age.

Sec. 5(m) of POCSO Act speaks whoever commits penetrative sexual assault on a child below **twelve** years of age.

As the accused is facing trial under Sec. 65(2) of the BNS and Sec. 5(m) of the POCSO Act which is punishable under Sec. 6 of the POCSO Act, to determine the exact age of the deceased at the time of occurrence, the prosecution has also led down oral as well as documentary evidence.

8.1. On perusal of the F.I.R. (Ext.P-2/P.W.2) it is revealed that, the F.I.R. disclosed that the deceased was five years old at the time of occurrence.

On perusal the evidence of the informant-cum-father of the deceased (P.W.3), it is revealed that he stated the deceased was five years old at the



time of occurrence. His evidence further reveals that for birth of the deceased, Kosala Medical referred his wife to Angul Medical. Police also seized the referral certificate of C.H.C., Kosala on production of him and also left zima of the seized referral certificate. He proved the original referral certificate of C.H.C., Kosala marked as Ext. P-7/P.W.3.

8.2. The evidence of the mother of the deceased-victim who examined as P.W.4 reveals that, she deposed the deceased was her only one child and she was four years old at the time of occurrence. The deceased was born at Angul Hospital. She also proved the birth certificate of the deceased vide Ext.P-8/P.W.4.

8.3. On perusal of the evidence of Jamuna Tubid (P.W.19), it is revealed that she also corroborated the factum of seizure of referral OPD Ticket of C.H.C., Kosala in presence of her under the seizure list vide Ext.P-20/P.W.19 and her signature vide Ext.P-20¹/P.W.19 thereon.

8.4. The evidence of the independent witnesses P.W.1, P.W.2, P.W.5, P.W.6, P.W.7, P.W.17,



P.W.19, P.W.24, P.W.25, the co-villagers also reveal, the deceased was aged about four to five years at the time of occurrence.

8.5. In order to ascertain the exact age of the victim, Anupama Patra, Inspector of Police, Nisha P.S., the first Investigating Officer of this case during her spot visit on 14.03.2025 also seized one referral OPD Ticket of the mother of the deceased on production of the complainant-father in presence of witnesses and prepared seizure list. She proved her signature vide Ext.P-20²/P.W.27 on the seizure list already marked as Ext.P-20/P.W.19. She also proved the referral certificate of Rogi Kalyan Samiti, Kosala, Angul vide Ext.P-7/P.W.3. Her evidence further reveals that she verified the OPD Ticket and found that the mother of the deceased was pregnant and she was admitted at C.H.C., Kosala on 15.04.2020 and then she was referred to D.H.H., Angul for better treatment and on the very next day on 16.04.2020 she gave birth the deceased. She also deposed, she left zima of the seized referral certificate of C.H.C., Kosala to the complainant

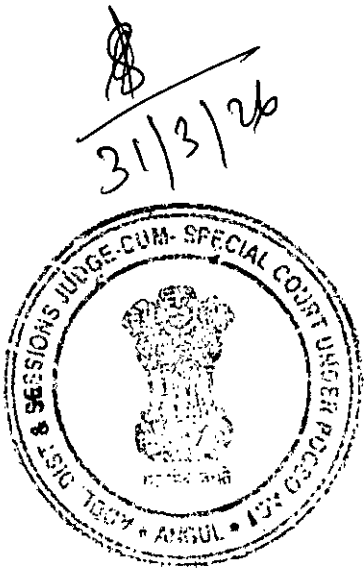


under the zimanama vide Ext.P-25/P.W.27 and her signature under Ext.P-25¹/P.W.27 thereon.

On perusal of the Birth Certificate of the deceased (Ext.P-8/P.W.4) it is revealed that the date of birth of the deceased is 16.04.2020.

8.6. The Hon'ble Apex Court in case of *Jarnail Singh Vrs. State of Hariyana (2013) 7 SCC – 263* and in *State of M.P. Vrs. Anup Singh (2015) 7 SCC – 773* have settled the clear position of law relating to determination of age of the victim by the Court in POCSO cases. It has been held that, there is no specific provision available for determination of age of a "child" except under the Juvenile Justice (Care & Protection of Children) Act, 2015. Hence, **Sec. 94 of the J.J. (CPC) Act, prescribes the method of calculating the age of "Child in Conflict With Law", shall be adopted by the trial Court at the time of determination of age of the victim in POCSO cases.**

Sec. 94(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015 which reads as follows:-



“Sec. 94 (Presumption and determination of age)-

(2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining –

(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;

(ii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board.”

From the above provision of law under Sec. 94(2) of the Juvenile Justice (Care and Protection of

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Children) Act, 2015, the date of birth certificate is the prime evidence for age determination. In absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board.

8.7. So, in view of the above, as per Sec. 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015, I relied on the birth certificate of the deceased (Ext.P-8/P.W.4) to ascertain the age of the deceased. As per the said birth certificate of the deceased, the date of birth of the deceased is 16.04.2020. The occurrence took place on 13.03.2025. So, on a rough calculation the age of the deceased was found four years ten months twenty days i.e. 04 years 10 months 20 days at the time of occurrence. So, it is concluded that the deceased was below 12 years of age at the time of occurrence and the deceased was only four years old. Hence, as per the definition of Sec. 2(d) of the POCSO Act, the deceased was a child at the time of occurrence.

Argument submitted by the learned DCLADC on

behalf of the accused:

9. The learned DCLADC on behalf of the accused Babula Jena, vehemently and fervently contended that the entire case of the prosecution is false and fabricated. The prosecution has failed to prove the charges against the accused person so as to bring home the guilt of the accused as the prosecution story is full of improbability and loopholes. Prosecution has failed to prove its case beyond all reasonable doubt against the accused person.

9.1. He further submitted no doubt the deceased had gone missing and subsequently her dead body was recovered. But the present accused person Babula Jena had not committed murder of the deceased. This is not a case of homicidal. Babula Jena is not involved in this case. The deceased may die due to some external element or attack of the jungle wild animals or insects.

9.2. He further submitted that the prosecution case was entirely based on the three circumstantial evidence, (1) last seen theory,



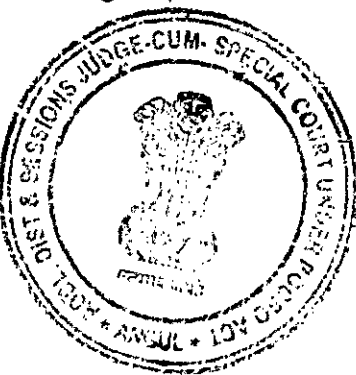
(2) extra judicial confession and

(3) the S.F.S.L. report.

The evidence of the material prosecution witnesses do not inspire confidence. The conduct of the witnesses is highly suspicious which makes their testimony doubtful and unworthy of credence.

9.3. With respect to the **last seen theory**, the learned DCLADC for the accused submitted that the evidence of the witnesses Susanta Behera and Jamuna Tubid (P.W.6) and (P.W.19) of the last seen circumstance is highly vacillating and self contradicting and perfunctory and hence, the same deserves discarded in toto. Although both the witnesses had seen Babula Jena and the deceased together before missing of the deceased, they never disclosed about the said fact either to the parents or the co-villagers or the Police personnel who were searching the victim girl extensively. He further submitted that all the villagers P.W.14, P.W.16, P.W.17, P.W.19, P.W.24, P.W.25 consistently admitted that the accused was also searching for the

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missing girl. If he were the real culprit, he would not have join the search and risked exposure.

So, the evidence of Susanta Behera (P.W.6) and Jamuna Tuibid (P.W.19) being witnesses of the last seen together circumstance cannot be relied upon. He further submitted that the Investigating Agency has resorted to padding by creating the evidence of the witnesses of last seen together theory. In support of his claim, learned counsel relied on the decision reported in the case of **Jabir Vs. State of Uttarakhand – (2023) 16 SCC-111**, wherein it is held that “Conviction on the basis of last seen theory not justified; Supreme Court acquits accused in a 7 years old boy’s kidnapping and murder – The prosecution failed to complete the chain of circumstantial evidence.”

He also relied in an another decision reported in the case of **Nizam and another Vs. State of Rajasthan- (2016) 1 SCC - 550**, wherein it is held that “*Where the time gap between the deceased being last seen alive with the accused and the*

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discovery of the dead body is long, it is dangerous to convict solely on that basis.”

9.4. With respect to the **extra judicial confession** made by the accused, the learned DCLADC for the accused further submitted that the evidence of P.W. 5 and P.W.25 is also unreliable and unworthy of credence. The evidence of extra judicial confession is even otherwise of very weak nature and thus, the conviction cannot be solely based on such evidence. In addition thereto, the contention of the witnesses regarding the so called extra judicial confession made by the accused is very vague and vacillating and hence, no reliance can be placed on his testimony. He further submitted that, the alleged statement “jhio to au naina” (P.W.25) is a vague and spray remarks with no evidentiary value. Even the witnesses admitted that they never told anyone about it even while examined by the I.O. on 13th March, 2025 and 14th March, 2025. Hence, it is the developed story of the prosecution and could not be taken into consideration.



9.5. It was further submitted by the learned DCLADC for the accused that the accused had not made any confessional statement before the Police U/s.23 (2) Proviso of the Bharatiya Sakshya Adhiniyam, 2023 and nothing was recovered as per his statement. The recoveries allegedly made at the instance of the accused were planted and fabricated and hence, unbelievable. The accused was apprehended by the Police on 17.03.2025. But according to the witness P.W.15, the accused Babula Jena confessed on 15.03.2025 and as per his statement the recovery was made. It was also submitted that the entire case of incriminating circumstances and recovered articles have been subsequently planted by the Police officials oblique motives.

9.6. It was also submitted by the learned DCLADC for the accused that not only the recovery of the Paunji is suspicious but, in addition thereto, there is a grave doubt in the manner in which the identification proceeding of this articles were held.

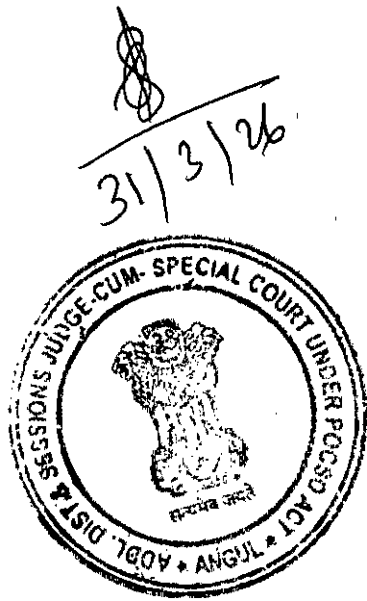


9.7. With respect to the **scientific evidence**, the learned counsel for the accused also submitted that the forensic and DNA evidence produced by the prosecution is inconclusive and unreliable. The chemical examination (DNA) report Ext.P-40 clearly records that “required quantity of amplifiable DNA was not available for profile generation” from several exhibits. No male DNA was detected on the deceased body or garments. The possibility of contamination is not ruled out. Procedure was not followed for collecting, sealing, keeping and resealing of the seized items and so also there was not properly documented. In this case, the scientific evidence does not link the accused with the deceased or the alleged act of rape.

9.8. He further submitted that the seized items were not properly kept in Malkhana. As various I.Os. i.e. P.W.28 seized some items, P.W.29 seized some items, they were not kept in proper custody. Although P.W.28 seized the lock, P.W.29, the subsequent I.O. failed to explain regarding the broken of seal of the previously seized lock which

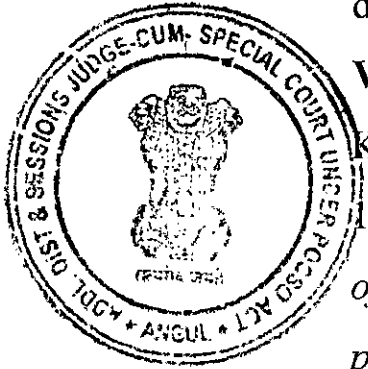
was checked by her by the key and its resealing process. The lock (M.O.-H) when the same was shown to the P.W.29 in open Court, it was not broken contrary to seizure memo. The I.O. (P.W.29) unable to say whether the sealing was done or not there is a break in custody of the seized items which destroys the evidentiary sanctity. In support of his claim, learned counsel relied on the decision reported in the case of **Putai and another Vs. State of U.P. reported in 2025 INSC 1042**, wherein it is held that "The Court found the investigation seriously flawed with inadmissible DNA reports, unreliable circumstantial links and procedural lapses in how evidence was gathered and handled, breaking the chain of circumstantial proof. Accused acquitted in a brutal child rape and murder case."

9.9. He further submitted that although prosecution alleged the date on 13.03.2025 the deceased had gone missing and the body of the deceased disposed of on 14.03.2025 night and discovery of blood-stained was on 15.03.2025 morning, but all the villagers who searched the area on 13th & 14th March



categorically deposed that no blood-stained or foul smell was noticed. As per medical science, blood coagulates within fifteen minutes and lividity fixes within twelve hours. Fluid blood cannot ooze out after twenty four hours. Hence, later detection of a “blood trail” on 15.03.2025 is scientifically impossible and indicate planted evidence.

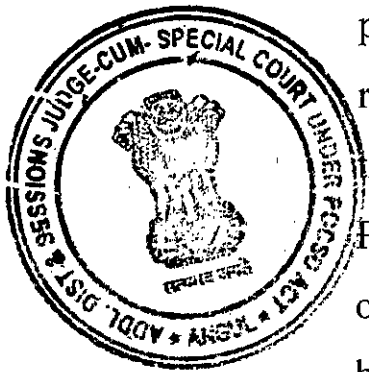
9.10. He further submitted that, there is no injury on the genitalia on the deceased-victim. The alleged foreign body i.e. soap. finding has not been supported by DNA. Medical opinion in this case being inconclusive, which fails to the charge of rape / penetrative sexual assault against the accused. In support of his claim, learned counsel relied upon the decision reported in the case **State of Karnataka Vs. Sri Nagesh [CRLA 100570/2022(A)]** of Karnataka High Court, Dharwad Bench, decided on 10 July, 2025, wherein it is held that *“For serious offences like rape / POCSO sexual offences, the prosecution must prove all essential elements beyond reasonable doubt. If there is lack of reliable corroboration even strong scientific evidence (Like*



DNA) cannot alone sustain a conviction for sexual offences under the IPC / POCSO Act.”

9.11. He further submitted that the accused being OBC (Suda) and the deceased ST (Kolha) does not automatically attract the offence under Sec. 3(2)(v) SC/ST (POA) Act as there is no evidence that the offence was committed on the ground of caste. Hence, no offence under SC/ST Act is attracted against the accused. The learned DCLADC in support of his claim cited the decision reported in the case of **Patan Jamal Vali Vs. State of A.P., (2021) 9 SCC 1**, wherein it is held that “Mere different of caste does not invoke Section 3(2)(v) unless the offence was motivated by caste discrimination.”

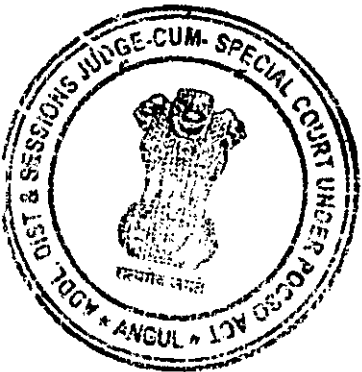
9.12. He further submitted that prosecution has not proved any motive for the alleged act. No rent receipt, agreement, or document was seized to show that the accused was residing in the house of Pravakar Behera on rent where the alleged crime occurred. Chaitanya Behera, the nephew of the house owner was not examined in this case to show



that the accused Babula Jena was residing in that house at the time of occurrence.

9.13. The learned counsel further submitted that the prosecution has built of a story of full assumption, procedural latches and contradiction. There is benefit of doubt in every stage of the prosecution case. The prosecution's case is totally based upon circumstantial evidence but prosecution is failed to prove the each link- last seen, recovery, medical, forensic and motive as laid down in the decision reported in **Sharad Birdhichand Sarda Vrs. State of Maharashtra AIR-1984 SC -1622.**

9.14. The learned DCLADC for the accused also relied upon the decisions reported in the case of **Raj Kumar @ Bheema Vs. State of NCT Delhi** (Supreme Court of India decided n 17 November, 2025), wherein the Supreme Court hold an unreliable and improperly conducted Identification of the accused by a witness many years later and in the absence of corroborative evidence, this could not justify sustaining a conviction for murder.



9.15. In the case of **Akahtar Ali @ Ali Akhtar @ Shamim @ Raja Vs. State of Uttarakhand** decided by the Supreme Court of Indian on 10th Septembe, 2025 wherein it is held that “Prosecution failed to prove guilt beyond reasonable doubt. The evidence did not form a reliable complete chain of circumstances connecting the accused to the crime and key links (Like Witness testimony and forensic evidence) where inconsistent or questionable-Respondent Acquitted.”

With this, the learned DCLADC for the accused concluded his submissions by urging that the prosecution has miserably failed to prove a complete and unbreakable chain of incriminating circumstances, by leading reliable evidence. The alleged recoveries and identification are fabricated and procedurally invalid. The scientific and medical evidence is inconclusive. Hence, the accused is entitled to be acquitted of all the charges. The learned DCLADC also filed the written argument.



**Submissions on behalf of the State by the
learned Spl.P.P.**

10. Per contra, the learned Spl. P.P. vehemently and fervently opposed the submissions advanced by the learned DCLADC. He urged that the prosecution has established the guilt of the accused by leading unimpeachable and complete chain of circumstantial evidence in the form of motive, last seen together theory, extra judicial confession and the scientific evidence in the form of S.F.S.L. report. The confession of the accused before the Investigating Officer and in furtherance of the information provided by the accused U/s 23 of Bharatiya Sakhya Adhiniyam, 2023, the incriminating materials found which had been disposed of by the accused after commission of the crime.

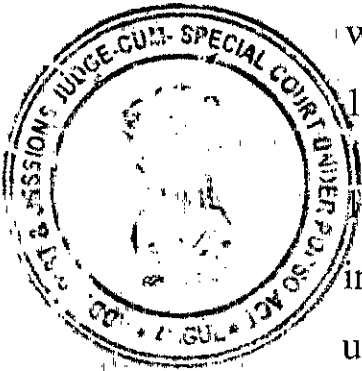
10.1. The learned Spl.P.P. further urged that the death of the deceased is homicidal in nature. This is the accused Babula Jena who is the author of the crime. He kidnapped the deceased who was only four years old at the time of occurrence. While the deceased was playing alone in front of her house,



taking the advantage of her childhood and loneliness and in order to satisfy his sexual urge, Babula Jena kidnapped the deceased, committed rape/penetrative sexual assault upon her and then committed her murder.

10.2. He further submitted that with the intention of screening himself from legal punishment, the accused Babula Jena also caused disappearance of evidence for the said offence of rape / penetrative sexual assault and murder. The incriminating materials, the Paunji, of the victim girl and the mobile phone of the accused was recovered in furtherance of the disclosure statement of the accused for which he has given no explanation. The incriminating materials recovered from the house of the accused which also gives rise to a presumption under Sec. 119 of Bharatiya Sakhya Adhiniyam.

10.3. The learned Spl.P.P. further urged that the investigation was conducted in a fair, transparent and unbiased manner and without being influenced by any extraneous consideration; the investigating officers P.W.27, P.W.28 and P.W.29 collected the



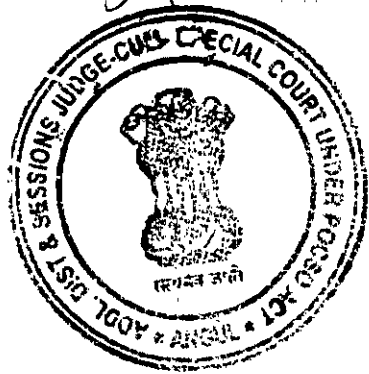
unimpeachable incriminating evidence against the accused.

10.4. Further, the learned Spl.P.P. also submitted that from the evidences adduced by the prosecution clearly established that the accused Babula Jena was residing in the house of Pravakar Behera on rent at Village- Pidhakhaman, Matia Sahi near the house of the deceased. Only to avoid the doubt from him, accused Babula Jena was also searching the deceased along with the other co-villagers. That apart, while all were searching the deceased, the accused had given a statement before P.W.5 and P.W.25 that “jhio to au naina” voluntarily which is the extra judicial confession of the accused and admissible in evidence.

10.5. That apart, the learned Spl.P.P. submitted that all the seizures made during the investigation were videographed. The seized items were also kept in P.S. Malkhana under safe custody before sending for chemical examination to S.F.S.L., Rasulgarh, Bhubaneswar. So, there is no chance of tampering with the seized items.



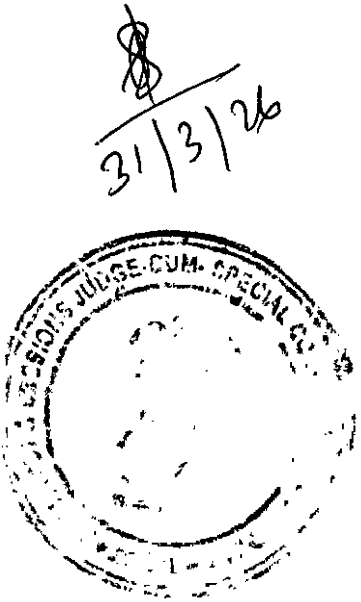
10.6. With this, the learned Spl.P.P. submitted prosecution has proved each chain of circumstances by giving oral as well as documentary evidence by applying the settled position of law decided in the case of Sharad Birdhichand Sarda Vrs. State of Maharashtra which is totally based on circumstantial evidence. The prosecution is successfully proved all the circumstances as held in the decision of Sharad Birdhichand Sarda Vrs. State of Maharashtra. The accused Babula Jena is the author of the crime. He had kidnapped the victim girl in order to satisfy his sexual urge and then he committed rape / penetrative sexual assault upon the deceased and then committed murder of her. There is no missing link in such circumstances, particularly when the defence has not explained the circumstances going against the accused after the burden of proof has shifted on the defence U/s.109 of the Bharatiya Sakshya Adhinyam. With this the learned Spl.P.P. finally submitted to convict the accused for the charge of the offences alleged against him and award of capital punishment.



In support of his case, he also relied upon the decisions reported in

- 1) 2013 -54 OCR SC 473
- 2) 2013-54 OCR SC 341,
- 3) 2013- (Supp-11) OCR 105,
- 4) Satpal Vrs. State of Harayan,
- 5) State of Karnataka Vrs. K.Yarappa Reddy, reported in 1998 (8) Crimes 171 Supreme Court.
- 6) Bachan Singh Vrs. State of Punjab (1980) 2SCC 684.
- 7) Machhi singh Vrs. State of Punjab (1983) 3SCC 470.
- 8) Rama Singh Vrs. Sunia and others (2007) 3SCC-1.
- 9) C.Munniappan and others Vrs. State of Tamilnadu (2010) 9SCC 567.
- 10) Ajit Singh Harnam Singh Gujaral Vrs. State of Maharashtra (2011) 14 SCC 401.

Discussions



11. Whether the death of the victim girl is homicidal or not?

The case of the prosecution is that on 13.03.2025 while the deceased was playing in front of her house, the deceased had gone missing and thereafter on 15.03.2025 her dead body was found in the Mahula Buri. The present accused Babula Jena had committed murder of the deceased.

On the other hand, learned DCLADC for the accused submitted that it is not a case of homicidal, rather the victim died due to attack of animals or due to food poisoning or any other reason.


So, before going through the other aspect of the prosecution case, adverting to the contention raised by the learned counsels for the respective parties, let me first assess the evidence on record to see whether the prosecution has successfully established that the deceased met with a homicidal death or not.

11.1. In this regard, it is admitted fact that the deceased had gone missing on dtd.13.03.2025 at



about 2 P.M. while she was playing in front of her house. For that on the very next day on 14.03.2025, the father of the deceased (P.W.3) lodged F.I.R. vide Ext.P-2/P.W.2 at the P.S. being scribed by Pratap Kumar Sahu (P.W.2), Sarpanch of Kankarei G.P. Her dead body was found on 15.03.2025 in the early morning in the Mahula Buri being seen by one Khulana Kandhia (P.W.5). The evidences of the witnesses P.W.1, P.W.2, P.W.3, P.W.4, P.W.5, P.W.6, P.W.7, P.W.8, P.W.14, P.W.16, P.W.17, P.W.19, P.W.24, P.W.25 also indicates that after seeing the dead body of the deceased, Khulana Kandhia (P.W.5) shouted and called all other co-villagers. The co-villagers rushed to the spot and found the dead body of the deceased was lying on the ground facing towards the earth. Sanjay Birua (P.W.24) also put a Gamuchha on the dead body. At the spot, the informant contended that it is a case of murder and submitted a written report to the I.I.C. at the spot being scribed by Pratap Kumar Sahu (P.W.2), the I.I.C. received the same and took up investigation of the case.

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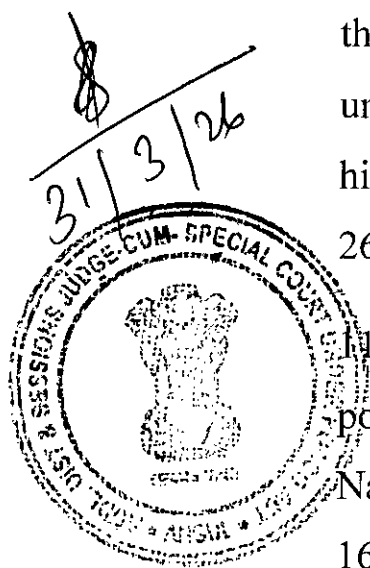
11.2. Bibekananda Mohanta, the I.I.C., Industrial P.S., Nisha who is the second Investigating Officer of this case also examined as P.W.28. He also deposed on 15.03.2025 after receipt of information from the Sarpanch Pratap Kumar Sahu regarding the tracing of the dead body of the deceased, he entered the fact in the P.S. vide G.D.E. No. 14 of dtd. 15.03.2025 and proceeded to the spot along with the first I.O. Anupama Patra and other staffs. On arrival at the spot, as the complainant submitted another report alleging therein that his daughter was murdered, on that report he suo-moto took up further investigation of the Industrial P.S. Case No. 74 of dtd.14.03.2025 which was turned to under Sec. 137(2)/103(1)/238(a) of B.N.S. He further stated that about 11.50 a.m. he started inquest over the dead body of the deceased in presence of witnesses. As the parents of the deceased were losing their consciousness frequently, he conducted inquest over the dead body in presence of other witnesses under the inquest report Ext.P-3/P.W.2 and his signature Ext.P-3⁵/P.W.28 thereon. He also took photographs of the deceased. The evidence of P.W.2, P.W.5,

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P.W.17, P.W.19 also corroborated the inquest conducted by the I.O. (P.W.28) at the spot under their signatures Ext.P-3¹/P.W.2, Ext.P-3²/P.W.5, Ext.P-3³/P.W.17, Ext.P-3⁴/P.W.19 respectively on the inquest report vide Ext.P-3/P.W.2.

11.3. Further, the evidence of P.W.28, the second Investigating Officer of this case reveals that, he stated on the same day on 15.03.2025 at about 1.45 P.M. he sent the dead body of the deceased victim to D.H.H., Angul for postmortem examination through the escort OAPF/114 Sishir Kumar Kisan under the dead body challan Ext.P-26/P.W.28 and his signatures vide Ext.P-26¹/P.W.28 and Ext.P-26²/P.W.28 thereon.

11.4. P.W.21 is the Doctor who conducted postmortem of the deceased. The evidence of Dr. Nanda Kishore Sahoo (P.W.21) reveals that on 16.03.2025 he was working as Consultant Pediatric, D.H.H., Angul. On that day at about 12.30 P.M. on Police requisition in Industrial P.S., Nisha Case No. 74, dtd.14.03.2025, he conducted postmortem on the dead body of the deceased under the supervision of



an expert, namely Maharshi Ranjan Sahu, Asst. Professor from Department of F.M.T., P.M.P. Medical College, Talcher. He further stated that, on external examination, one medium built girl child of length 110 cm. Body is partially decomposed with postmortem peeling of skin over front of chest and abdomen. Postmortem blisters are present over upper and lower limb as well as trunk. Meggots are crawling all over body. Rigour mortis passed off. Swollen and blackish discoloration of face, eyes open, eye ball protruded, mouth open, tongue protruded and bitten in between teeth. Teeth 10/10 primary and intact. Postmortem purge coming out from mouth and nostril. Fecal discharge from anus, a black thread is in neck. The undergarment (chadi) worn in one right leg. One foreign object i.e. one yellow colour piece of soap of size 3 cm X 2 cm found inside external genitalia. Abdomen protruded, greenish discoloration of right illiacfossa, fist open, finger nails cyanosed. Scalp hair easily pluckable.

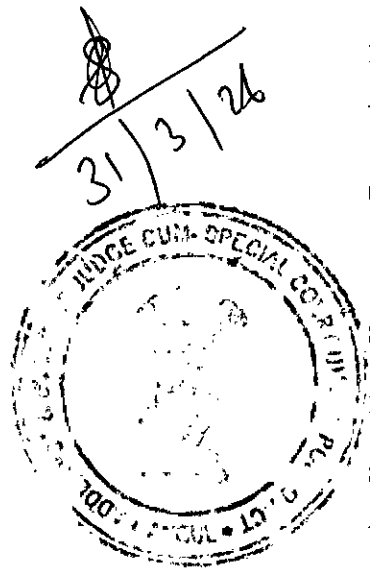
The external injuries are:-



- i) a contusion of size 3 cm X 2 cm found over medial side of right arm,
- ii) a contusion of size 1 cm X 0.5 cm found over left axilla,
- iii) one laceration of size 3 cm X 2 cm X bone depth found over lateral border of right palm,
- iv) one laceration of size 1 cm X 1 cm X 0.5 cm found over left labia majora,
- v) one laceration of size 1 cm X 0.5 cm of the fourchette posteriorly extending a long 5'O Clock position.

All the above external injuries are antimortem in nature. The injuries No.(i), (ii) and (iii) are caused by hard and blunt forced impact. Injury No. (iv) and (v) are caused by blunt penetrative force.

On internal examination, skull suture separated, brain liquefied, on dissection of neck the interolateral neck motions found to be contused and antimortem in nature. The cause of this contusion is by hard and blunt force impact. Lungs soften, discoloured and partially decomposed. Heart soften and shrunken, heart chambers are empty. Uterus small, nulliparous and empty. We have collected the



sample of vaginal swab, oral swab, blood soaked gauze, nail clipping, scalp hair, foreign materials i.e. piece of yellow colour soap. All are sealed, labelled and handed over to the accompanied police.

The cause of death is due to compression of neck and its complications. The times since death is within 48 to 72 hours of autopsy.

He proved the said postmortem report vide Ext.P-21/P.W.21 and his signature vide Ext.P-21¹/P.W.21 thereon.

11.5. P.W.26 is the Doctor who also conducted the postmortem of the deceased along with P.W.21. The evidence of Dr. Maharshi Ranjan Sahoo, the Asst. Professor, Department of F.M.T., P.M.P. Medical College, Talcher (P.W.26) reveals that he corroborated the evidence of P.W.21 deposing that he supervised the case along with other Doctors namely Dr. Sashi Pragyan Dash and Dr. Nanda Kishore Sahoo (P.W.21) under his signature vide Ext.P-21²/P.W.26 on the postmortem report Ext.P-21/P.W.21. He also proved the signature of Dr. Sashi Pragyan Dash on the P.M. Report vide Ext.P-

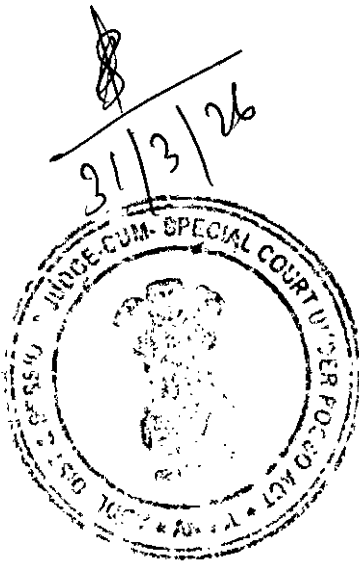


21³/P.W.26 which he well acquainted with. He further deposed that on 21.03.2025 he received the query requisition along with P.M. Report of the deceased and five crime scene photographs from the I.O. and answers to the query as follows:-

i) The postmortem findings on the neck of the deceased can be possible due to throttling and if so, it is homicidal in nature.

ii) Clotting process starts within five to fifteen minutes of death of a person. It progresses gradually and depends upon the environmental condition, health status of deceased and cause of death. In two to six hours, blood settled in the dependant part of the body due to gravity (postmortem lividity). After six to twelve hours, the lividity become fixed and blood in small vessels usually fully clotted. However, in some cases blood in large vessels may remain fluid for several hours.

iii) Basing on P.M. findings and observation from crime scene photographs, *the death is homicidal in nature.*



iv) Observation from crime scene photographs (face congested, nail bed cyanosed) indicates *mode of death is due to asphyxia*.

v) No definite opinion can be given as to whether the injuries over the private part of the deceased are major or minor.

He proved the said query report prepared by Dr. Sashi Pragyan Dash, Dr. Nanda Kishore Sahoo and he himself already marked as Ext.38/P.W.29 and his signature vide Ext.P-38¹/P.W.26 thereon. He also proved the signature of Dr. Sashi Pragyan Dash, D.H.H., Angul as Ext.P-38²/P.W.26 and also proved the signature of Dr. Nanda Kishore Sahoo as Ext.P-38³/P.W.26 on the query report.

Nothing has been brought out in the cross-examination of P.W.21 and P.W.26 to disbelieve their evidence.

11.6. The doctor is the only competent person who only opine about the cause of death. After going through the inquest report (Ext.P-3/P.W.2), evidence of P.W.21 and P.W.26 and the postmortem



report (Ext.P-21/P.W.21), it is clear that the doctors P.W.21 and P.W.26 who conducted the postmortem of the deceased clearly opined that **the cause of death is due to compression of neck and its complications. The times since death is within 48 to 72 hours of autopsy. The death of the deceased is homicidal in nature and mode of death is asphyxia due to throttling.**

Principles of Law Relating to Appreciation of Circumstantial Evidence:

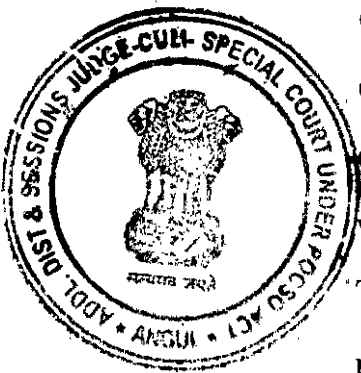
12. Admittedly, the case of the prosecution is based entirely on circumstantial evidence. There is no direct evidence to the prosecution case. The case of the prosecution is that while the deceased was playing in front of her house had gone missing on 13.03.2025 and her dead body was found on 15.03.2025. Before going through the evidences, oral as well as documentary, let me read about the circumstantial evidence.

12.1. It is settled principle of law that an accused can be punished if he is found guilty even in cases



of circumstantial evidence provided, the prosecution is able to prove beyond reasonable doubt the complete chain of events and circumstances which definitely points towards the involvement or guilt of the accused. The accused will not be entitled to acquittal merely because there is no eye witness in the case. It is also equally true that an accused can be convicted on the basis of circumstantial evidence subject to satisfaction of the expected principles in that regard.

12.2. The position of law in a case based entirely on circumstantial evidence is well-settled by a catena of decision of this Court, wherein the Court has categorically held that the prosecution has to prove the entire chain of incriminating circumstances by adducing unimpeachable evidence, which leads to only one hypothesis that is consistent with the guilt of the accused, inconsistent with his 'innocence' or the guilt of anyone else. The chain of circumstances sought to be relied upon by the prosecution must be complete in all aspects and must unerringly link the accused with



the crime in case of any breach in the chain of incriminating circumstances, the Court would be left with no option but to acquit the accused by giving him the benefit of doubt. The law with regard to conviction based on circumstantial evidence has been crystallized by the Court in the case of **Sharad Birdhichand Sarda V. State of Maharashtra (1984) 4 SCC 116** wherein it was held:-

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused guilty,

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and



(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

In the decision of **Ashok Kumar Chatterjee Vrs. State of M.P., AIR 1989 (SC) 1890**, the Hon'ble Apex Court has held that

(i) Circumstances from which an inference of guilt is sought to be drawn must be cogently and firmly established;

(ii) Those circumstances must be of a definite tendency unerringly pointing towards guilt of the accused and must be conclusive in nature;

(iii) The circumstances, if taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else; and



(iv) The circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused but should be inconsistent with his innocence. In other words, the circumstances should exclude every possible hypothesis except the one to be proved.

12.3. Having noted the principles governing a case based purely on circumstantial evidence, now let me discuss the evidence led by the prosecution in the present case in its endeavour, to bring home the charges against the accused.

The theory set out by the prosecution in its case is that on 13.03.2025 while the deceased was playing in front of her house and as there was no one else in the vicinity, the accused, driven by lust, took advantage of the situation, kidnapped the child and thereafter took her to his house where he is residing and there he subjected the deceased to rape/ penetrative sexual assault. In this process, the deceased tried to resist and then the accused pressed her neck resulting in her death. For establishing the

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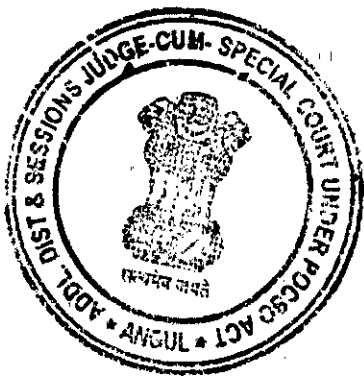
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guilt of the accused, the prosecution relied on three circumstances:

- (i) *Last seen theory,*
- (ii) *Extra judicial confession, and*
- (iii) *Chemical Examination Report.*

The present case at hand is totally based upon circumstantial evidence. Now, we have to see whether the accused Babula Jena had committed murder of the deceased as alleged against him by the prosecution.

12.4. The first and most critical circumstance on which the prosecution placed reliance was that of the **last seen theory**. The case of the prosecution is that on 13.03.2025 at about 2 P.M. the deceased had gone missing while she was playing in front of her house and at that time accused Babula Jena was sitting in the verandah of one Susanta Behera. The deceased was seen along with the accused Babula Jena for the last time before her missing. In order to prove that the deceased was last seen with the accused Babula Jena before her missing, the prosecution has relied

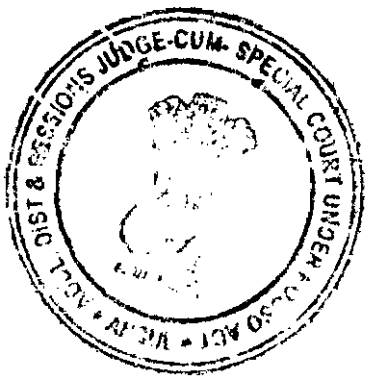


upon the evidence of Susanta Behera (P.W.6) and Jamuna Tubid (P.W.19).

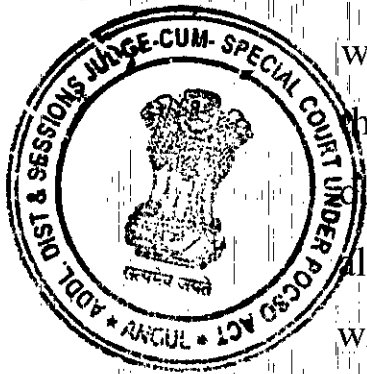
12.5. As per the evidence of Susanta Behera (P.W.6), on the alleged date of occurrence at about 12.20 P.M. while he went to sleep, he found the deceased was playing in front of her house and Babula Jena was sitting in the verandah of his house. At about 2.30 P.M. he woke up and found Babula Jena was not there. Thereafter, he went inside the Sahi and heard the deceased was missing. He along with others searched the deceased but did not get her. Thereafter, on Sunday morning the dead body of the deceased was found inside the Mahula Buri. During his cross-examination also, he deposed that Babula Jena was also searching the victim girl with them.

12.6. On perusal of the evidence of P.W.19, Jamuna Tubid, it is revealed that, her evidence shows on the alleged date of occurrence on 13.03.2025 on Thursday at about 1 P.M. she along with the mother of the deceased went to sleep, the deceased was playing in front of the house and Babula Jena was sitting on the verandah of Susanta Behera. At about

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3 P.M. when the mother of the deceased woke up, she found the deceased was not playing. On her search, she did not get her. Thereafter, on the next day, on Friday inspite of search by all, they did not get the deceased. Further, the evidence of P.W.19 reveals that on Saturday morning, they found the dead body of the deceased in the Mahula Buri. She proved her signature on the spot map where the dead body of the deceased was found vide Ext.P-6²/P.W.19 and Ext.P-18¹/P.W.19 on the spot map where the deceased was playing. During her cross-examination, being asked by the learned DCLADC, she deposed while the deceased was playing, she found Babula Jena was sitting on the verandah of Susanta Behera. He was neither playing nor talking with the deceased at that time. During the search, they had no doubt on anybody and she admitted that during the search of the deceased, Babula Jena was also with them. She fairly admitted that she had not witnessed directly that who kidnapped the deceased and committed murder on her. Being suggested that, as per the instruction of Police and her co-villagers, she is deposing falsehood that Babula Jena had not



kidnapped the deceased and had not committed any act as alleged against him, she denied the same.

12.7. So, from the above evidence of P.W.6 and P.W.19, it is clear that on the alleged date of occurrence on 13.03.2025 at about 2 P.M. while the deceased was playing in front of her house, Babula Jena was sitting in the verandah of Susanta Behera (P.W.6).

12.8. The learned DCLADC for the accused submitted that if it is the evidence of the prosecution agency, it is not proved as last seen theory as both the victim and the accused were not seen together with each other or they were not talking with each other or playing with each other. In this regard, the evidence clearly shows that the deceased was last seen with the accused Babula Jena by the witnesses Susanta Behera (P.W.6) and Jamuna Tubid (P.W.19). As per their evidence, while the deceased was playing alone in front of their house, the accused was sitting in the verandah of Susanta Behera and thereafter the deceased had gone missing and her dead body was recovered. Their statement to the



effect that while the deceased was playing in front of her house, the accused Babula Jena was sitting in the verandah of the house of Susanta Behera is absolutely truthful and constitute unimpeachable evidence in support of the circumstance of last seen together, which have been established against the accused beyond all manner of doubt. That apart, as submitted by the learned defence counsel that the accused Babula Jena was also searching the deceased girl along with the other co-villagers.

In this regard the evidence of all the witnesses also reveals they also admitted that the accused Babula Jena was also searching the victim girl along with other co-villagers. So, nobody has any doubt that the person who is also searching the victim girl with them, his hand and mind is behind the incident. So, not a single witness whispered the name of Babula Jena as he was very much present in the village and was searching the victim girl with other co-villagers. Further, the witnesses Susanta Behera (P.W.6) and Jamuna Tubid (P.W.19) had no reason to falsely implicate the accused Babula Jena.

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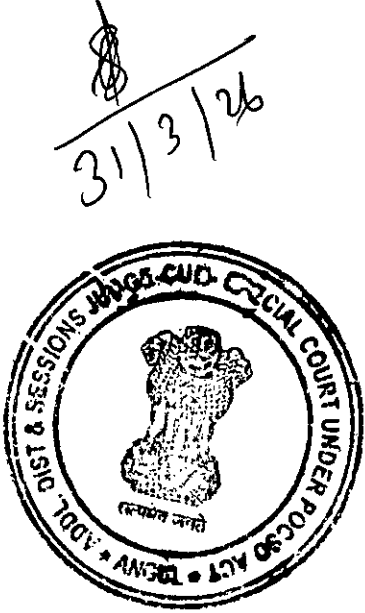


Prosecution has proved the circumstance of last seen theory by leading credible evidence. When prosecution has proved that before missing of the deceased, she was seen along with the accused, the onus would be on to the accused to explain the circumstances under which the deceased was found missing and subsequently found murder and all the incriminating materials found in his house.

Whether extra-judicial confession evidence is acceptable:

13. The second segment of circumstantial evidence on which the prosecution heavily relied upon was that of the extra judicial confession allegedly made by the accused Babula Jena to the witnesses Khulana Kandia (P.W.5), and Rukmani Khanda (P.W. 25) the co-villagers.

13.1. On perusal of the evidence of Khulana Kandia (P.W.5), it reveals she deposed on the Friday while she was sitting along with Rukmani Khanda and Hemanta, Babula Jena came to them and told “*Jhio Ta Au Nahin, Emane Kana Khojuchhanti*”. Then she asked Babula Jena how he knew that the



victim is not alive. Then, Babula Jena quarrel with her and abused them in filthy languages and left that spot.

13.2. On perusal of the evidence of Rukmani Khanda (P.W.25), it is revealed that she also corroborated the evidence of Khulana Khandia by deposing on a day while she was sitting with others, Babula Jena told that "*Jia ta au nahi*". Hearing this other people asked him how he knew this and blamed him. Then Babula Jena left that spot.

13.3. The learned DCLADC for the accused contended that the accused had not made any statement before any of the witnesses who are the co-villagers and the prosecution agency has planted this extra judicial confession story. Therefore, it would not be proper to act upon the evidence of P.W.5 and P.W.25 on this aspect.

13.4. In this regard I relied on the decision reported in the case of **Jagroop Singh V. State of Punjab** reported in (2012) 53 OCR (SC) 53 : (2012) 11 SCC 768, it has been held that *if the extra-judicial*



confession is true and voluntary, the same can be relied upon by the Court to convict the accused for the commission of the crime alleged. Despite inherent weakness of extra-judicial confession as an item of evidence, it cannot be ignored when shown that such confession was made before a person who has no reason to state falsely and his evidence is credible. The evidence in the form of extra-judicial confession made by the accused before the witness cannot be always termed to be a tainted evidence. Corroboration of such evidence is required only by way of abundant caution. If the Court believes the witness before whom the confession is made and is satisfied that it was true and voluntarily made, then the conviction can be found on such evidence. The aspects which have to be taken care of are the nature of circumstances, the time when the confession was made and the credibility of the witnesses who speak for such a confession. That apart, before relying on the confession, the Court has to be satisfied that it is voluntary and it is not the result of inducement, threat or promise as envisaged under section 24 of the Evidence Act.



13.5. Now, in view of the above decision, I scrutiny the evidence of P.W.5 and P.W.25 very carefully. As per their evidence when all the co-villagers and so also the police were searching the deceased, Babula Jena was also searching the deceased along with them. On the Friday when the father and mother of the deceased discussed with Khulana Kandhia (P.W.5) regarding the worship in the temple and hair was found in the "Bhoga" whether it is good or bad, at that time Babula Jena told them "*Jhio Ta Au Nahin, Emane Kana Khojuchhanti*" On perusal of the statement of the witness Khulana Kandhia recorded U/s.183 BNSS vide Ext.P-10/P.W.5 it also corroborates the fact that deposed by the witness P.W.5 in the court during her evidence. Both the witnesses P.W.5 and P.W.25 were cross-examined at length by the learned DCLADC, but nothing substantial elicited from their mouth to disprove the said fact. Sec.22 of the Bharatiya Sakshya Adhinyam, 2023 speaks confession caused by inducement, threat, coercion or promise is inadmissible in evidence. On perusal of the evidence it is revealed that the accused Babula



Jena voluntarily stated that “*Jhia Ta Au Nahi Na*”. There is no evidence that the accused made the extra-judicial confession under any kind of threat, inducement or promise.

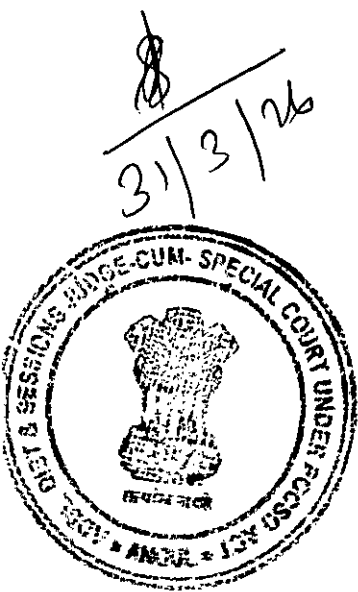
The confession made by the accused appears to be voluntary, and the evidence of P.W.5 and P.W.25 on this score is acceptable and therefore, the contentions raised by the learned DCLADC for the accused that it would be unsafe to act upon the extra-judicial confession is not acceptable.

Confessional statement of the accused

14. Another circumstance on which the prosecution relied upon to bring home the guilt of the accused was in form of the confessional/disclosure statements made by the accused leading to the incriminating discoveries. In this regard Sec.23 of the Bharatiya Sakshya Adhinyam, 2023 states that:-

Section-23. Confession to Police Officer:-

(1) *No confession made to a police officer shall be proved as against a person accused of any offence.*



(2) No confession made by any person while he is in the custody of a police officer, unless it is made in the immediate presence of a Magistrate shall be proved against him;

Provided that when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a Police Officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact discovered, may be proved.

14.1. The prosecution case is that also while the accused Babula Jena was in the police custody he confessed his guilt and also as per his confession the paunji (Anklet) and a mobile phone was seized. Per contra, the learned DCLADC for the accused argued that confession made before the Police by an accused regarding his guilt is inadmissible U/s.23(1) of the Bharatiya Sakshya Adhinyam, 2023. He further submitted that only the portion of the facts leading to discovery can be considered and that must be credible and voluntary.



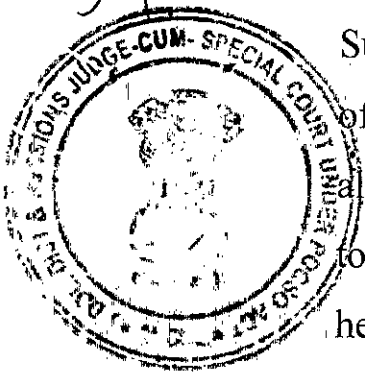
Taking into the provision of law regarding the confession of an accused before the Police under Sec. 23 of B.S.A., 2023, I perused the evidences of the witnesses, oral as well as documentary very carefully. The proviso of section-23(2) of Bharatiya Sakshya Adhiniyam, 2023 is an exception to Sec.23 of the said Act.

14.2. Smt. Jogeswari Behera, the DSP, IUCAW, Angul, the third Investigating Officer of this case, who examined as P.W.29 as prosecution witness. According to her evidence, she deposed that on 16.03.2025 as per the order of the S.P., Angul vide Order No. 266/SR, dtd. 16.03.2025, she took charge of the Industrial P.S. Case No. 74 dtd.14.03.2025 from the previous I.O. Bibekananda Mahanta, I.I.C., Industrial P.S. along with other documents and commenced investigation of this case.

14.3. Her evidence reveals that during investigation, On 17.03.2025 at about 8 P.M., she apprehended the accused and arrested him. She sent intimation to the Court of J.M.F.C., Chhendipada for turning of the case Industrial P.S. Case No. 74 of

dtd.14.03.2025 U/s 137(2) BNS to Sec. 137(2)/103(1)/238 of BNS further turned to Sec. 137(2)/103(1)/238(A)/65(2) of BNS r/w Sec. 6 of the POCSO Act r/w Sec. 3(2)(v) of SC/ST (POA) Act vide DR No. 853/PS, dtd.17.03.2025 under the intimation vide Ext.P-27/P.W.29 and her signature Ext.P-27¹/P.W.29 thereon.

14.4. The evidence of the I.O. (P.W.29) also reveals on 18.03.2025, she examined the accused Babula Jena and also recorded the confessional statement vide Ext.P-16/P.W.15 of the accused Babula Jena while he was in custody in presence of witnesses. During examination, Babula Jena confessed his guilt and told on the last Thursday at about 1 P.M. while he had been to the house of Susanta Behera, at that time, the victim, the daughter of Ranjan Soy was playing in front of her house alone. Seeing her alone, he influenced the victim girl to see the film "Eithi Swarga Eithi Narka", he took her with him to his house. He further confessed that while the victim was watching the movie, he had bad intention and then he put the victim girl in the cot



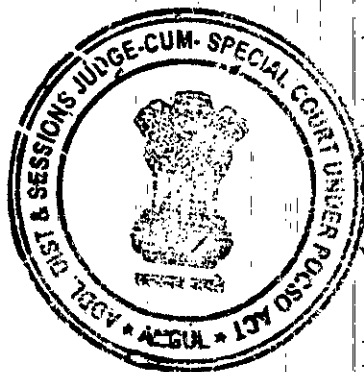
and committed rape forcibly on her. When the victim shouted, he pressed her face and neck and murdered her. Babula Jena also confessed that thereafter he kept his mobile phone and the Paunji of the victim girl in a jerry and concealed the same in a Banana farm i.e. Kadali Bana of his village. He also confessed that thereafter he put the dead body of the victim girl in the Mahula Buri near his house. He also told that he can show the place where he had concealed the mobile phone and the Paunji if he will be taken to that place. P.W.29 proved the confessional statement of the accused Babula Jena recorded by her under Ext.P-16/P.W.15 and her signature vide Ext.P-16²/P.W.29 and the signature of Babula Jena vide Ext.P-16³/P.W.29.



14.5. The evidence of P.W.29 also reveals that, thereafter as per the confessional statement of the accused Babula Jena, she along with Babula Jena and other Police staffs and witnesses proceeded to the spot led by the accused Babula Jena. They reached at the place of Banana Farm i.e. Kadalibana near Village- Pidhakhaman being led by accused Babula

Jena. Babula Jena brought out a white jerry containing a pair of silver Paunji and one Mobile Phone. She seized one navy blue colour Lava A-7 keypad mobile phone having IMEI No. 355480685455656 and 355480685455664 with Micro SD-HC Class (10) HD Memory Card and with one Airtel SIM having No. 9178364319, one pair of silver and black colour anklet (Paunji) under the seizure list Ext.P-17/P.W.15 and her signature vide Ext.P-17²/P.W.29 on the said seizure list. She further deposed that after return to the P.S., she handed over all the seized articles in sealed condition to Malkhana In-Charge S.I. P.K. Pattnaik with a direction to keep all these articles separately and securely and the same was kept under MR No. 28/25. She also received two numbers of DVD containing the audio visual process of all the two seizure from Inspector Bibekananda Mahanta along with a certificate U/s 63(4)(C) BSA. She proved the DVD vide M.O.- XVI.

14.6. P.W.15 is the witness to the confessional statement of the accused Baula Jena. According to



him, on 15.03.2025 while he had gone to Nisha Police Station, the accused Babula Jena was in custody. He confessed before the Police and him that seeing the victim girl was playing alone in front of her house, Babula Jena took her to show the film "*Eithi Swarga Eithi Narka*" in his mobile phone to his house. Babula Jena also confessed that while watching the movie, he had bad intention in his mind. He had committed rape upon the victim girl on the cot in his room and then when the victim shouted, he pressed her neck in one hand and shut her mouth in his another hand, the victim died. He murdered the victim girl and then threw the dead body of the victim girl in the Mahula Buri and his mobile phone and Paunji of the victim in the Kadalibana. He also told he can show the place where he threw the mobile phone and Paunji. Then as per the statement of Babula Jena, the mobile phone and the Paunji were recovered. Police seized the mobile phone and Paunji in presence of him. He proved the statement of the accused vide Ext.P-16/P.W.15 (with objection) and his signature vide Ext.P-16¹/P.W.15) thereon. He proved the seizure



list vide Ext.P-17/P.W.15 and his signature vide Ext.P-17¹/P.W.15 thereon. During his cross-examination also, he deposed that they went to the Kadalibana (Banana Farm) by the Police vehicle along with Babula Jena. Babula Jena led them to the spot on the road. Babula Jena himself went to the spot and brought that mobile phone and Paunji which were kept in bush and leaves. Being suggested by the learned DCLADC that Babula Jena had not confessed before the police and had not led them to the spot where the mobile phone and Paunji were concealed and nothing was recovered as per the statement of the accused Babula Jena, he replied in negative. Being the witness to the confessional statement of the accused, he also corroborated the evidence of the I.O. regarding the seizure of the Paunji of the deceased and one Mobile phone. So, from the above discussion it is proved that all the incriminating discoveries i.e. the Paunji of the deceased and one Mobile Phone were seized in pursuance of the disclosure statement made by the accused Babula Jena while he is in police custody. The whole exercise was also videographed, So, the



fact recovered by leading to discovery are relevant to the case at hand. It is well proved by the prosecution that as per the information disclosed by the accused Babula Jena while in Police custody leading to the discovery of the Paunji and mobile phone and this fact is admissible in evidence.

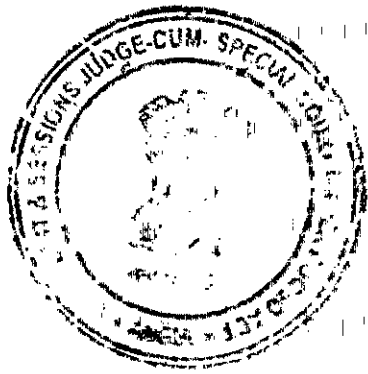
14.7. That apart, the evidence of the I.O. also reveals, on the same day on 19.03.2025 she made a prayer to this Court to fix a date for conducting of T.I. Parade of seized anklet Paunji by Ranjan Soy and Gurubari Soy, the father and mother of the victim girl under Ext.P-32/P.W.29 and her signature Ext.P-32¹/P.W.29 thereon. Her evidence also shows, on 24.03.2025 the T.I. Parade of the said article was conducted in the Office Chamber of the learned S.D.J.M., Angul by the learned S.D.J.M., Angul. After T.I. Parade, she received the Paunji and left zima of the said Paunji to the mother of the deceased under the zimanama Ext.P-39/P.W.29 and her signature Ext.P-39¹/P.W.29.

14.8. Sri Banil Kumar Khatai, the learned S.D.J.M., Angul who conducted the T.I. parade of



the seized Paunji examined as P.W.32. As per the evidence of P.W.32, on 21.03.2025 he received an order from the Court of Special Judge (POCSO), Angul regarding the conduct of the T.I. Parade of the property in Industrial P.S. Case No. 74 of dtd.14.03.2025 vide Memo No. 1154(2), dtd. 20.03.2025 under Ext.P-42/P.W.32. Then on 24.03.2025 at about 4 P.M. he conducted the T.I. Parade of the one pair of Paunji in his official Chamber at Civil Court, Angul by the identifying witnesses Ranjan Soy @ Munda and Gurubari Soy. The evidence of P.W.32 also reveals, as per procedure, he conducted the T.I. Parade and the identifying witnesses, the father and mother of the deceased correctly identified the seized Paunji under the T.I. Report marked as Ext.P-43/P.W.32 and his signature vide Ext.P-43¹/P.W.32 thereon.

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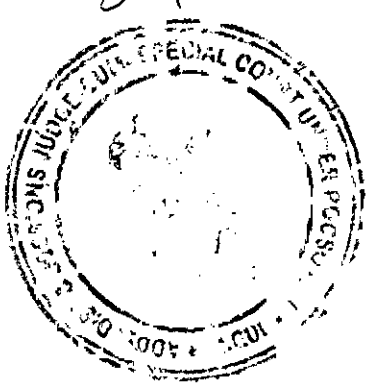


14.9. On perusal of the evidence of P.W.3, the informant-cum-father of the deceased girl it is revealed that, he also deposed, Police sent him to Court to identify the missing Paunji and he identified the Paunji.

14.10. P.W.4, the mother of the victim also corroborated the evidence of P.W.3 that the Paunji which was worn by her daughter subsequently recovered from Babula Jena. Police also sent her to Court to identify that Paunji. She identified the Paunji correctly before the Court and thereafter Police left the seized Paunji to her.

14.11. Although the learned defence counsel submitted that the confessional statement of the accused is not admissible but from the discussions made in the preceding paragraph, it is well proved by the prosecution that as per the information of the accused, the Paunji and the Mobile phone was seized and the Paunji was also correctly identified by the parents of the deceased during the T.I. Parade. In a case based on circumstantial evidence, the evidence of the investigating officers is of utmost importance. Both the IOs (P.W.28 and P.W.29) had made extensive investigation in the entire area.

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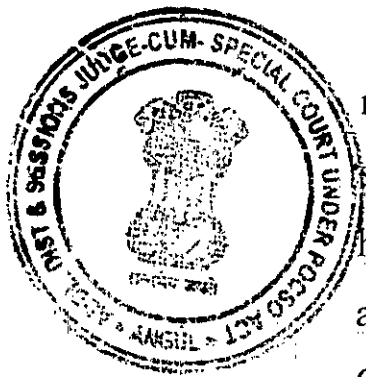


Chemical Examination Report

15. In order to establish a clear link between the accused and the incident at hand, the prosecution has also adduced scientific evidence in the form of chemical examination report.

15.1. The evidence of P.W.28 who is the second Investigating Officer of this case indicates that at the spot he sent intimation to the Scientific Team through S.P., Angul and visited the spot where the dead body was recovered i.e. the Mahula Buri at Matia Sahi/Koda Sahi of Village- Pidhakhmana under a Mahua tree. He cordoned the spot and guarded it through OAPF/114 Sishir Kumar Kisan and prepared spot map vide Ext.P -6³/P.W.28.

15.2. The evidence of the I.O.(P.W.28) also reveals, during the investigation, he got some suspected blood stain from the back side door of the house of Pravakar Behera which was closed and on arrival of Pravakar Behera, he entered into the house. On the courtyard of the house, he also found some suspected blood-stain in the courtyard which was



locked from the outside. He ascertained that one Babula Jena along with his wife were residing in that house. As Babula Jena was found absent at the spot, in presence of the house owner Pravakar Behera and other witnesses, he broke upon the lock of that room. Thereafter, on opening of that room, a very pungent smell coming out from that house and on verification of that room, he found huge amount of blood drop (dried) lying on the floor and on the bed materials on the bed cot. He prepared the spot map of the house of Pravakar Behera where Babula Jena was residing under Ext.P-5¹/P.W.28. He also seized the lock (Moble-15), blue in colour under the seizure list Ext.P-15/P.W.14 and M.O.-X.

15.3. The evidence of the I.O. (P.W.28) also reveals, thereafter he locked the main door of that house and instructed Sri Sushil Kumar Naik, OAPF/104 to guard the house till arrival of the scientific team for visit and collection of clue materials.

15.4. On perusal of the evidence of Tapan Kumar Pradhan, Scientific Officer, D.F.S.L., Dhenkanal

(P.W.23) reveals that on 15.03.2025 on getting police requisition, he along with his team members namely Ajay Kumar Sahu, ASI Photo visited the spot i.e. a Mahula Field, locally known as Mahula Buri situated at a distance of around 200 metres East to the house of the deceased in the Village-Pidhakhmana (Matia Sahi) and the spot was guarded by the Police personnel. The dead body of the deceased-victim was found lying under a Mahua tree. The body of the deceased was found under a state of putrefaction with swelling face and formation of blister noticed throughout the body. He also found the private part of the deceased was wide open with dried stains of blood stuck to the thigh. Discharged of stool noticed from anus. The wearing apparels of the deceased were one pink colour printed top, one pink colour printed skirt, one light-green colour pant stained with blood and stool and partially withdrawn to the knee of the right leg.

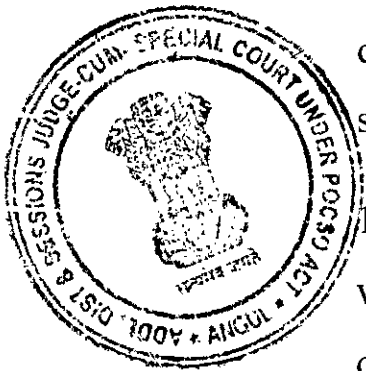
15.5. The evidence of the P.W.23, the Scientific Officer also reveals, on visit to the house of Pravakar Behera where Babula Jena was residing, he found



some suspected stains, suspected blood, a printed cotton saree stained with blood, one printed lungi stained with blood, earth were collected by him under Ext.A, Ext.B, Ext.C, Ext.D, Ext.E, Ext.F. Then he properly packed, labeled, sealed all the exhibits and the exhibits were seized by the I.O. under the seizure list Ext.P-4/P.W.2 and his signature vide Ext.P-4³/P.W.23.

15.6. The evidence of the I.O. (P.W.28) also reveals that on 15.03.2025 at about 3.50 P.M. he seized ten numbers of sealed envelope containing the biological samples and other incriminating materials produced by Scientific Officer Tapan Kumar Pradhan (P.W.23) which he had collected during his spot visit under Ext.P-4/P.W.2 and his signature vide Ext.P-4⁴/P.W.28.

15.7. The evidence of P.W.2 and P.W.16, the witnesses to the seizure also corroborated the factum of seizure under their signatures vide Ext.P-4¹/P.W.2 and Ext.P-4²/P.W.16 on the seizure list Ext.P-4/P.W.2 respectively.



15.8. The evidence of P.W.23, the Scientific Officer also reveals, he prepared the spot visit report under Ext.P-23/P.W.23 and his signature Ext.P-23¹/P.W.23 and the signature of Ajay Kumar Sahu, ASI Photo vide Ext.P-23²/P.W.23. The I.O. (P.W.28) also corroborated that the scientific officer (P.W.23) handed over him the spot visit report. He proved his signature vide Ext.P-23³/P.W.28 on the spot visit report.


15.9. During his cross-examination, being asked by the learned DCLADC for the accused, he stated that when he reached at the spot house, police guarded the spot house so also the dead body of the deceased-victim. From UV Light Inspection, he came to know about the suspected semen stain (Ext.A). He has not found any suspected finger print or chance finger print at the suspected area though he performed the examination of finger print powder.

16. The evidence of P.W.28, the second Investigating Officer of this case also reveals that on 15.03.2025 after returned to the P.S., he handed over all the seized articles in sealed condition to

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Malkhana In-Charge, S.I. P.K. Pattnaik and the same were kept in P.S. Malkhana vide M.R. No. 23/25, 24/25 and 25/25.

16.1. The evidence of P.W.28, the second I.O. also reveals, he received twenty two numbers of printed photographs from ASI Ajay Kumar Sahu, D.F.S.L., Dhenkanal vide M.O.-XI to XI-21. He also proved seven numbers of photographs of the deceased-victim vide M.O.-XII to XII-6. On the same day also he seized the biological samples of the victim girl after postmortem examination on production by the escort Constable Sishir Kumar Kisan under the seizure list Ext.P-11/P.W.9. The evidence of P.W.9, P.W.18, P.W.20, the witnesses to the seizure also corroborated the factum of seizure under their signature vide Ext.P-11¹/P.W.9, Ext.P-11²/P.W.18, Ext.P-11³/P.W.20 under the seizure list Ext.P-11/P.W.9. Although P.W.9, P.W.18, P.W.20 were subjected to cross-examination regarding non-seizure of the biological samples of the victim girl, they denied the same. Thereafter the seized articles were kept in P.S. Malkhana vide M.R. No. 26/25.


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16.2. P.W.29, the I.O. who took up further investigation after P.W.28, her evidence shows that she also carried out the further investigation of this case by visiting the spot, made seizure, examining the complainant and other witnesses. Her evidence also reveals, after apprehension and arrest of the accused Babula Jena, on 17.03.,2025 she also seized one small Key, one red-black and white check Gamuchha, one deep green half pant, one black-red white Ganji on production by the accused Babula Jena in presence of witnesses under the seizure list vide Ext.P-14/P.W.10. The evidence of P.W.10 and P.W.12, the witnesses to the seizure also reveals, they corroborated the factum of seizure by the I.O. by deposing and proving their signatures vide Ext.P-14/1/P.W.10 and Ext.P-14/2/P.W.12 on the seizure list vide Ext.P-14/P.W.10. The above seizure was kept in the P.S. Malkhana vide M.R. No. 27/25.

16.3. The evidence of P.W.29 also reveals that as per the information given by the accused, one Mobile phone and Paunji was also seized by her under the seizure list Ext.P-17/P.W.15. The same was also

kept in the P.S. Malkhana vide M.R. No. 28/25. On 19.03.2025 she seized the FTA Card with blood sample of the accused and biological samples of the accused Babula Jena on production of escort Police Pradeep Kumar Pattnaik, S.I. in presence of witnesses under the seizure list Ext.P-12/P.W.9 and her signature vide Ext.P-12/4/P.W.29.

16.4. On perusal of the evidence of P.W.9, P.W.11, the witnesses to the seizure and P.W.13 on whose production the seizure was made, it is revealed that they all corroborated the factum of seizure of the FTA Card containing blood sample of the accused Babula Jena and biological samples of the accused in their presence under their signatures vide Ext.P-12/1/P.W.9, vide Ext.P-12/2/P.W.11, vide Ext.P-12/3/P.W.13 on the seizure list vide Ext.P-12/P.W.9. All the above seized articles were kept in sealed cover in P.S. Malkhana vide M.R. No. 29/25.

16.5. The evidence of the I.O. (P.W.29) also reveals that she also seized one sealed envelope containing foreign body found inside the external genitalia and one command certificate on production

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of Pradeep Kumar Pattnaik in presence of witnesses under the seizure list Ext.P-13/P.W.9 and her signature vide Ext.P-13/4/P.W.29 thereon.

16.6. The evidence of P.W.9, P.W.10 who are the witnesses to the seizure and P.W.13, on whose production the seizure was made reveals that they proved the factum of seizure by deposing and proving their signatures vide Ext.P-13/1/P.W.9, Ext.P-13/2/P.W.10 and Ext.P-13/3/P.W.13 on the seizure list Ext.P-13/P.W.9. Those seized articles were kept in sealed cover in P.S. Malkhana vide M.R. No. 30/25.

16.7. The evidence of P.W.29 also reveals that she made prayer to the learned Court to send the seized items to SFSL, Rasulgarh, Bhubaneswar for chemical examination and DNA analysis under Ext.P-31/P.W.29 and her signature vide Ext.P-31/1/P.W.29 thereon. Thereafter, the learned S.D.J.M., Angul sent the exhibits to SFSL, Rasulgarh, Bhubaneswar vide Memo No. 562, dtd. 20.03.2025 for chemical examination and opinion



through proper escort party. She proved the chemical examination report vide Ext.P-40/P.W.29.

16.8. On perusal of the chemical examination report of S.F.S.L., Rasulgarh, Bhubaneswar vide Ext.P-40/P.W.29. It is revealed that:-

- 1) Human blood stain of group "AB" was detected in the exhibits marked as A, EX, EY, FX, FY, H2, H12X, H12Y, H13AX, H13AY, H13BX, H13BY, J1X, J1Y AND J3 with respect to ABO blood grouping system.
- 2) Human blood saliva stain of group "AB" was detected in the exhibit marked as H5 with respect to ABO blood grouping system.
- 3) Human blood stain of group of "O" was detected in the exhibits marked as G5X and G5Y with respect to ABO blood grouping system.
- 4) Human semen stain of group "O" was detected in the exhibits marked as C, FZ and G4X with respect to ABO blood grouping system.



5) Human saliva stain of group "O" was detected in the exhibit marked as G6X with respect to ABO blood grouping system.

6) Human blood stain was detected in the exhibits marked as H, H1, H7, H11, H14, J2X and J2Y, group of same could not be detected due to degradation.

7) Human semen stain was detected in the exhibits marked as B and D, group of same could not be furnished due to inconclusive result.

8) Human semen stain was detected in the exhibit marked as G\$Y, group of same could not be detected due to degradation.

9) Human saliva stain was detected in the exhibit marked as G6Y, group of same could not be detected due to degradation.

10) Human blood+vaginal secretion stain was detected in the exhibits marked as H3 and H4, group of same could not be detected due to degradation.



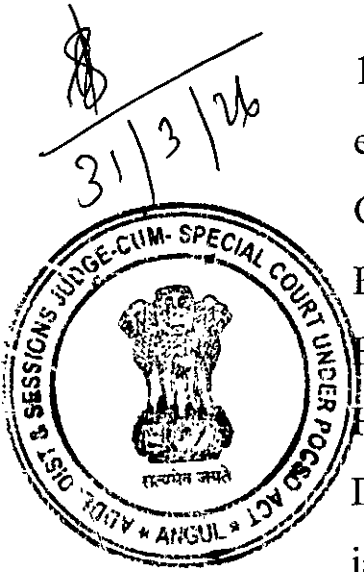
11) Human blood+saliva stain was detected in the exhibit marked as H6, group of same could not be detected due to degradation or of non-secretor status.

12) Human blood+semen stain was detected in the exhibits marked as H8, H9 and H10, group of same could not be furnished due to contamination with blood and semen stain.

13) Report of serology division vide No.412 (Sero) SFSL, dated 17.04.2025 is enclosed herewith for reference.

14) Regarding opinion on DNA profiling of exhibits marked as A, B, C, D, EX, EY, FX, FY, FZ, G, G2X, G3, G4X, G4Y, G5X, G5Y, G6X, G6Y, H, H1, H2, H3, H4, H5, H6, H7, H8, H9, H10, H11, H12X, H12Y, H12Z, H13AX, H13AY, H13BX, H13BY, H14, J1X, J1Y, J2X, J2Y and J#, report of DNA Division vide No.383/DNA dated 19.04.2025 is enclosed herewith for reference.

15) Exhibits marked as JW, JX, JY and JZ were sent to Cyber Forensic Division for examination,



report of Cyber Forensic Division vide No.200/CYF dated 15.04.2025 is enclosed herewith for reference.

16) Exhibits marked as K, H3 and H4 were sent to Chemistry Division for examination report of chemistry Division vide No.566/CHEM dated 17.04.2025 is enclosed herewith for reference.

17) Semen and saliva stain could not be detected in the exhibits marked as H3 and H4.

18) Semen and vaginal secretion stain could not be detected in the exhibits marked as H5 and H6.

19) Saliva and vaginal secretion could not be detected in the exhibits marked as H8, H9 and H10.

20) Blood, semen and vaginal secretion stain could not be detected in the exhibits marked as G6X and G6Y.

21) Blood, Saliva and vaginal secretion stain could not be detected in the exhibit marked as FZ.

22) Semen, saliva and vaginal secretion stain could not be detected in the exhibits marked as A, B, C, D,

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FX, FY, G6X, G6Y, H, H1, H7, H11, H12X, H12Y, H13A, H13B, H14, J1, J2 and J3.

23) Blood, semen, saliva and vaginal secretion stain could not be detected in the exhibits marked as A1, B1, C1, D1, G2X, G2Y, G3, G7, G8, G9X, G9Y, G10X, G10Y, G11, H12Z and K.

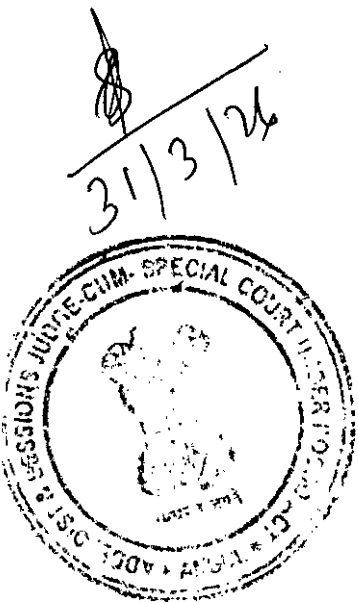
24) Hair could not be detected in the exhibits marked as A, B, C, D, A1, C1, D1, E, F, G3, G6X, G6Y, G7, G8, G9X, G9Y, G10X, G10Y, G11, H1, H3, H4, H5, H6, H7, H8, H9, H10, H11, H13A, H13B, H14, J1, J2, J3 and K.

25) Foreign hair could not be detected in the exhibit marked as G2X.

26) Foreign hair could not be detected in the exhibits marked as h and G2Y.

27) Exhibit marked as G1 was unsuitable for examination due to preservation in moist condition.

On perusal of the report of the DNA Division, attached with the chemical examination report Ext.P-40/P.W.29, it reveals:-



(i) Autosomal female DNA profiles generated from exhibits A (Cut portion of blood stained gauze said to be collected from the tile floor of bedroom of the accused), B (Cut portion of blood stained gauze said to be collected from the bedroom of the accused), C (Cut portion of blood stained gauze said to be collected from the inside courtyard of the accused), D (Cut portion of blood stained gauze said to be collected from the concrete floor at a distance of 1'5" south to the main entrance door of the house of accused), EX (Cut portion of saree said to be collected from the bedroom of accused stained with blood), EY (Cut portion of same saree (separate patch) said to be collected from the bedroom of accused stained with blood), FX (Cut portion of lungi said to be collected from the bedroom of accused stained with blood), FY (Cut portion of same lungi (separate patch) said to be collected from the bedroom of accused stained with blood), FZ (Cut portion of same lungi (separate patch) said to be collected from the bedroom of accused stained with blood) are matching with autosomal female DNA profile generated from

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exhibit H2 (Cut portion of blood soaked gauze said to be of deceased).

(ii) Autosomal male and female DNA profile generated from exhibit G (Sample blood said to be of accused on FTA Card) and H2 (Cut portion of blood soaked gauze said to be of deceased) are consistently available in autosomal mixed DNA profile generated from exhibit J2Y (Cut portion of same half pant (separate patch) said to be of accused stained with semen),

Autosomal female DNA profile generated from exhibits JIX (Cut portion of gamuchha said to be of accused stained with blood), JIY (Cut portion of same gamuchha (separate patch) said to be of accused stained with blood, J2X (Cut portion of half pant said to be of accused stained with blood) and J3 (Cut portion of ganjee said to be of accused stained with blood) are matching with autosomal female DNA profile generated from exhibit H2 (Cut portion of blood soaked gauze said to be of deceased).

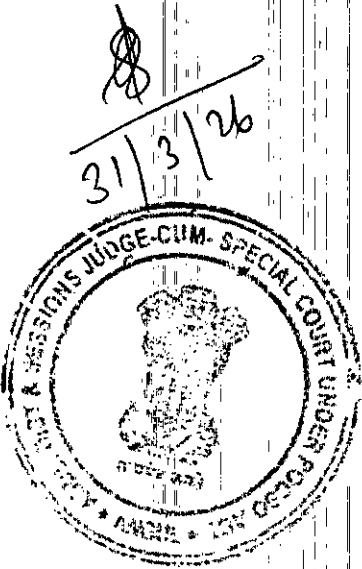


16.9. The result of DNA analysis and that of the DNA profile generated from the blood stain cloth of the accused found consistent with that of the deceased is a strong piece of evidence incriminating the accused in the offence.

So also there is no plausible explanation from the accused with regard to the matching of DNA profile of the deceased with the accused.

16.10. The learned defence counsel also submitted that the seized items were not kept in safe custody and there was tampered.

In this regard the evidences available on the case record reveals that all the witnesses to the seizure proved the factum of seizure, there is nothing to disbelieve their evidence with respect of seizure. So also after seizure, all the seized items were handed over to the Malkhana In-Charge of Police for safe custody under Malkhana Register No. 23/2025, MR No.24/2025, M.R. No.25/2025, M.R. No.26/2025, M.R. no.27/2025, M.R. No.28/2025, M.R. No.29/2025 and M.R. No.30/2025. The entire process of seizure was videographed and which was also converted into

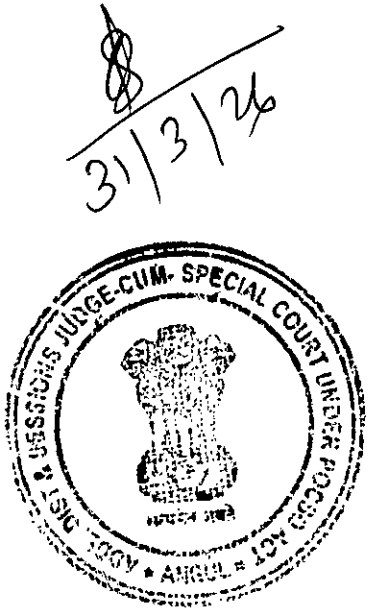


DVD and CD vide M.O.-XIII, M.O.-XIV, M.O.-XVI, M.O.-XVII, M.O.- XVIII. So, the question of tampering with the seized items and its safe custody as raised by the learned counsel for the accused is not acceptable.

16.11. The learned defence counsel also submitted that the forensic scientist who prepared the chemical examination report Ext.P-40/P.W.29 was not examined in this case by the prosecution. So, the chemical examination report is not reliable and complete reliance cannot be placed on those documents.

In the case of Chandia @ Chandi Sethi and others Vrs. State of Odisha, in Criminal Appeal No.248 of 1998 of dt.11.08.2025 our Hon'ble High Court held that,

"In the case in hand, the chemical examination report (Ext.12) has been marked on admission during the recording of evidence of I.O. (P.W.10). Such a document can also be marked on admission in view of Section-293 of Cr.P.C. and used as evidence in the trial. In the case in hand, the defence has not even filed any application to summon the



expert to prove the same nor objected to be marking of Ext.12 through I.O.

Therefore, we are not inclined to accept the contentions raised by the learned counsel for the appellants that Ext.12 cannot be used against the appellants. In fact, the learned trial court has not considered Ext.12 in the judgment, but mainly relying upon the evidence of the eye witnesses and the doctor's evidence, found the appellants guilty. Even if for the sake of argument, Ext.12 is left out of consideration, we are still of the humble view that the prosecution has successfully proved its case through the unimpeachable evidence of the eye witnesses and the medical evidence."

So, none examination of the forensic scientist who prepared the chemical examination report Ext.P-40/P.W.29 is not fatal to the prosecution case.

17. If an offence takes place inside the four walls of a house and in such circumstances where the accused has all the opportunity to plan and commit the offence at the time and in this circumstances of its choice, it will be extremely difficult for the

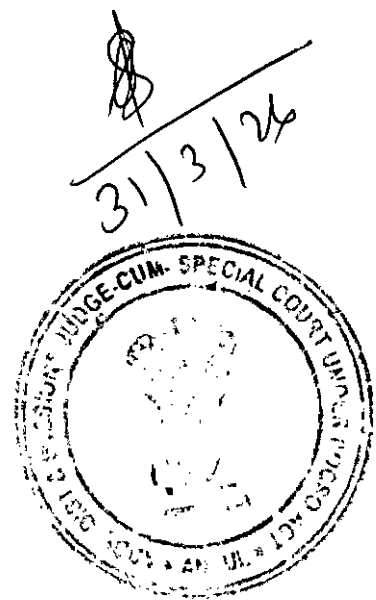
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prosecution to lead direct evidence so establish the guilt of the accused.

In the case of **Trimukh Maroti Kirkan**, it is held that “a judge does not preside over a criminal trial merely to see that no innocent man is punished. The Court proceeded to observe that a judge also presides to see that a guilt man does not escape. Both are public duties. The law does not enjoin a duty on the prosecution to lead evidence on such character, which almost impossible to be led, or at any rate, extremely difficult to be led. The duty on the prosecution is to lead such evidence, which it is capable of leading, having regard to the facts and circumstances of the case”.

18. Although, the learned DCLADC disputed that there is no evidence that Babula Jena was residing on the said house of Pravakar behera on rent in absence of any rent agreement. In this regard the evidence of the witnesses who are the co-villagers indicates that they clearly and categorically deposed that one month prior to the occurrence, the accused Babula Jena along with his wife were residing in the house of Pravakar Behera on rent and prior to the



occurrence, as there was quarrel between his wife and Babula Jena, the wife of Babula Jena left him and at the time of occurrence Babula Jena was residing alone on the said house. Further, the evidence of P.W.28 the 2nd IO and the Scientific Officer reveal that they had categorically stated the crime had taken place in the said room where the accused Babula Jena was residing. No reason appears to disbelieve the evidence of P.W.1, P.W.2, P.W.5, P.W.6, P.W.7, P.W.17, p.w.19, P.W.24 and P.W.25 all those witnesses are the residents of the same locality and have no animus with the accused so as to infer false implication. Thus, its stands proved beyond doubt that the house situated in Pidhakhaman in which all the incriminating materials found lying in the room was in possession of the accused and he was residing there.

So, far as the rent agreement is concerned, Pidhakhaman like a village, there is no such written agreement is required to reside on a house on rent.

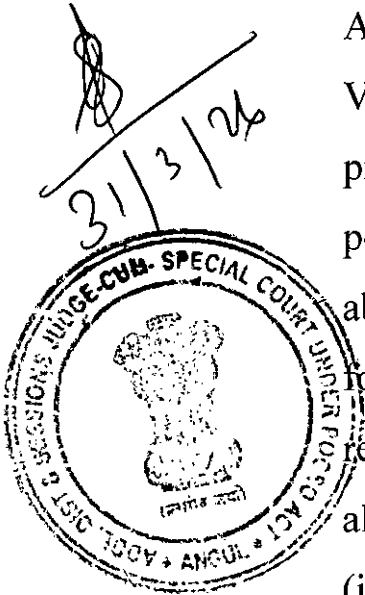
From the above discussion, in the present case, it is proved that the crime was committed inside the house where Babula Jena was residing.



19. From the above discussions, it is revealed from the ocular and documentary evidences i.e. all the witnesses P.W.1 to P.W.32 and the documentary evidences Ext.P-1 to Ext.P-40 with respect to last seen theory, extra judicial confession, confession before the police and chemical examination report are reliable and fully corroborated by each other. Prosecution led sufficient evidence to prove the circumstances in which the offence was committed. The circumstances relied upon by the prosecution unerringly point towards the guilt of the accused.

Applying the decisions of Sharad Birdhichand Sarad Vrs. State of Maharashtra, the prosecution has proved each circumstances of the present case pointing towards the accused Babula Jena. From the above analysis, of each circumstance the following foundational facts duly establish by the prosecution regarding the involvement of the accused with the alleged offence:-

(i). That on dt.13.03.2025 at about 2.00 P.M. while the deceased was playing in front of her house alone, the accused Babula Jena was sitting in the verandah of Susanta Behera, which was last seen by the



witnesses Susanta Behera(PW.6) and Jamunda Tubid (P.W.19).


(ii). The deceased had gone missing from there and her dead body was found on 15.03.2025 in the Mahula Buri near the house of Babula Jena,

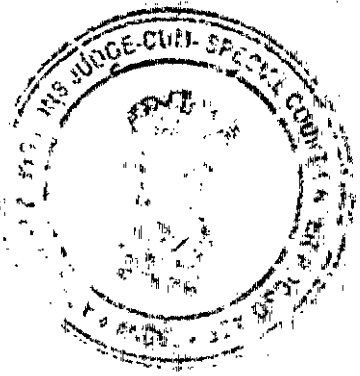
(iii). The accused has not disputed that he was not sitting in the house of Susanta Behera while the victim was playing, and the deceased was last seen with the accused Babula Jena before her missing.

(iv) The accused babula Jena was also searching the deceased along with the other co-villagers in order to avoid any kind of doubt.

(v) As per the evidence of Khulana Kandia (P.W.5) and Rukmani Khanda (P.W.25), while every body was searching the deceased, accused Babula Jena voluntarily without any threat and influence stated before them “ Jhio Ta Aau Naina, Amane Kana Khojuchanti.” Which is also extra judicial confession of the accused before the said witness.

(vi) After confession of the accused regarding his guilt and as per the discloser statement of the accused Babula Jena while he was in police custody


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regarding concealment of the paunji and mobile the same was recovered.

(vii) As per the evidence of Khulana Kandhia (P.W.5) on 14.03.2025 night Babula Jena asked her for dhala and torch light with a plea he will attend the call of nature.

(viii) On the very next day on 15.03.2025, early morning the dead body of the deceased was recovered.

(ix). All the incriminating materials i.e. blood stain cloth, saree etc. recovered from the house of the accused by the scientific team,

(x). The postmortem report reveals the victim was subjected to rape before her death,

(xi). The failure on the part of the accused to explain the injury sustained by him,

(xii). The chemical examination report Ext.P-40/P.W.29 also shows blood stain of the deceased was present on the wearing apparels of the accused.

(xiii). The accused maintained complete silent saying "Michha Katha Janini". He has failed to explain any of the incriminating circumstances pointing a finger against him.

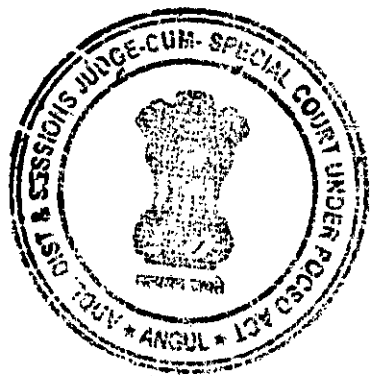
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(xiv). Motive of the crime is sexual lust.

20. So, all the above facts and circumstances, on whole, formed a complete chain which points that it is the accused who had executed the crime. Prosecution has successfully proved the circumstances forming the complete chain without any missing link that the accused Babula Jena is the author of the crime. As per the decision Sharad Birdhichand Sarada, which lays down that the circumstantial evidence must prove all the circumstances conclusively to form the chain of evidence so complete, as not leave any reasonable ground for the conclusion consistent with the innocence of the accused Babula Jena and to show that in all human probability the crime was committed by the accused Babula Jena and non else. The defence has failed to prove anything in its favour after the prosecution successfully proved the circumstances forming the complete chain without any missing link.

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21. Now let us discuss how far prosecution has been able to establish the charges leveled against the accused beyond all reasonable doubt.

22. So far as the offence U/s.103 (1) BNS is concerned, Sec.103 IPC speaks about punishment for murder.

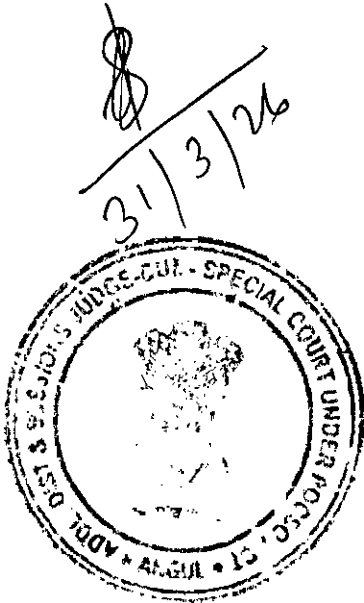
Section-101 BNS defines murder:-

(a) if the act by which the death is caused is done with the intention of causing death; or

(b) if the act by which the death is caused is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused; or

(c) if the act by which the death is caused is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death; or

(d) if the person committing the act by which the death is caused, knows that it is so imminently



dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

In the case at hand, it is already proved from the inquest report, the postmortem report, as per the evidence of the doctor (P.W.21 and P.W.26) that the cause of death is homicidal in nature. As per the evidence of P.W.21 the M.O. who conducted the postmortem of the deceased, it indicates on internal examination, skull structure separated, brain liquefied, on dissection of neck the interolateral neck motion found to be contused and antimortem in nature. The cause of this contusion is by hard and blunt force impact. It is already proved that the mode of the death of the deceased is asphyxia due to throttling. The evidence also reveals after committing rape/penetrative sexual assault, the accused with an intention inflicted such bodily injury i.e. by compressing the neck of the deceased which caused the death the deceased. From the heinous act,



the manner of committing the act upon the deceased i.e. pressing the neck of the deceased clearly shows that the intention of the accused was to cause such bodily injury to the deceased who was only four year age at the time of occurrence is sufficient in the ordinary course of nature to cause death and the accused has also knowledge that by inflicting such bodily injury it is likely to cause death of the deceased to whom the harm is caused. After committing the rape, with a motive the accused pressed the neck of the deceased resulting her death. Evidence also shows that while the accused was pressing the neck of the deceased, the deceased also struggled and mark of resistance the accused sustained the injury on his portion by the deceased. So, prosecution has successfully established that the accused is the author of the crime and he has committed murder of the deceased as alleged against him U/s.103(1) IPC.



Offence U/s 65(2) of B.N.S. r/w Sec. 6 of the POCSO Act.

23. So far as the offence under Sec. 65(2) of BNS r/w Sec. 6 of the POCSO Act, the case of the prosecution is that, the deceased was subjected to rape / penetrative sexual assault before her death by the accused Babula Jena. In this circumstance, before delving into the evidence of the witnesses, let me read the provision related to the offence of rape / aggravated penetrative sexual assault in the Bharatiya Nyaya Sanhita and under POCSO Act.

Sec. 63 of BNS defines rape.

Sec. 63. Rape- A man is said to commit "rape" if he-

(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or make her to do so with him or any other person, or

(b) inserts, to any extent, any object or part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person, or

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(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person, or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person.

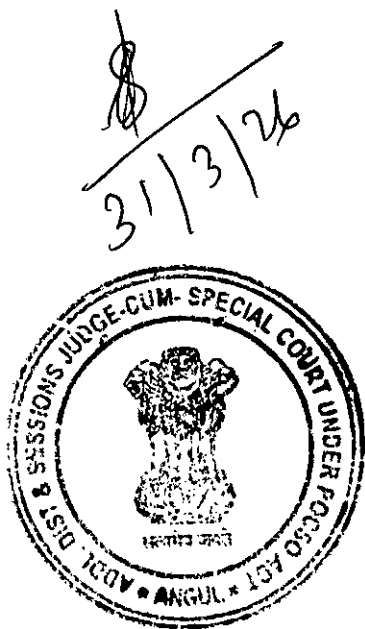
Sec.65(2) speaks about the punishment whoever, commits rape on a woman under twelve years of age.

Sec.3 of the POCSO Act defines penetrative sexual assault which reads as follows:-

3. Penetrative sexual assault- A person is said to commit “penetrative sexual assault” if -

(a) he penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a child or makes the child to do so with him or any other person; or

(b) he inserts, to any extent, any object or a part of the body, not being the penis, into the vagina,



the urethra or anus of the child or makes the child to do so with him or any other person; or

(c) he manipulates any part of the body of the child so as to cause penetration into the vagina, urethra, anus or any part of body of the child or makes the child to do so with him or any other person; or

(d) he applies his mouth to the penis, vagina, anus, urethra of the child or makes the child to do so with him or any other person.

Sec.5 of the POCSO Act describes aggravated penetrative sexual assault which is punishable under Sec. 6 of the POCSO Act.

Sec. 5(m) of the POCSO Act speaks whoever commits penetrative sexual assault on a child below twelve years of age is said to commit aggravated penetrative sexual assault which is punishable under Sec. 6 of the POCSO Act.

Sec.5(i) of the POCSO Act speaks whoever commits penetrative sexual assault causing grievous



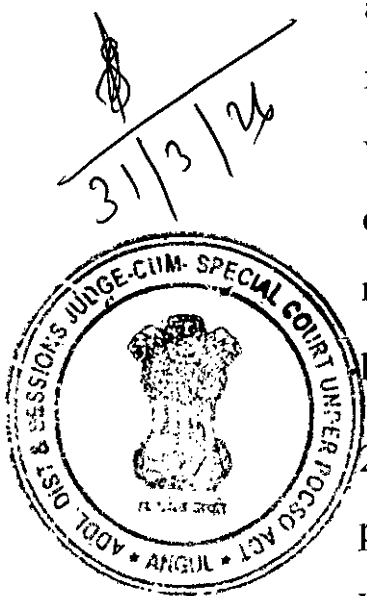
hurt or causing bodily harm and injury or injury to the sexual organ of the child.

Sec.5(j)(iv) of the POCSO Act speaks whoever commits penetrative sexual assault on a child causes death of a child which is punishable under Sec. 6 of the POCSO Act.

In the above provisions of law with respect to rape / penetrative sexual assault, let me scrutiny the evidences available in the case record.

In the preceding paragraphs as discussed, it is already proved that Babula Jena had committed murder of the deceased. Now we have to examine with the available evidence, oral as well as documentary whether Babula Jena had committed rape / penetrative sexual assault upon the deceased prior to her murder.

23.1. In a case of rape / sexual assault, the crucial piece of evidence is the medical evidence of the victim which plays a vital role. Medical examination of the victim is very crucial in successfully contesting a rape case. In most of the rape cases,



there are no other witnesses than the victim herself as the offence of rape is committed very secretly. So, the most corroborating factor is the medical report of the deceased in absence of any eye witness to the alleged offence. The object of medical examination of a rape victim is that (1) to search for physical sign that will corroborate the history given by the victim, (2) to search for collect and preserve all trace evidence for laboratory examination and (3) to treat the victim for any injury.

The importance of the medical evidence cannot be minimize in any way in a case of rape / penetrative sexual assault. The medical evidence if available, then it clinches the issue, a strong support to the allegation of the prosecution in absence of any other direct evidence or eye witnesses on record, as offence of rape / sexual assault take place in secrecy. So, the only piece of corroborating evidence in case of doubt, is medical evidence.

23.2. In the present case at hand, the victim is already dead and the dead body of the deceased was found in a Mahula Buri after two days of the



occurrence. Evidences also reveal that after recovery of the dead body of the deceased on 15.03.2025, P.W.28, the second Investigating Officer sent the dead body of the deceased to D.H.H., Angul for postmortem examination. The evidence of P.W.21, Dr. Nanda Kishore Sahu also reveals that on that day at about 12.30 P.M. on Police requisition, he conducted the postmortem on the dead body of the victim girl under the supervision of an expert namely Maharshi Ranjan Sahoo, Asst. Profession from the Department of FMT, PMP Medical College, Talcher under the postmortem report vide Ext.P-21/P.W.21. The evidence of P.W.21 also reveals that on external examination of the dead body, one foreign object i.e. one yellow colour piece of soap of size 3 cm X 2 cm found inside external genitalia. The external injuries are:-



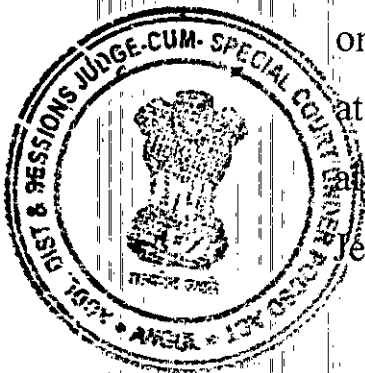
- i) a contusion of size 3 cm X 2 cm found over medial side of right arm,
- ii) a contusion of size 1 cm X 0.5 cm found over left axilla,

- iii) one laceration of size 3 cm X 2 cm X bone depth found over lateral border of right palm,
- iv) one laceration of size 1 cm X 1 cm X 0.5 cm found over left labia majora,
- v) one laceration of size 1 cm X 0.5 cm of the fourchette posteriorly extending a long 5'O Clock position.

All the above external injuries are antimortem in nature. The injuries No.(i), (ii) and (iii) are caused by hard and blunt forced impact. Injury No. (iv) and (v) are caused by blunt penetrative force.

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23.3. Evidence of Dr. Rabindranath Patra (P.W.22) who examined the accused Babula Jena reveals that on 18.03.2025 he was working as O & G Specialist at D.H.H., Angul. On that day on Police requisition at about 7 P.M., he examined the accused Babula Jena, S/o Late Lokanath Jena and found:-

- 1) there is no any sign and symptoms of sexual intercourse on his private parts that might have occurred due to prolonged intercourse,



2) the accused is capable of doing sexual intercourse,

3) there are four bodily injuries which have been caused by struggle of the victim indicating mark of resistance.

The injuries are :-

(i) abrasion 1.5 cm X 0.3 cm over dorsal aspect of root of right thumb of brownish black in colour. Might have been caused by hard and rough object. The age of injury is within 4 to 7 days.

(ii) abrasion of size 1.5 cm X .5 cm present over left side of forehead, caused by hard and blunt object. The age of injury is within 4 to 7 days.

(iii) abrasion of size 1.5 cm X .2 cm present over left side chest, caused by hard and sharp object. The age of the injury is within 4 to 7 days.

(iv) abrasion of size 2 cm X .5 cm present over nape of the neck, caused by hard and rough object. The age of injury is within 4 to 7 days.

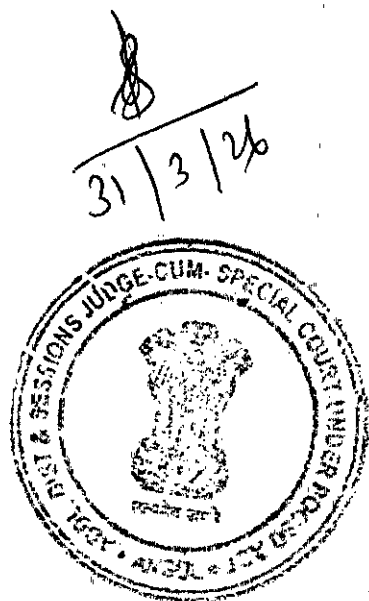
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- 4) On examination of genitalia, there is no sign and symptoms of sexual intercourse.
- 5) His blood group is O+ve.
- 6) All the biological samples of the accused were collected along with Blood sample of accused in FTA Card which was sealed, labeled and handed over to the escort Police.

He proved the medico-legal report of the accused Babula Jena vide Ext.P-22/P.W.22 and his signature vide Ext.P-22¹/P.W.22 thereon.

23.4. So, on a careful scrutiny of the evidence of Doctor (P.W.21) who conducted postmortem on the dead body of the deceased and the postmortem report Ext.P-21/P.W.21 clearly indicates that the deceased I sustained injuries of one laceration of size 1 cm X 1 cm X 0.5 cm over left labia majora and one laceration of size 1 cm X 0.5 cm of the fourchette posteriorly extending a long 5'O Clock position. The medical evidence of P.W.21 vide Ext.P-21/P.W.21 clearly reveals regarding the injuries found in the private part of the deceased prior to her death and they are caused by blunt penetrative force.

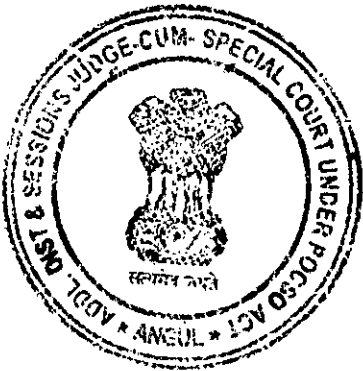


So also one foreign object i.e. one yellow colour piece of soap of size 3 cm X 2 cm found inside the external genitalia of the deceased during external examination of the dead body.

23.5. That apart, the evidence of P.W.22 who examined the accused Babula Jena and Ext.P-22/P.W.22, the medico-legal report of the accused also reveals, the accused sustained four bodily injuries on his person and the age of injury is within four to seven days. The injuries have been sustained by the accused caused by struggle of the deceased indicating mark of resistance. The accused also capable of doing sexual intercourse.

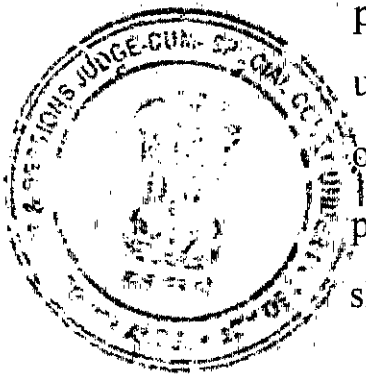
23.6. From the above discussions, in the present case at hand, it is revealed that there is more than enough evidence positively showing that there was sexual activity on the deceased prior to her death and she was subjected to penetrative sexual assault without which she would not have sustained injury of this nature found on her private part by the Doctor who conducted post mortem.

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23.7. Further, the evidence of P.W.22 and P.W.26 and the postmortem report reveals that the cause of death is due to compression of neck and its complication. It is already proved that the deceased was subjected to rape / penetrative sexual assault by the accused Babula Jena. The evidence on the record further reveals that in course of committing penetrative sexual assault, the accused caused bodily injury and also injury to the private part of the deceased and caused death of the deceased.

23.8. Sec. 29 of the POCSO Act provides where a person is prosecuted for committing or abetting or attempting to commit any offence U/s 3, 5, 7 and 9 of the said Act, the Special Court shall presume, that such person has committed the offence, unless the contrary is proved and Sec. 30 of the POCSO Act provides that in any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the Special Court shall presume the existence of such mental state and it shall be defence for the accused to prove that he had



no such mental state with respect to the Act charged as an offence in the prosecution.

23.9. Accused had not given any satisfactory explanation regarding the injury sustained by him during his examination under Sec. 351 BNSS. Rather, the injuries sustained by the accused on his person as per Ext.P-22/P.W.22 supports the case of the prosecution that while resisting the heinous act of the accused upon the deceased, the deceased struggled and mark of resistance the accused sustained the injury on his person during struggle of the deceased.

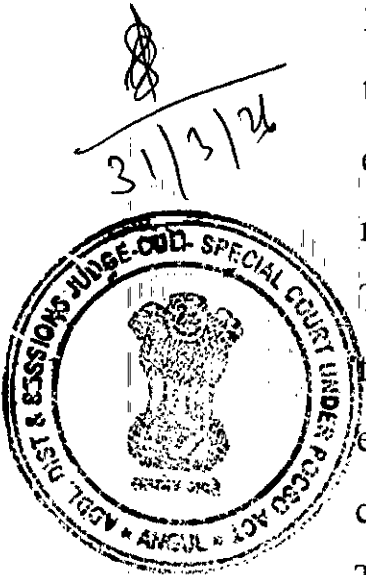
23.10. So, from the above discussions made in the preceding paragraph and considering the circumstances, medical evidence and statutory presumption under Sec. 29 and 30 of the POCSO Act, it is proved that prior to the death of the deceased, she was subjected to rape / penetrative sexual assault by the accused Babula Jena. Babula Jena in course of committing penetrative sexual assault caused bodily injury and injury on the private part of the victim and also caused death of the



deceased who was below 12 years of age at the time of occurrence. Prosecution has successfully proved the offence under Sec. 65(2) of B.N.S. r/w Sec. 5(m), 5(i), 5(j)(iv) of the POCSO Act which is punishable under Sec. 6 of the POCSO Act against the accused Babula Jena beyond all reasonable doubt.

24. So far as the offence under Sec. 3(2(v)/3(1)(w) of SC & ST (POA) Act is concerned, to attract the liability for the said offences described under the SC & ST (POA) Act against the accused, prosecution has to first establish that the deceased belong to SC or ST category and the accused does not belong to SC or ST category.

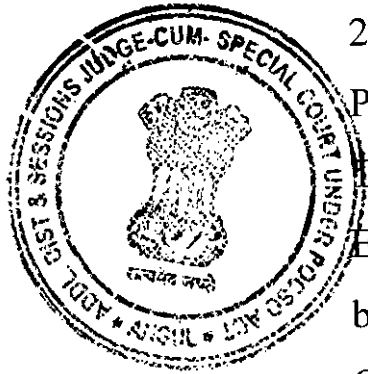
24.1. In the given case at hand, with respect to the caste of the deceased and the accused, the evidences shows that P.W.29, the I.O. sent requisition to Tahasildar, Chhendipada and Tahasildar, Telkoi to ascertain the caste particular of the deceased and the accused Babula Jena. The evidence of P.W.29 also indicates she received the caste particular of the deceased from the Tahasildar, Telkoi vide Letter No. 1206 of dtd. 20.03.2025 under



Ext.P-34/P.W.29 and as per the said report, the complainant who is none other than the father of the deceased belongs to ST Category "Kolha" by Caste and as per the report of the Addl. Tahasikldar, Chhendipada vide Ext.P-33/P.W.29, the accused belongs to OBC category "Suda" by Caste.

24.2. The evidence of Tahasildar, Telkoi (P.W.30) and evidence of Tahasildar, Chhendipada (P.W.31) reveals that they submitted the caste particulars of the deceased and the accused Babula Jena under Ext.P-34/P.W.29 and Ext.P-33/P.W.29 and as per the said caste report, the deceased girl belongs to ST Category of "Kolha" caste and the accused belongs to OBC Category of "Suda" Caste.

24.3. So, from the evidence of P.W.29, the I.O., P.W.30, P.W.31, the Tahasildar, Telkoi and Tahasildar, Chhendipada and Ext. P-33/P.W.29 and Ext.P-34/P.W.29, it is clear that the deceased belongs to ST category and the accused belongs to OBC category. Such evidence of P.W.29, P.W.30 and P.W.31 with respect to the caste of the deceased and the accused remained unchallenged. So,



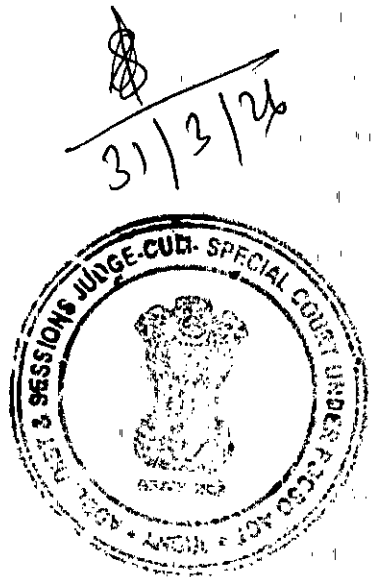
prosecution has successfully proved that the deceased belongs to ST category and the accused does not belongs to SC or ST category.

25. Now, coming to the offence under Sec. 3(2)(v) of SC & ST (POA) Act which speaks, whoever, not being a member of Schedule Caste or a Schedule Tribe commits any offence under the Indian Penal Code punishable with imprisonment for a term of ten years or more against a person or property (knowing that such person is a member of a Schedule Caste or Schedule Tribe or such property belongs to such member) shall be punished with imprisonment for life and with fine.

25.1. In order to prove the offence under Sec. 3(2)(v) of SC or ST (POA) Act, prosecution has to prove that-

i) the accused committed an offence under BNS which are punishable with imprisonment of a term of ten years or more;

ii) the accused at the relevant point of time committing the offence had knowledge that the victim is a member of SC or ST category.



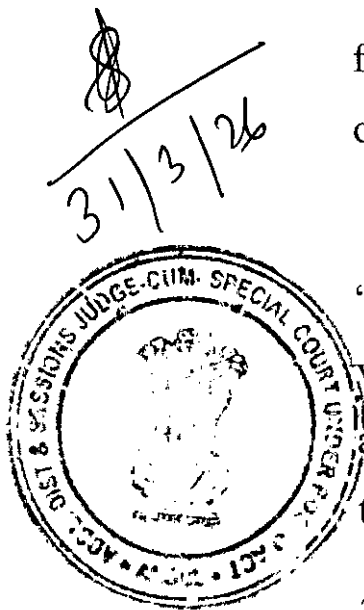
In the present case, prosecution has already proved that the accused had committed the offence under Sec. 103(1)/65(2) of B.N.S. / 6 POCSO Act.

25.2. Now, prosecution has to prove that while committing the offence, the accused had knowledge that the victim belongs to ST category. In this regard, it is pertinent to note that knowledge of thing is mental element and to ascertain the same manifestations are to be verified and can be ascertained from the attending circumstances.

Sec. 8(c) of SC & ST (POA) Act provides for statutory presumption to ascertain the knowledge of the accused is of the caste of the victim.

Sec. 8(c) of SC & ST (POA) Act reads, "the accused was having personal knowledge of the victim or his family, the Court shall presume that the accused was aware of the caste or tribal identity of the victim, unless the contrary is proved."

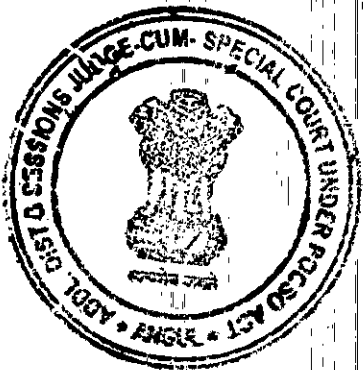
25.3. From the above discussions of the evidence of P.W.29, the I.O., P.W.30, the Tahasildar, Telkoi, P.W.31, Tahasildar, Chhendipada and Ext.P-



34/P.W.29, the caste particular of the deceased-victim and Ext.P-41/P.W.31, it is proved that the deceased-victim girl was belonged to ST Category of "Kolha" Caste and the accused Babula Jena was belonged to "Suda" Caste under OBC Category.

25.4. On further perusal of the case record, it is revealed that one month prior to the occurrence, accused Babula Jena had come to the Village-Pidhakhaman and resided in the house of Pravakar Behera on rent. So, from the aforesaid, it is revealed that there is no reliable evidence that the accused Babula Jena had personal knowledge regarding the caste of the deceased-victim. So also not a single witness whispered regarding the caste of the accused and the deceased-victim and that the offence committed by Babula Jena as the victim was belong to ST category. In absence of the knowledge of the accused that the victim is a member of ST community, prosecution has miserably failed to prove the offence U/s 3(2)(v) of SC / ST (POA) Act.

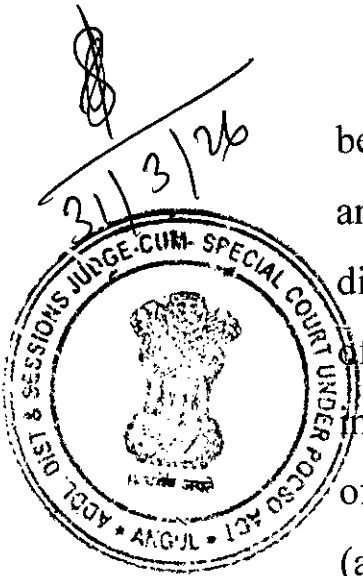
25.5. So far as the offence under Sec. 3(1)(w) of SC & ST (POA) Act is concerned, as it is already



proved that the accused had no knowledge that the deceased-victim belong to ST category. So, the offence under Sec. 3(1)(w) of SC & ST (POA) Act is not proved against the accused in absence of his personal knowledge about the caste of the deceased.

26. So far as the offence U/s 238(a) of the B.N.S. is concerned, Sec. 238 BNS deals with causing disappearance of evidence of offence, or giving false information to screen offender. At this stage, it is apposite for us to reproduce the provision which reads as follows:-

“Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false shall (a) if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description

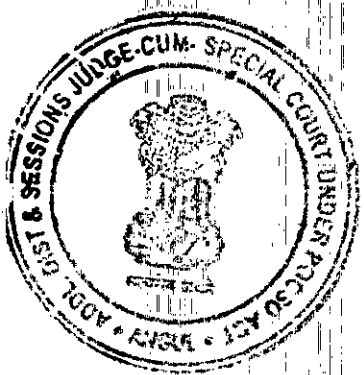


for a term which may extend to seven years, and shall also be liable to fine.

26.1. To bring home an offence **under Sec. 238 of the B.N.S.**, prosecution has to establish the following ingredients –

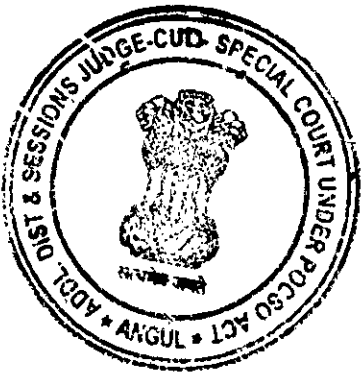
- i) an offence has been committed,
- ii) person charged with the offence under Sec. 238 of B.N.S. must have the knowledge or reasons to believe that an offence has been committed,
- iii) person charged with the said offence should have caused disappearance of evidence, and
- iv) the act should have been done with the intention of screening the offender from legal punishment or with that intention he should have given information respecting the offence, which he knew or believed to be false.

In the case of **Sukhram Vrs. State of Maharashtra** reported in (2007) 7 SCC 502, the Hon'ble Supreme Court has elaborately discussed



the necessary ingredients of offence under Section 201 of the I.P.C. in the following words:

“The first paragraph of the section contains the postulates for constituting the offence while the remaining three paragraphs prescribe three different tiers of punishment depending upon the degree of offence in each situation. To bring home an offence under Section 201 IPC, the ingredients to be established are: (i) committal of an offence, (ii) person charged with the offence under Section 201 must have the knowledge or reason to believe that an offence has been committed, (iii) person charged with the said offence should have caused disappearance of evidence, and (iv) the act should have been done with the intention of screening the offender from legal punishment or with than intention he should have given information respecting the offence, which he knew or believed to be false. It is plain that the intent to screen the offender committing an offence must be the primary and sole aim of the accused. It hardly needs any emphasis that in order to bring home an offence



under Section 201 IPC, a mere suspicion is not sufficient. There must be on record cogent evidence to prove that the accused knew or had information sufficient to lead him to believe that the offence had been committed and that the accused has caused the evidence to disappear in order to screen the offender, known or unknown."

26.2. In the present case at hand, it is already proved that on 13.03.2025 while the deceased was playing alone in front of her house, the accused Babula Jena took her to his house to satisfy his sexual urge and then committed rape / aggravated sexual assault upon her. Babula Jena also committed murder of the deceased by pressing her neck.

26.3. So, from the above discussions, it is gathered from the circumstances that the accused Babula Jena had sufficient knowledge and he had believed that the offence of kidnapping, rape and murder has been committed by him.

26.4. So, with an intention of screening himself from legal punishment, he caused

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disappearance of evidence of the said offence of rape and murder. As per the evidence of the witnesses, to screen himself from the legal punishment, on 13.03.2025 he along with others searched the deceased girl so that nobody will doubt on him. Thereafter, as per the evidence of the parents of the deceased (P.W.3 and P.W.4) and the co-villager Khulana Kandhia (P.W.5), a "Mela Sankirtan" was held at the house of the informant. When she returned from the "Mela", he found Babula Jena was sleeping with her son Susanta Kandhia. Further, the evidence of Khulana Kandhia reveals that on 14.03.2025 night, the accused Babula Jena took the torchlight, a "Dhalo" from her with a plea to attend the call of nature. Thereafter, on 15.03.2025 in the early morning the dead body of the deceased was found in bushy jungle under a Mahua tree in the Mahula Buri near the house of the accused Babula Jena.

26.5. That apart, as per the statement of the accused Babula Jena under Sec. 23(2) proviso of BSA, he led the police team to the spot where he



concealed the Paunji of the deceased and the mobile phone and the same were recovered as per his statement.

26.6. So, from the above discussions, it is clear that Babula Jena had sufficient knowledge regarding the offence of rape / penetrative sexual assault and murder punishable with death or life imprisonment has been committed by him and with the intention of screening himself from the legal punishment, he caused disappearance of evidence of the said offence of rape and murder by throwing the dead body of the deceased in the Mahula Buri in the late night and also concealed the Paunji of the deceased and the mobile phone.



Prosecution has successfully proved the offence U/s 238(a) B.N.S. against the accused.

27. So far as the offence **under Sec. 137(2) of the B.N.S.** is concerned, the case of the prosecution is that the accused Babula Jena kidnapped the deceased without the consent of her parents from their lawful guardianship. In order to prove the

offence under Sec. 137(2) of B.N.S., prosecution has to prove:-

- i) The victim kidnapped was a minor below sixteen years if male or below eighteen years if female.
- ii) The victim kidnapped was in the keeping of a lawful guardian.
- iii) The accused took or entice away the victim from the lawful guardian without their consent.

27.1. In the present case at hand, it is already proved that at the time of occurrence the deceased was only four years old. From the evidence of Jamuna Tubid and Susanta Behera, it has already been proved that the deceased-victim was last seen while she was playing in front of her house and accused Babula Jena was sitting in the verandah of the house of Susanta Behera. Thereafter, the deceased had gone missing and the dead body of the deceased was found on 15.03.2025 in a Mahula Buri near the house of Babula Jena and all the incriminating materials also found in the house of



Babula Jena. In the preceding paragraphs prosecution has already proved that the accused Babula Jena committed rape and murder of the victim girl. All the circumstances also indicates that on the alleged date of occurrence while the deceased was playing alone in front of her house, taking the advantage of her childhood, accused Babula Jena took the victim with him without the consent of her lawful guardianship. So, prosecution has successfully proved the offence under Sec. 137(2) of B.N.S. against the accused beyond all reasonable doubt.

28. The learned DCLADC submitted that the investigation of this case was not properly conducted and on the basis of perfunctory investigation conviction cannot lie.

In the case of **Dharam Das Radhuani** *Vrs. State of UP*, reported in 1974-4 SCC-267, *where it is held that* "the rule of benefit of reasonable doubt does not imply a frail willow bending to every whiff of hesitancy. Judges are made of sterner stuff and must take a practical view

of legitimate interference flowing from evidence circumstantial or direct". The role of courts in such circumstances assumes greater importance and it is expected of the courts to deal with like one hand, cases in a more realistic manner and not allow the criminal to go scot-free on account of procedural technicality, perfunctory investigation or in significant lacunas in the evidence as otherwise serious crimes would go on punished. The courts are expected to be sensitive in cases involving crime against women.

Decision

29. In view of the above discussions made in the preceding paragraphs, it is held that prosecution has successfully proved the offence against the accused Babula Jena for committing the offences under Sec. 137(2)/103(1)/65(2)/238(a) of the B.N.S. r/w Sec. 6 of the POCSO Act beyond all reasonable doubt. At the same time, prosecution has failed to prove the offence under Sec. 3(2)(v)/3(1)(w) of SC & ST (POA) Act against the accused person.



30. As such the accused Babula Jena is found guilty for committing the offences punishable under Sec. 137(2)/103(1)/65(2)/238(a) of the B.N.S. r/w Sec. 6 of the POCSO Act and thereby he is convicted under Sec. 258(2) of BNSS.

31. The accused Babula Jena is found not guilty for committing the offence under Sec. 3(2)(v)/3(1)(w) of SC & ST (PoA) Act and thereby acquitted him under Sec. 258(1) of BNSS.

32. The convict has committed the offence of rape / penetrative sexual assault followed by murder to the victim girl who is under 12 years of age at the time of occurrence. The convict has been convicted for the offences under Sec.137(2)/103(1)/65(2)/238(a) of the B.N.S. r/w Sec. 6 of the POCSO Act and the offences under Sec. 103(1)/65(2) of BNSS r/w Sec. 6 of the POCSO Act are punishable with death or imprisonment for life which shall mean remainder of natural life. So, the beneficial provision of the Probation of Offenders Act are not applicable in this case. Hence, I want to hear the convict and the learned counsels


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from both the sides and the informant on the question of sentence.

The judgment is typed out by my dictation and corrected by me and pronounced in the open Court on this, the *31st day of March, 2026* under my signature and seal of the Court.




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**A.D.J-cum-Special Court,
under POCSO Act, Angul
31.03.2026**

HEARING ON THE QUESTION OF SETENCE

33. The convict is produced from custody. The learned DCLADC for the convict and the learned Spl.P.P. are present. The informant is present to participate in the hearing on the question of sentence.

34. Heard the convict on the question of sentence. The convict is claimed that he is innocent and falsely implicated.

35. The learned DCLADC submitted that-

(1) The convict is a young person. He is the first time offender. He belongs to a very poor family. He has the responsibility of his wife, one son, mother and three married sisters. He further, submitted that the report of the Probation Officers, Angul shows that the socio-economic condition of the convict is very poor. The report of the Superintendent, Sub-Jail, Angul, shows that the conduct of the convict and behavior is good inside the Jail.



(2) The learned DCLADC further submitted that this case does not fall under 'rarest of the rare' case. Death penalty cannot be imposed in absence of clear evidence and on the basis of circumstantial evidence. The sentencing court is under the constitutional obligation to consider whether the accused is capable of reform and rehabilitation.

(3) He further submitted the court must balance the aggravating and mitigating circumstances. It is the settled principle that life imprisonment is the rule and death penalty is an exception. In the present case the prosecution may rely upon the seriousness of the offence. But, gravity alone cannot be the sole ground for awarding death penalty. The court must also consider the circumstances of the offender, not merely the offence and the possibility of reform.

(4) He further submitted the convict has already suffered a lot since the date of his arrest as he is in custody till date. In the present case, the mitigating circumstances are more than the aggravating circumstances. The case does not come under rarest of the rare case, so as to impose a penalty of death

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sentence. The mitigating circumstances will justify by imposition of a minimum prescribed punishment only.

(5) In support of his case, he relied on the decision, i). Bachan Singh Vrs. State of Punjab, ii). Machhi Singh Vrs. State of Punjab, iii). Santosh Kumar Satishbhusan Bariyar Vrs. State of Maharashtra.

With this, the learned DCLADC finally prayed the present case does not fall under "rarest of rare" case and prayed for the minimum punishment to the convict in the interest of justice.

36. On the other hand, learned Spl.P.P. submitted-

- 1). That the convict has committed the crime of rape aggravated penetrative sexual assault and murder on a child who is only four years of age at the time of occurrence. Only to satisfy his sexual lust, the convict has committed the heinous act towards the deceased-victim. The convict is a menace for the society. The case comes under 'rarest of rare' case.
- 2). He further submitted although the report of the Probation Officer, Angul and Jail Authority is

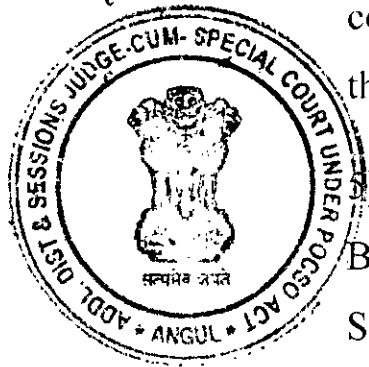


reported to be good, but only to satisfy his sexual urge, taking the advantage of the childhood of the deceased-victim and her loneliness, he committed such heinous act.

3). The learned Spl.P.P. further argued that aggravating circumstances like the nature and gravity of the offences, manner and mode of commission of the crime, the age of the victim is more than the mitigating circumstances.

4). On such grounds, the learned Spl.P.P. vehemently argued the present case fall under the "rarest of rare" case and that exemplary punishment in higher side i.e. death sentence needs to be imposed on the convict, besides awarding adequate compensation to the deceased.

5). In support of his case, he relied on a decision i). Bachan Singh Vrs. State of Punjab, ii). Machhi Singh Vrs. State of Punjab, iii). Santosh Kumar Satishbhusan Bariyar Vrs. State of Maharashtra, iv). Debendra Pal Singh Vrs. State of NCT of Delhi, AIR (2002) SC. 1681, Mahesh, v) Mahesh Vrs. State of



M.P. AIR (1987) SC 1346, vi) Bantu Vrs. State of U.P. (2008) 11 SCC 113.

37. The informant who is none other than the father of the deceased-victim girl present before this Court submitted that

1). The victim girl was his only child of four year old. For none of the reason, he lost his only daughter. Without any reason while his daughter was playing who was a small innocent baby faced the heinous crime i.e. rape and murder by the convict only to satisfy his sexual desire.

2). He further submitted, the convict had committed such a heinous crime towards a little baby girl, that creates a fear psychosis in the society regarding the exploitation of girl child of any age. The convict is a menace to the society. No parents of a girl child will remain in peace if their girl child will be outside from home.

3). He further submitted that after the death of his daughter, his wife and himself are suffering a lot remembering their daughter. Doctor had also advised

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them that there is very difficult for wife to conceive again as there was life risk to her. Since the death of his little daughter, they are living a lifeless life. With this, he submitted that the Court should punish the convict with death. So that nobody will do this kind of heinous act towards a girl and it will be a lesson to everybody having same mentality.

38. Heard the convict, learned DCLADC, learned Spl. P.P. and the informant. Perused the report of the District Probation Officer, Angul and the Superintendent, District Jail, Angul.

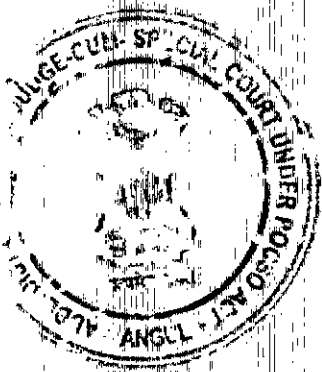
39. On perusal of the report of the Probation Officer, Angul, it is revealed that the convict Babula Jena is married having a son. In his family he has his mother and three married sisters also. All are dependent upon him. His socio economic standard is poor. He has no criminal antecedent. He was a master mason "Rajamistri" before coming to the jail custody and was earning Rs.18000/- per month. He was mentally fit and was not involved in unsocial behavior.



40. The report of the Superintendent of District Jail, Angul, averred that the conduct of the convict inside the Jail is good. His behavior and conduct is cordial and seems to be satisfactory towards all inmates as well as staffs. He is obeying prison rules and committed no prison offence during his stay in the Circle Jail till date.

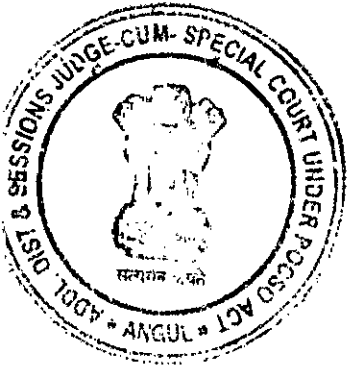
41. The Medical report received from Superintendent of District Jail, Angul, reveals that no psychiatric abnormality was found.

42. It is the settled principle of law on interpretation of Section-393(3) of BNSS. that life imprisonment is the rule and death sentence is an exception, that death sentence must be imposed only when life imprisonment appears to be an altogether inadequate punishment having regard to the relevant circumstances of the crime and the criminality on considering the balance sheet of the aggravating and mitigating circumstances and that the extreme penalty of death need not be inflicted except in the gravest cases of extreme culpability.



43. It has been held by the Hon'ble Apex Court in case of **Jameel Vs. State of U.P.** reported in **(2010) 45 OCR (SC) 106** that *"punishment must be appropriate and proportional to the gravity of the offence committed. Imposition of appropriate punishment is the manner in which the Courts respond to the society's cry for justice against the criminals Justice demands that court should impose punishment befitting the crime so that the Courts reflect public adherence of the crime"*.

Further, in the case of **Shyam Narain Vrs. The NCT of Delhi** reported in **2013 (2) Crimes 342 (S.C.)**. The Hon'ble Apex Court has held that *"primarily, it is to be borne in mind that sentencing for any offence has a social goal. Sentence is to be imposed regard being to the nature of offence and the fundamental purpose of imposition of sentence is based on the principle that the accused must realize that the crime committed by him has not only created a dent in his life but also a concavity in the social fabric. The purpose of just punishment is designed so that the individual in the society which ultimately*



constitutes the collective do not suffer time and again for such crime. It serves as a deterrent. True it is on certain occasion opportunities may be granted to the convict for reforming himself but it is equally true that the principle of proportionality between an offence committed and the penalty imposed are to be kept in view while carrying out this complex exercise, it is obligatory on the part of the court to see the impact of the offence on the society as a whole and its ramification in the immediate collective as well as its repercussions on the victim”.

44. In the case of **Bachan Singh Vrs. State of Punjab** reported in AIR 1980 S.C. 898 where the Hon'ble Apex court held that *“that is why, it is not desirable to consider the circumstances of the crime and the circumstances of the criminal in two separate water-tight compartments. In a sense, to kill is to be cruel and, therefore, all murder are cruel. But such cruelty may vary in its degree of culpability. And it is only when the culpability assumes the proportion of extreme depravity that “special reasons” can legitimately be said to exists.*

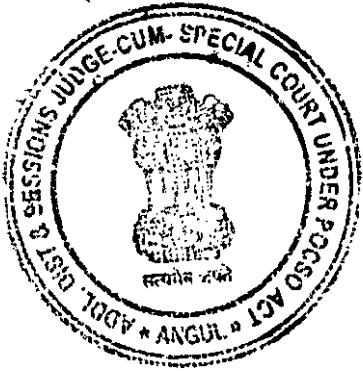


A real and abiding concern for the dignity of human life postulates resistance to taking a life through law's instrumentality. That ought not to be done save in the rarest of rare cases when the alternative option is unquestionably foreclosed.

45. In the case of **Machhi Singh and others Vrs. State of Punjab, reported in AIR 1983 (SC) 957**, in which the Hon'ble Apex Court has indicated five categories of cases as a rarest of rare cases. They were:-

- i) *Is there something uncommon and unseen in the crime committed which warrants death punishment.*
- ii) *When the manner of the commission of the crime is extremely revolting, disgusting, brutal, grotesque.*
- iii) *When the victim is inhumanly tortured to death.*
- iv) *Cold blooded murder with deprive motive.*
- v) *Bride burning, setting the house on fire etc.*

In the case of **Santosh Kumar Satishbhushan Bariyar Vrs. State of Maharashtra, reported in**



2009 6 SCC 498, it was held by the Hon'ble Apex court,

"It is held that life imprisonment can be said to be completely futile, only when the sentencing aim of reformation can be said to be unachievable. Therefore, for satisfying the second exception to the rarest of rare doctrine, the will have to provide clear evidence why the convict is not fit for any kind of reformatory and rehabilitation scheme. This analysis can only be done with rigor when the court focuses on the circumstances relating to the criminal, along with other circumstances.

In the case of **Mokhil Khan and other Vrs. The state of Jharkhand**, reported in (2021) 20 SCC 162, it is held that *the possibility of reformation and rehabilitation of the convict is an important factor which has to be taken into account as a mitigating circumstances before sentencing him with death. There is a bounden duty cast on the courts to elicit information of all the relevant factors and consider*

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those regarding the possibility of reformation, even if the accused remain silent.

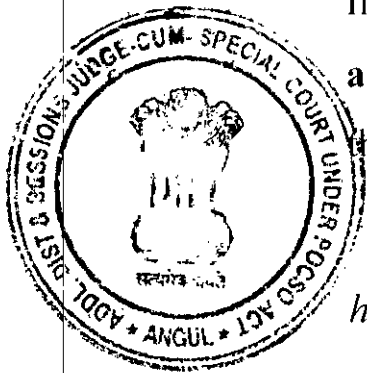
In the case of **Purusottam Dashrath Borate and another Vrs. State of Maharashtra**, (2015) 6 SCC 652, the Hon'ble Apex court held that,

“age of the accused or family background of the accused for lack of criminal antecedent cannot be said to be the mitigating circumstances. It cannot also be considered as mitigating circumstances, particularly taking into consideration, the nature of heinous offence and cold and calculated manner in which it was committed by the accused person.”

In **Mukesh and Another Vrs. State (NCT of Delhi) and others** on 5 May, 2017, AIR 2017 (S.C.) 2161, the Hon'ble Apex Court pleased to hold that:-

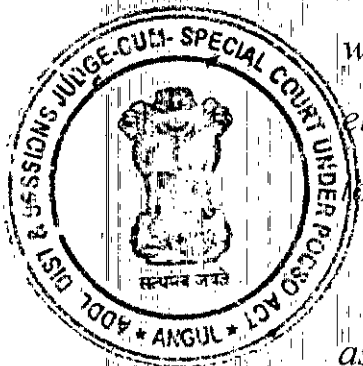
“ In Machhi Singh (supra), a three judge bench has explained the concepts of 'rarest of the rare cases'.

“The reasons why the community as a whole does not endorse the humanistic approach reflected



in 'death sentence-in- no-case doctrine are not far to seek. In the first place, the very humanistic edifice is constructed on the foundation of 'reverence for life' principle. When a member of the community violets this very principle by killing another member, the society may not feel itself bound by the shackles of this doctrine. Secondly, it has to be realized that every member of the community is able to live with safety without his or her own life being endangered because of the protective arm of the community and on account of the rule of law and the fear of being brought to book operotes as a deterrent for those who have no scruples in killing others if it suits their ends. Every member of the community owes a debt to the community for this protection."

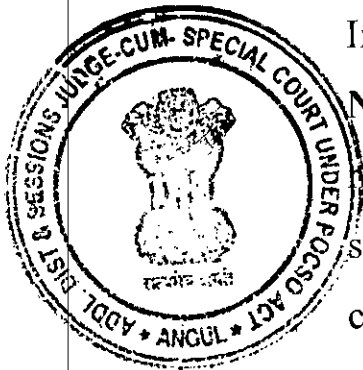
336. Thereafter, the Court has adverted to the aspects of the feeling of the community and its desire for self-preservation and opined that the community may well withdraw the protection by sanctioning the death penalty. What has been ruled in this regard is worth reproducing:



“But the community will not do so in every case. It may do so ‘in the rarest of rare cases’ when its collective conscience is so shocked that it will expect the holders of the judicial power centre to inflict death penalty irrespective of their personal opinion as regards desirability or otherwise of retaining death penalty.”

317. It is apt to state here that in the said case, stress was laid on certain aspects, namely, the manner of commission of the murder, the motive for commission of the murder, antisocial or sociality abhorrent nature of the crime, magnitude of the crime and personality of the victim of murder.”

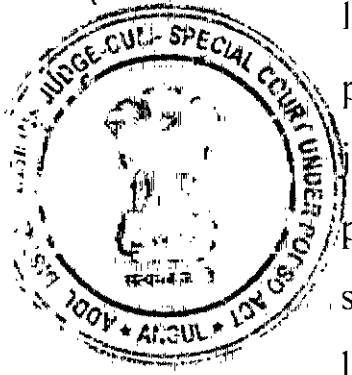
In the decision of **Devender Pal Singh v. State of NCT of Delhi, AIR 2002 SC 1661**, this Court referred to both these cases and held that death sentence may be warranted when the murder is committed in an extremely brutal manner; or for a motive which evinces total depravity and meanness e.g. murder by hired assassin for money or reward, or cold blooded murder for gains. Death sentence may also be justified:



“(i) When the crime is enormous in proportion. For instance, when multiple murders, say of all or almost all the members of a family or a large number of persons or a particular caste, community, or locality are committed.

(ii) When the victim of murder is an innocent child or a helpless woman or old or infirm person or a person *vis-a-vis*, whom the murder is in a dominating position, or a public figure generally loved and respected by the community.”

In **Mahesh v. State of M.P.**, AIR 1987 SC 1346, this Court deprecated the practice of taking a lenient view and not imposing the appropriate punishment observing that it will be a mockery of justice to permit the accused to escape extreme penalty of law when faced with such evidence and such cruel acts. The court held that “To give a lesser punishment to the appellants would be to render the justice system of this country suspect. The common man will lose faith in the courts. In such cases, he understand and appreciates the language of deterrence more than the reformative

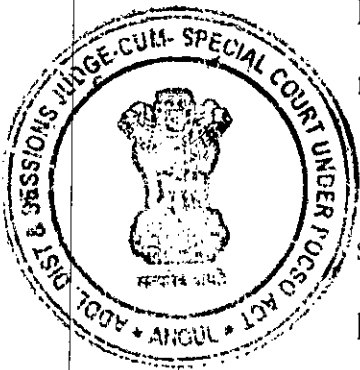


jargon". (See also state of Punjab v. Rakesh Kumar, AIR 2009 SC 391; and Sahdev v. Jaibar @ Jai Dev & Ors. (2009) 11 SCC 798).

In **Bantu v. State of U.P., (2008) 11 SCC 113**, this Court placing reliance on *Sevaka Perumal v. State of T.N.* AIR 1991 SC 1463, re-iterated the same view observing under:

“Therefore, undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law and society could not long endure under such serious threats. It is, therefore, the duty of every Court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed etc.”

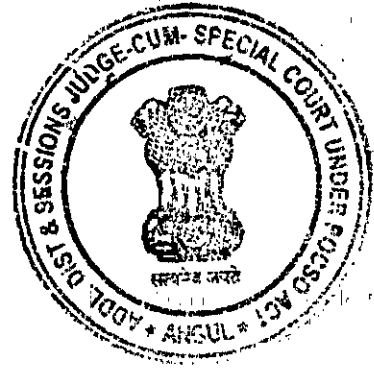
Thus, it is evident that Criminal Law requires strict adherence to the rule of proportionality in providing punishment according to the culpability of each kind of criminal conduct keeping in mind the effect of not awarding just punishment on the society.



The "Rarest of the rare case" comes when a convict would be a menace and threat to the harmonious and peaceful co-existence of the society. Where an accused does not act on any spur-of-the-moment provocation and he indulged himself in a deliberately planned crime and meticulously executed it, the death sentence may be the most appropriate punishment for such a ghastly crime.

Life imprisonment is the rule and death penalty an exception. Therefore, the Court must satisfy itself that death penalty would be the only punishment which can be meted out to an convict. The Court has to consider whether any other punishment would be completely inadequate and what would be the mitigating and aggravating circumstances in the case. Murder is always foul, however, the degree of brutality, depravity and diabolic nature differ in each case. Circumstances under which murders take place also differ from case to case and there cannot be a straitjacket formula for deciding upon circumstances under which death penalty must be awarded. In such

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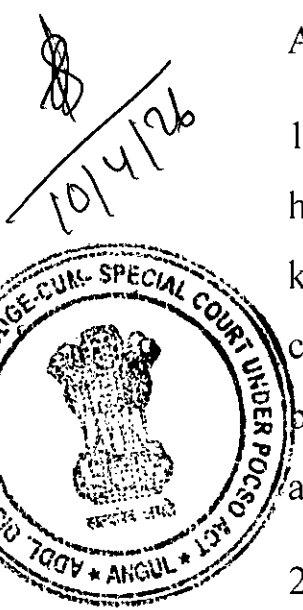
matter, it is not only a nature of crime, but the background of criminal, his psychology, his social conditions, his mindset for committing offence and effect of imposing alternative punishment on the society are also relevant factors.

In the case of **Ramnaresh Vrs. State of Chhatishgarh 2012 (4) SCC 257**, the Hon'ble Apex Court referred the Bachan Singh case (supra) and Machhi Singh case (supra) to pick out certain principles governing of aggravating and mitigating circumstances.

Aggravating circumstances.

1) The offences relating to the commission of heinous crime like murder, rape and dacoity, kidnapping etc. by the accused with a prior record of conviction for capital felony or offences committed by the person having a substantial history of serious assaults and criminal conviction.

2) The offence was committed while the offender was engaged in the commission of another serious offence.



3) The offence was committed with the intention to create a fear psychosis in the public at large and was committed in a public place by a weapon or a device which clearly could be hazardous to the life or more than one person.

4) The offence of murder was committed for ransom or like offences to receive money or monetary benefits.

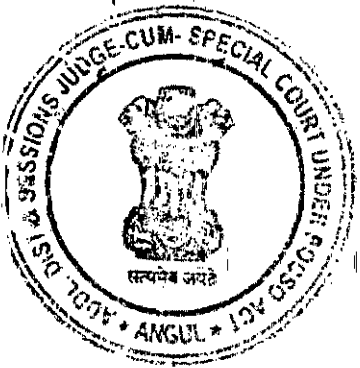
5) Hired killings.

6) The offence was committed outrageously for want only why involving in human treatment and tortured to the victim.

7) The offence was committed by a person while in lawful custody.

8) The murder of offence was committed to prevent a person lawfully carrying out his duty like arrest or custody in a place of lawful confinement of himself or another. For instance, murder is of a person who had acted in a lawful discharge of his duty U/s.43 Cr.P.C.

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9) When the crime is enormous in proportion like making an attempt of murder of the entire family or members of a particular community.

10) When the victim is innocent, helpless or a person relies upon the trust of relationship and social norms, like a child, helpless woman, a daughter or a niece staying with a father/uncle and is inflicted with the crime by such a trusted person.

11) When murder is committed for a motive which evidences total derivative and meanness.

12) When there is a cold blooded murder without provocation.

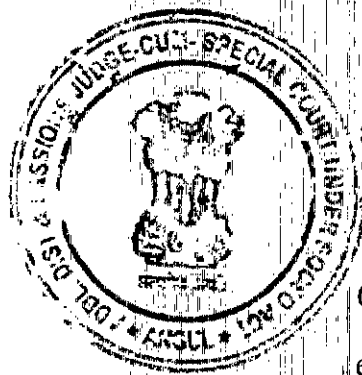
13) the crime is committed so brutally that it pricks or shocks not only the judicial conscience but even the conscience of the society.

Investigating circumstances.

The manner and circumstance in an under which the offence was committed, for example extreme mental or emotional disturbance for extreme provocation in contradiction to all these situations in normal course.



- 2) The age of the accused is a relevant consideration but not a determinative factor by itself.
- 3) The chances of the accused of not indulging in commission of the crime again and the probability of the accused being reformed and rehabilitated.
- 4) The condition of the accused shows that he was mentally defective and defect impaired his capacity to appreciate the circumstances of his criminal conduct.
- 5) The circumstances which, in normal course of life would render such a behavior possible and could have the effect of giving rise to mental imbalance in that given situation like persistent harassment or, in fact, leading to such a pick of human behavior that, in the facts and circumstances of the case, the accused believe that he was morally justified in committing the offence.
- 6) Where the court upon proper appreciation of evidence is of the view that the crime was not committed in a pre-ordained manner and that the death resulted in the course of commission of



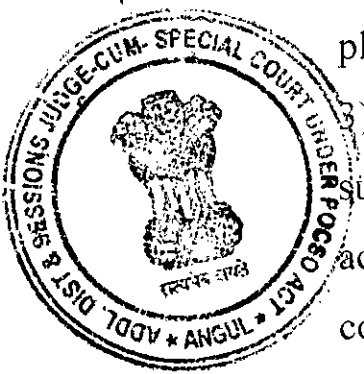
another crime and that there was a possibility of it being construed as consequences to the commission of the primary crime.

7) Where it is absolutely unsafe to rely upon the testimony of a sole eye witness though prosecution has brought whom the guilt of the accused.

46 Now, keeping in view the above guidelines, let us see, whether the present case falls under “rarest of rare case” in view of the aggravating and mitigating circumstances and the balance sheet therein.

Aggravating Circumstance

- 1) The deceased was a minor girl only aged about four years at the time of occurrence.
- 2) The accused had kidnapped her while she was playing in front of her house in her own alone.
- 3) After kidnapping, the deceased-victim was subjected rape and penetrative sexual assault by the accused causing injuries on her private part so also to commit the said act, a soap was also inserted in her private part which was found during the postmortem.



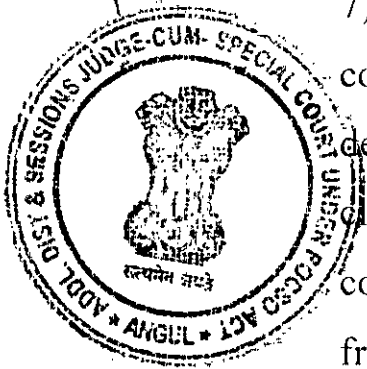
4) After committing rape / aggravated penetrative sexual assault, the accused committed murder of the victim by throttling her neck.

5) To conceal the crime committed by him, the accused also caused the disappearance of the evidence by throwing the dead body of the deceased in the Mahula Buri in the late night.

6) Having very much knowledge about the commission of the offence i.e. rape and murder by him upon the deceased, he innocently with other co-villagers was searching the deceased. So, that no body will doubt on him.

7) During the commission of the offence by the convict upon the deceased who is only 4 year old, the deceased also struggled a lot to save her life from the clutches of the convict. The injuries sustained by the convict is the proof of it how much protest was done from the side of the deceased girl from the heinous act upon her.

8) The brutal manner in which the rape and murder was committed, the dead body of the deceased was thrown away in order to cause disappearance of evidence.



9) The emotional and physiological impart on the family of the deceased girl also constitute an aggravating factor. The rape and murder of their only child aged about 4 years only must have caused imminence suffering to the parents/family of the deceased.

8) The accused was totally silent during the trial and only expressed that it is a false case during his statement U/s 351 of BNSS.

The Mitigating Circumstances

47. 1) The accused is a fist time offender.

2) He is a married person having one son,

3) He has no criminal antecedent.

4) The convict is a young person.

5) His conduct and behavior is satisfactory prior to this case and being a prisoner.

Child rape cases are cases of perverse lust for sex where even innocent children are not spared in pursuit of the sexual pleasure. There cannot be anything more obscene than this. It is a crime against humanity. A girl child is always in a very vulnerable

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position and one of the modes of her exploitation is rape besides other mode of sexual abuse.

48. In view of the foregoing discussions and after weighing the aggravating and mitigating circumstances of the case and striking a balance between the aggravating and mitigating circumstances in this case, it is found that the aggravating circumstances are in favour of the prosecution and against the convict in the facts and circumstances of the present case. The aggravating circumstances are more than the mitigating circumstances. The crime was committed with extreme brutality and the collective conscience of the society was shocked. The convict is a menace to the society. The case falls under the category of "rarest of rare" case.



SENTENCE

49. Considering the above facts and circumstance, nature and gravity of the offence, the available mitigating and aggravating factors relating to the crime and the convict, the principle of punishment

proportionate with the crime and the criminality, the convict is sentenced hereunder:

50. The convict Babula Jena is sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs.5000/- (Rupees Five Thousand only) in default of payment of fine to undergo R.I. for six months for commission of the offence under Sec. 137(2) of B.N.S

51. The convict is sentenced to death for commission of the offence U/s-103(1) of B.N.S. and for execution of sentence he be hanged by the neck until he be dead, but the death sentence shall not be executed unless it is confirmed by the Hon'ble High Court of Orissa as per the provision U/s-407(1) of B.N.S.S. He is also liable to pay fine of Rs. 10,000/- (Rupees Ten thousand only) and on default in payment of fine to undergo rigorous imprisonment for one year for commission of the offence under Sec. 103(1) of B.N.S.

52. The convict is sentenced to death for commission of the offence U/s-6 of POCSO Act and for execution of sentence he be hanged by the neck



until he be dead, but the death sentence shall not be executed unless it is confirmed by the Hon'ble High Court of Orissa as per the provision U/s-407(1) of B.N.S.S. He is also liable to pay fine of Rs. 10,000/- (Rupees Ten thousand only) and on default in payment of fine to undergo rigorous imprisonment for one year for commission of the offence under Sec. 6 of the POCSO Act.

53. The convict is sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs. 5000/- (Rupees Five Thousand only) in default of payment of fine to undergo R.I. for six months for commission of the offence under Sec. 238(a) of B.N.S.

54. The convict Babula Jena is not sentenced separately for commission of the offence punishable under Sec. 65(2) of the B.N.S. as per the provision of Sec. 42 of the POCSO Act as he has already been sentenced under Sec. 6 of the POCSO Act.

55. In case of realization of fine amount, the same shall be paid to the parents of the deceased.



56. The sentences shall run concurrently and the period of detention undergone by the convict, shall be set off under Sec. 468 of BNSS.

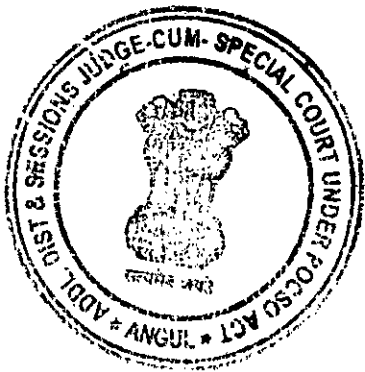
57. The entire proceedings of this case shall be submitted to the Hon'ble High Court of Orissa at once.

58. A certified copy of the entire judgment be immediately given to the convict free of cost.

59. The convict is apprised that he has a right to go on Appeal against the judgment and order.

60. The convict is also apprised that he can take the help of District Legal Services Authority, Angul in case of Appeal in the higher forum.

The sentence is pronounced in the open Court in presence of the convict today, being transcribed to my dictation, corrected by me on this the 10th *day of April, 2026* under my signature and seal of this Court.




10/4/26

Typed to my dictation **A.D.J-cum-Special Court**

10/4/26

and corrected by me. under POCSO Act, Angul.
10.04.2026

10/4/26

A.D.J-cum-Special Court
Under POCSO Act, Angul.
10.04.2026

VICTIM COMPENSATION

60. In the case of Nipun Sexena Vrs. Union of India & others reported in (2019) II SCC 703, with regard to the directions issued by the Hon'ble Calcutta High Court in the case of Bijaya @ Gudu Dash Vrs. State of West Bengal reported in (2017) CrL. L.J., 3983 at Para-9 are to be followed while passing any order for compensation whether interim or final. The quantum of compensation shall be fixed by the Special Court taking into consideration of the loss or injury suffered by the victim and other relevant factors as laid down in Rule-9 (3) of the POCSO Rules-2020 and the compensation amount shall not be restricted to the minimum amount prescribed by the victim compensation scheme.

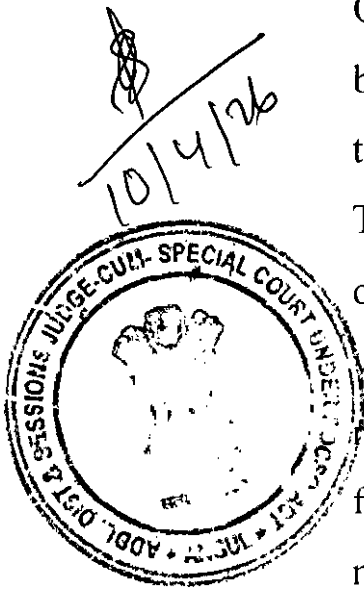
10/4/26



In this case, the parents of the victim who are dependant suffered a lot. Their daughter who is only four years old faced the offence of rape / aggravated penetrative sexual assault followed with murder. So, taking into the consideration of all the above facts, a Rs.10,00,000/-(Rupees Ten lakh) only is awarded to the guardians / legal hairs of the deceased-victim. If any interim compensation has already been paid to the victim, the same shall be adjusted and the rest amount is to be paid to the victim.

Send the copy of this order to the DLSA, Angul for information and appropriate action.


61. The exhibits collected by the Scientific Officer, DFSL, Dhenkanal and the seized samples of biological substances and the wearing apparels of the deceased and the accused shall be destroyed. The compact disk available on record, shall form part of the record. The Zimamana executed in connection with this case shall be cancelled. These orders regarding disposal of the properties shall be effective four months after the expiry of the appeal period, if no appeal is preferred and in case of appeal, the order



regarding disposal of property to be governed by the orders of the Hon'ble Appellate Court.

This judgment is typed to my dictation and corrected by me and pronounced in the open Court in presence of the convict today on this, the 10th day of April, 2026 under my signature and seal of the Court.




10/4/26

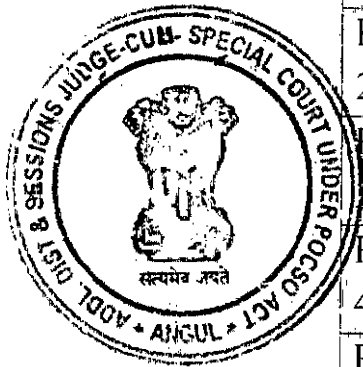
**A.D.J-cum-Special Court
Under POCSO Act, Angul
10.04.2026**

FORM-C-**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES****A. Prosecution witnesses.**

Rank	Name	<u>NATURE OF EVIDENCE</u> (Eye witness, police witness, expert witness, medical witness; panch witness, other witness)
P.W.1	Suratha Sahu	Co-villager.
P.W.2	Pratap Kumar Sahu	Sarpanch of Kankarai G.P.
P.W.3	Father	Informant-cum-father of the deceased-victim
P.W.4	Mother	Mother of the victim.
P.W.5	Khulana Kandhia	Co-villager.
P.W.6	Susanta Behera	Co-villager.
P.W.7	Santosh Kandhia	Co-villager.
P.W.8	Chitrasen Behera	Co-villager.
P.W.9	Chittaranjan Naik	Official witness to seizure.
P.W.10	Kousika Bhoi	Official witness to seizure.
P.W.11	Dusmanta Kumar Gartia	Official witness to seizure.
P.W.12	Nirmal Chandra Behera	Official witness to seizure.



P.W.1 3	Pradeep Kumar Pattnaik	Official witness to seizure.
P.W.1 4	Pravakar B chera	Co-villager.
P.W.1 5	Bipin Bihari Patra	Independent seizure witness.
P.W.1 6	Jyoti Prakash Sahoo	Co-villager.
P.W.1 7	Sombari Birua	Co-villager.
P.W.1 8	Sisir Kumar Kisan	Official witness to seizure.
P.W.1 9	Jamuna Tubid	Co-villager.
P.W.2 0	Sulochana Ghadei	Official witness to seizure.
P.W.2 1	Dr. Nanda Kishore Sahoo	Medical witness.
P.W.2 2	Dr. Rabindranath Patra	Medical witness.
P.W.2 3	Tapan Kumar Pradhan	Scientific Officer.
P.W.2 4	Sanjay Birua	Co-villager.
P.W.2 5	Rukmini Khanda	Co-villager.
P.W.2 6	Dr. Maharshi Ranjan Sahoo	Medical witness.



P.W.2 7	Anupama Patra	First Investigating Officer.
P.W.2 8	Bibekananda Mahanta	Second Investigating Officer.
P.W.2 9	Jogeswari Behera	Third Investigating Officer.
P.W.3 0	Anupama Murmu	Tahasildar, Telkoi.
P.W.3 1	ManasRay	Tahasildar, Chhendipada.
P.W.3 2	Banil Kumar Khatai	S.D.J.M., Angul.

B. Defence witness, if any.

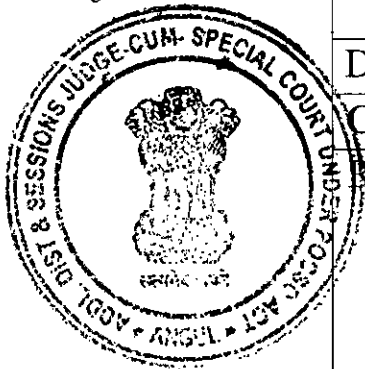
Rank	Name	<u>NATURE OF EVIDENCE</u> (Eye witness, police witness, expert witness, medical witness, panch witness, other witness)
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DW. NIL

C. Court witness, if any

Rank	Name	<u>NATURE OF EVIDENCE</u> (Eye witness, police witness, expert witness, medical witness, panch witness, other witness)
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CW. NIL



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

Sl. No.	Exhibit Number	Description
1	Ext.P-1/P.W.1	Seizure list.
2	Ext.P-1 ¹ /P.W.1	Signature of P.W.1 on Ext.P-1.
3	Ext.P-1 ² /P.W.5	Signature of P.W.5 on Ext.P-1.
4	Ext.P-1 ³ /P.W.7	Signature of P.W.7 on Ext.P-1.
5	Ext.P-1 ⁴ /P.W.28	Signature of P.W.28 on Ext.P-1.
6	Ext.P-2/P.W.2	Missing report (F.I.R.)
7	Ext.P-2 ¹ /P.W.2	Signature of P.W.2 on Ext.P-2.
8	Ext.P-2 ² /P.W.2	Report (F.I.R.)
9	Ext.P-2 ³ /P.W.2	Signature of P.W.2 on Ext.P-2.
10	Ext.P-2 ⁴ /P.W.27	Signature with endorsement of the IIC Bibekananda Mahanta on the written report.
11	Ext.P-2 ⁵ /P.W.27	Formal F.I.R.
12	Ext.P-2 ⁶ /P.W.27	Signature of the I.I.C. Bibekananda Mahanta on the formal F.I.R.
13	Ext.P-3/P.W.2	Inquest report.

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14	Ext.P-3 ¹ /P.W.2	Signature of P.W.2 on Ext.P-3.
15	Ext.P-3 ² /P.W.5	Signature of P.W.5 on Ext.P-3.
16	Ext.P-3 ³ /P.W.17	Signature of P.W.17 on Ext.P-3.
17	Ext.P-3 ⁴ /P.W.19	Signature of P.W.19 on Ext.P-3.
18	Ext.P-3 ⁵ /P.W.28	Signature of P.W.28 on Ext.P-3.
19	Ext.P-4/P.W.2	Seizure list.
20	Ext.P-4 ¹ /P.W.2	Signature of P.W.2 on Ext.P-4.
21	Ext.P-4 ² /P.W.16	Signature of P.W.16 on Ext.P-4.
22	Ext.P-4 ³ /P.W.23	Signature of P.W.23 on Ext.P-4.
23	Ext.P-4 ⁴ /P.W.28	Signature of P.W.28 on Ext.P-4.
24	Ext.P-5/P.W.2	Signature of P.W.2 on the spot map.
25	Ext.P-5 ¹ /P.W.28	Spot map.
26	Ext.P-5 ² /P.W.28	Signature of P.W.28 on Ext.P-5 ¹ .
27	Ext.P-6/P.W.2	Signature of P.W.2 on the spot map.
28	Ext.P-6 ¹ /P.W.17	Signature of P.W.17 on the spot map.

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29	Ext.P-6 ² /P.W.19	Signature of P.W.19 on the spot map.
30	Ext.P-6 ³ /P.W.28	Spot map.
31	Ext.P-6 ⁴ /P.W.28	Signature of P.W.28 on Ext.P-6 ³ .
32	Ext.P-7/P.W.3	Original referral certificate of C.H.C., Kosala.
33	Ext.P-8/P.W.4	Birth Certificate of the victim.
34	Ext.P-9/P.W.5	Zimanama.
35	Ext.P-9 ¹ /P.W.5	Signature of P.W.5 on Ext.P-9.
36	Ext.P-9 ² /P.W.28	Signature of P.W.28 on Ext.P-9.
37	Ext.P-10/P.W.5	Statement of P.W.5 recorded U/s 183 of BNSS.
38	Ext.P-10 ¹ /P.W.5	Signature of P.W.5 on Ext.P-5.
39	Ext.P-10 ² /P.W.5	Signature of P.W.5 on Ext.P-5.
40	Ext.P-10 ³ /P.W.5	Signature of P.W.5 on Ext.P-5.
41	Ext.P-11/P.W.9	Seizure list.
42	Ext.P-11 ¹ /P.W.9	Signature of P.W.9 on Ext.P-11.
43	Ext.P-11 ² /P.W.18	Signature of P.W.18 on Ext.P-11.
44	Ext.P-11 ³ /P.W.20	Signature of P.W.20 on Ext.P-11.

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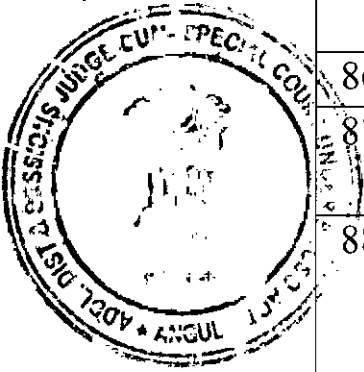
45	Ext.P-11 ⁴ /P.W.28	Signature of P.W.28 on Ext.P-11.
46	Ext.P-12/P.W.9	Seizure list.
47	Ext.P-12 ¹ /P.W.9	Signature of P.W.9 on Ext.P-12.
48	Ext.P-12 ² /P.W.11	Signature of P.W.11 on Ext.P-12.
49	Ext.P-12 ³ /P.W.13	Signature of P.W.13 on Ext.P-12.
50	Ext.P-12 ⁴ /P.W.29	Signature of P.W.29 on Ext.P-12.
51	Ext.P-13/P.W.9	Seizure list.
52	Ext.P-13 ¹ /P.W.9	Signature of P.W.9 on Ext.P-13.
53	Ext.P-13 ² /P.W.10	Signature of P.W.10 on Ext.P-13.
54	Ext.P-13 ³ /P.W.13	Signature of P.W.13 on Ext.P-13.
55	Ext.P-13 ⁴ /P.W.29	Signature of P.W.29 on Ext.P-13.
56	Ext.P-14/P.W.10	Seizure list.
57	Ext.P-14 ¹ /P.W.10	Signature of P.W.10 on Ext.P-14.
58	Ext.P-14 ² /P.W.12	Signature of P.W.12 on Ext.P-14.
59	Ext.P-14 ³ /P.W.29	Signature of P.W.29 on Ext.P-14.
60	Ext.P-15/P.W.14	Seizure list.



61	Ext.P- 15 ¹ /P.W.14	Signature of P.W.14 on Ext.P-15.
62	Ext.P- 15 ² /P.W.16	Signature of P.W.16 on Ext.P-15.
63	Ext.P- 15 ³ /P.W.28	Signature of P.W.28 on Ext.P-15.
64	Ext.P-16/P.W.15	Confessional statement of the accused Babula Jena.
65	Ext.P- 16 ¹ /P.W.15	Signature of P.W.15 on Ext.P-16.
66	Ext.P- 16 ² /P.W.29	Signature of P.W.29 on Ext.P-16.
67	Ext.P- 16 ³ /P.W.29	Signature of the accused Babula Jena on Ext.P-16.
68	Ext.P-17/P.W.15	Seizure list.
69	Ext.P- 17 ¹ /P.W.15	Signature of P.W.15 on Ext.P-17.
70	Ext.P- 17 ² /P.W.29	Signature of P.W.29 on Ext.P-17.
71	Ext.P-18/P.W.17	Signature of P.W.17 on the spot map.
72	Ext.P- 18 ¹ /P.W.19	Signature of P.W.19 on the spot map.
73	Ext.P- 18 ² /P.W.28	Second spot map.
74	Ext.P- 18 ³ /P.W.28	Signature of P.W.28 on Ext.P-18 ² .
75	Ext.P-19/P.W.18	Command certificate issued in favour of P.W.18.

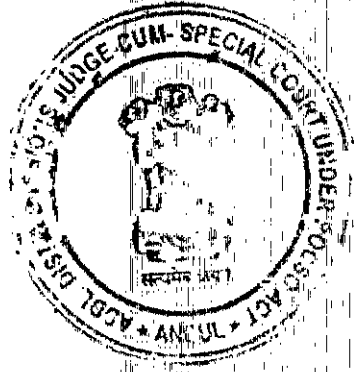


76	Ext.P-19 ¹ /P.W.18	Signature of P.W.18 on Ext.P-19.
77	Ext.P-20/P.W.19	Seizure list.
78	Ext.P-20 ¹ /P.W.19	Signature of P.W.19 on Ext.P-20.
79	Ext.P-20 ² /P.W.27	Signature of P.W.27 on Ext.P-20.
80	Ext.P-21/P.W.21	Postmortem report.
81	Ext.P-21 ¹ /P.W.21	Signature of P.W.21 on Ext.P-21.
82	Ext.P-21 ² /P.W.26	Signature of P.W.26 on Ext.P-21.
83	Ext.P-21 ³ /P.W.26	Signature of Dr. Sashiprangya Dash on Ext.P-21.
84	Ext.P-22/P.W.22	Medico-legal report of the accused Babula Jena.
85	Ext.P-22 ¹ /P.W.22	Signature of P.W.22 on Ext.P-22.
86	Ext.P-23/P.W.23	Spot visit report.
87	Ext.P-23 ¹ /P.W.23	Signature of P.W.23 on Ext.P-23.
88	Ext.P-23 ² /P.W.23	Signature of Ajay Kumar Sahu, one of the scientific team.
89	Ext.P-23 ³ /P.W.28	Signature of P.W.28 on Ext.P-23.
90	Ext.P-24/P.W.27	Spot map.



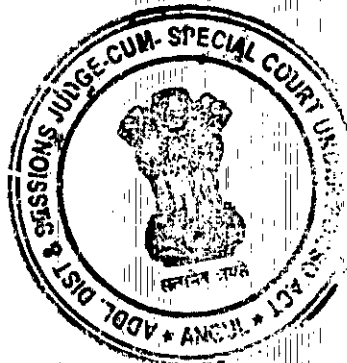
Special (POCSO) Case No. 16 of 2025

91	Ext.P- 24 ¹ /P.W.27	Signature of P.W.27 on Ext.P-24.
92	Ext.P-25/P.W.27	Zimanama.
93	Ext.P- 25 ¹ /P.W.27	Signature of P.W.27 on Ext.P-25.
94	Ext.P-26/P.W.28	Dead body challan.
95	Ext.P- 26 ¹ /P.W.28	Signature of P.W.28 on Ext.P-26.
96	Ext.P- 26 ² /P.W.28	Signature of P.W.28 on Ext.P-26.
97	Ext.P-27/P.W.29	Intimation of the I.O. (P.W.29) to the Chhendipada Court for turning of the case.
98	Ext.P-28/P.W.29	Requisition to the Tahasildar, Chhendipada for demarcation of the spot.
99	Ext.P- 28 ¹ /P.W.29	Signature of P.W.29 on Ext.P-28.
100	Ext.P-29/P.W.29	Requisition issued to the Tahasildar, Chhendipada to provide caste particular of the accused Babula Jena.
101	Ext.P- 29 ¹ /P.W.29	Signature of P.W.29 on Ext.P-29.
102	Ext.P-30/P.W.29	Requisition issued to the Tahasildar, Telkoi to provide caste particular of the complainant Ranjan Soy @ Munda.

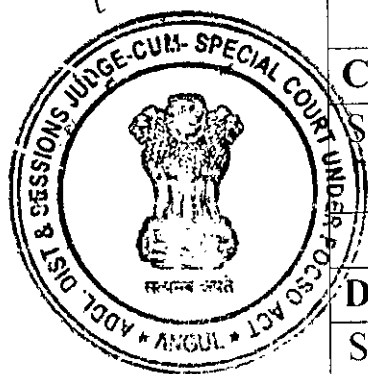


103	Ext.P-30 ¹ /P.W.29	Signature of P.W.29 on Ext.P-30.
104	Ext.P-31/P.W.29	Prayer of the I.O. (P.W.29) for sending of the seized exhibits to SFSL, Rasulgarh, Bhubaneswar.
105	Ext.P-31 ¹ /P.W.29	Signature of P.W.29 on Ext.P-31.
106	Ext.P-32/P.W.29	Prayer of the I.O. (P.W.29) to fix the date for conducting of T.I. Parade of seized Paunji (anklet).
107	Ext.P-32 ¹ /P.W.29	Signature of P.W.29 on Ext.P-32.
108	Ext.P-33/P.W.29	Spot verification report of the Addl. Tahasildar, Chhendipadaalong with spot verification report of R.I., Paranga and trace map.
109	Ext.P-33 ¹ /P.W.31	Signature of PrakashChandraNaik, Addl. Tahasildarof Chhendipada.
110	Ext.P-34/P.W.29	Report of the Tahasildar, Telkoi regarding caste particular of the complainant.
111	Ext.P-34 ¹ /P.W.30	Signature of P.W.30 on Ext.P-34.

112	Ext.P-35/P.W.29	Prayer of the I.O. (P.W.29) for recording of the statement of the witnesses JamunaTubid and KhulanaKandhia U/s 183 of BNSS.
113	Ext.P-35 ¹ /P.W.29	Signature of P.W.29 on Ext.P-35.
114	Ext.P-36/P.W.29	Letter to the Medical Officers regarding the query.
115	Ext.P-36 ¹ /P.W.29	Signature of P.W.29 on Ext.P-36.
116	Ext.P-37/P.W.29	Acknowledgment receipt of SFSL, Rasulgarh, Bhubaneswar
117	Ext.P-38/P.W.29	Query report of the Medical Officers.
118	Ext.P-38 ¹ /P.W.26	Signature of P.W.26 on Ext.P-38.
119	Ext.P-38 ² /P.W.26	Signature of Dr. Sashiprangya Dash Ext.P-38.
120	Ext.P-38 ³ /P.W.26	Signature of Dr. Nanda Kishore Sahoo Ext.P-38.
121	Ext.P-39/P.W.29	Zimanama.
122	Ext.P-39 ¹ /P.W.29	Signature of P.W.29 on Ext.P-39.
123	Ext.P-40/P.W.29	Chemical examination report.



124	Ext.P-41/P.W.31	Letter of the Tahasildar, Chhendipada along with report of the R.I., Durgapur regarding caste particular of the accused Babula Jena.
125	Ext.P-41 ¹ /P.W.31	Signature of P.W.31 on Ext.P-41.
126	Ext.P-42/P.W.32	Letter vide Memo No. 1154(2), dtd. 20.03.2025 issued to the S.D.J.M., Angul regarding the conduct of T.I. Parade of the seized one pair of Paunji.
127	Ext.P-43/P.W.32	T.I. Parade report containing three sheets.
128	Ext.P-43 ¹ /P.W.32	Signature of P.W.32 on Ext.P-43.
B. Defence Exhibits, if any		
Sl.No	Exhibit Number	Description
1	NIL	NIL
C. Court Exhibits, if any:		
Sl.No	Exhibit Number	Description
1	NIL	NIL
D. Material Objects:		
Sl.No	Material Object Number	Description



1	M.O. - I	Saree stained with blood.
2	M.O. - II	Lungi stained with blood.
3	M.O. - III	One pair of Paunji (anklet).
4	M.O. - IV	Torchlight
5	M.O. - V	Dhalo (Pot)
6	M.O.- VI	Eleven envelopes containing the biological sample of the accused along with a plastic container (Daba) containing the penile of the accused.
7	M.O. - VII	Biological sample and wearing apparels of the deceased-victim kept in a sealed envelope.
8	M.O. - VIII	Seized foreign body found inside the external genitalia kept in an envelope.
9	M.O. - IX	Seized one Key of Moble company, one red-black-white colour check gamuchha, one green colour half pant and one ganji of black-red-white colour of the accused.
10	M.O. - X	One blue colour small lock.
11	M.O.-XI to XI-21	Twenty two numbers of printed photographs.

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10/4/26



12	M.O. - XII to XII-6	Seven numbers of photographs of the deceased-victim clicked during the inquest.
13	M.O. - XIII	D.V.D.
14	M.O. - XIV	D.V.D.
15	M.O. - XV	Mobile phone along with SIM.
16	M.O. - XVI	Two numbers of D.V.D. containing the audio visual process of all the two seizure.
17	M.O. - XVII	C.D. containing the seizure of foreign body found inside external genitalia.
18	M.O. - XVIII	C.D. containing the seizure of biological sample of the accused.
19	M.O. - XIX	C.D. containing the seizure of referral medical certificate (OPD) Ticket.



[Signature]
10/4/26

**A.D.J-cum-Special Court
Under POSCO Act, Angul
10.04.2026**