

**FORM-A**

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE-CUM-  
SPECIAL COURT UNDER POCSO ACT, BERHAMPUR,  
DISTRICT-GANJAM**

Present: Smt. Pranati Pattanaik, O.S.J.S.,  
Addl. District Judge-cum-  
Special Court under POCSO Act,  
Berhampur.  
(JO Code: OD00303)

**Date of Judgment: 13<sup>th</sup> day of February, 2026**

**GR Case No.15 of 2023 (TR NO.101/2023)**  
**(CIS No.GR-15/2023)**

(Details of FIR: Dharakote P.S. Case No.24, Dt.24.01.2023, offence u/s. of 363/377/302/201 of I.P.C/u/s.6 POCSO Act)

|                       |                                                                                                                                                                                  |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Complainant</b>    | STATE OF ORISSA                                                                                                                                                                  |
| <b>REPRESENTED BY</b> | NAME OF THE ADVOCATE:<br>Sri Narayan Panda, Special Public<br>Prosecutor, Berhampur.                                                                                             |
| <b>ACCUSED</b>        | <b>Srikanta Sethi@ Sukanta Kumar Sethi</b> ,<br>aged about 26 years, S/o-Kirtan Sethi of<br>village Mundamarai, PS-Dharakote,<br>District-Ganjam.<br>....(Accused is in custody) |
| <b>REPRESENTED BY</b> | NAME OF THE ADVOCATE:<br>Sri Pradeep Kumar Pattanayak and his<br>associates, Advocates, Berhampur                                                                                |

**FORM-B**

|                                           |            |
|-------------------------------------------|------------|
| <b>Date of offence</b>                    | 24.01.2023 |
| <b>Date of FIR</b>                        | 24.01.2023 |
| <b>Date of Charge Sheet</b>               | 23.03.2023 |
| <b>Date of framing of charges</b>         | 06.07.2023 |
| <b>Date of commencement of evidence</b>   | 02.08.2023 |
| <b>Date on which judgment is reserved</b> | 13.02.2026 |
| <b>Date of the judgment</b>               | 13.02.2026 |

| <b>Date of the sentencing order, if any</b> |                                        | 13.02.2026     |                                   |                                                   |                                |                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                |  |
|---------------------------------------------|----------------------------------------|----------------|-----------------------------------|---------------------------------------------------|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|--|
| <b>Accused person Details:</b>              |                                        |                |                                   |                                                   |                                |                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                |  |
| Rank of the Accused                         | Name of the Accused                    | Date of Arrest | Date of Release on Bail           | Offences charged with                             | Whether Acquitted or convicted | Sentence imposed                                                                                                                                                                                                                                                                                                                                                                                       | Period of Detention undergone during trial for the purpose of section 468 BNSS |  |
| Sl.No.1                                     | Srikanta Sethi<br>@Sukanta Kumar Sethi | 25.01.23       | Accused is in jail custody as UTP | u/s. 363/377/ 302/201 I.P.C / Sec.6 of POCSO Act. | Convicted                      | The convict is sentenced to undergo imprisonment for life and to pay fine of Rs.10,000/- in default to suffer R.I. for six months U/s.302 I.P.C, the convict is also sentenced to undergo R.I. for 7(seven) years and to pay fine of Rs.5000/- and in default to suffer R.I. for 3(three) months u/s.363 I.P.C and the convict is also sentenced to undergo R.I. for 7(seven) years and to pay fine of | 03 years and 18 days                                                           |  |

|  |  |  |  |  |  |                                                                                                                     |  |
|--|--|--|--|--|--|---------------------------------------------------------------------------------------------------------------------|--|
|  |  |  |  |  |  | Rs.5000/- and in default to suffer R.I for 3(three) months u/s.201 I.P.C. All the sentences shall run concurrently. |  |
|--|--|--|--|--|--|---------------------------------------------------------------------------------------------------------------------|--|

**JUDGMENT**

***“Children are the nation’s most valuable assets”.***

***Their destruction is not just a crime, but a national tragedy.***

**A.P.J Abdul Kalam.**

The above-named accused stands charged for the offences U/s. 363/377/302/201 of the Indian Penal Code (hereinafter referred to as I.P.C.) and read with Sec.6 of the Protection of Children from Sexual Offences Act (hereinafter referred to as POCSO Act).

(In view of the Sec.228-A of the I.P.C. and Sec.33(7) of the POCSO Act. the name of the victim boy and his parents are not disclosed to protect their identity).

**2.** The case of the prosecution, states as under:-

On 24.11.2023 father of the deceased found him, (deceased) missing in the house. They searched for him and ascertained that accused Srikanta Sethi was standing in his upstairs along with his son

(deceased). The informant along with his elder brother and co-villagers, at about 6.30 P.M went near the house of the accused, in search of the deceased and found his *chapal*. They searched the house of the accused and found the deceased lying in the upstairs sustaining brain injury with profuse bleeding. He was lying in the pool of blood. They found accused Srikanta Sethi on that spot and he confessed to have killed the minor boy. Thereafter accused Srikanta Sethi succeeded in fleeing from that spot. The boy was shifted to nearest hospital and he was declared dead.

Basing on these allegations in the written report the F.I.R was registered as Dharakote P.S. Case No. 24 of 2023 and its investigation was taken up. After completing investigation, I.O. submitted charge sheet U/s. 363/377/302/201 of I.P.C and u/s. 6 of POCSO Act against the accused for facing trial in this case. Subsequently, the cognizance of the above noted offences was taken. Thereafter, the charge was framed against the accused u/s.363/377/302/201 of I.P.C and u/s. 6 of POCSO Act to face his trial.

**3.** The plea of defence is one of complete denial and false implication. Accused in his statement recorded U/s.313 of Cr.P.C denied to the allegations made from the side of prosecution.

**4.** The points for determination in this case

are:

Whether the accused on 24.01.2023 at about 5.00 P.M at village Mundamarai under Dharakote P.S:-

- (i) Kidnapped the minor victim boy, from lawful guardianship of his parents?
- (ii) Voluntarily had carnal intercourse against the order of nature with the victim boy?
- (iii) Committed murder by intentionally causing the death of the minor victim boy?
- (iv) Committed aggravated penetrative sexual assault upon the minor boy?
- (v) Knowing the murder of the minor victim boy having been committed, did cause certain evidence of the said offence to disappear intentionally with the intention of screening himself from legal punishment?

5. To prove this case the prosecution has examined as many as seventeen witnesses, among whom P.W.12 is the informant/father of the deceased boy, P.W.17 is the mother of the deceased boy, P.W.11 is the elder brother of the informant, P.W.13 is the scribe of the F.I.R, P.W.14 is the Medical Officer who conducted post mortem examination on the dead body of the deceased, P.W.1, P.W.2, P.W.3, P.W.4 and P.W.5 are the official seizure witnesses, P.W.6, P.W.7 P.W.9 and P.W.10 are independent witnesses, P.W.8 is

the Anganwadi worker who produced the Admission Register to ascertain the date of birth of the deceased boy, P.W.16 is the witness to the statement of the accused recorded u/s. 27 of the Indian Evidence Act. P.W.15 is the Investigating Officer who after completion of investigation submitted charge sheet. The rest charge-sheeted witnesses have been declined by the prosecution. The prosecution exhibited certain documents marked as Ext.P-1 to Ext.P-36.

On the other hand, defence neither preferred to adduce any witness nor filed any documentary evidence in its support.

**Regarding the age proof of the victim(deceased) boy**

6. While proceeding to determine this case against the accused persons and to evaluate the testimonies of the material witnesses, it is the first and foremost duty of this Court to take a view regarding the age proof of the victim and to determine that on the date of occurrence, the victim to be a child within the meaning of section.2 (d) of the POCSO Act, 2012 or not? The original Admission Register of Anganwadi Mundamarai vide Ext.P-10, produced by P.W.8 before the Court and its relevant entry vide Ext.P-10/1 shows the date of birth of the minor deceased is 07.05.2019. The occurrence took place on 23.12.2023. Thus, on the date of occurrence minor deceased was 03 years, 08

months and 17 days. The Admission Register is proved u/s 35 of the Indian Evidence Act 1872. Hence, it is conclusively determined that victim is a child as per the provision of section.2 (d) of the POCSO Act, 2012.

### **Discussion**

7. P.W.12/informant, father of the deceased boy on 24.01.2023 at about 5.00 P.M found his son missing in the house. He searched for him in the nearby places and ascertained that the deceased was with accused Srikanta. His brother/PW11 visited to the house of Srikanta and found the house to be locked. The mother of Srikanta was sitting in front of her house. Thereafter his brother (PW11) along with Anganwadi teacher forcibly opened the door of Srikanta and opened his house. He found his *pant* with stool (foul substance) therein. P.W.11 also found one *chapal* of deceased inside that room. Thereafter P.W.11 searched for the deceased and went to a dark room. Srikanta was also inside the room. Then he continued searching and found the deceased lying in his stairs. There was bleeding from his head and face. He brought the deceased and came outside and took him to the hospital. P.W.12 accompanied P.W.11 to hospital. Doctor opined his son to be dead after examination. Thereafter F.I.R (Ex.P-6) was lodged. The inquest of the dead body of his son was held in his

presence and accordingly he signed in the inquest report. P.W.12 further stated that in his presence accused stated that he put his penis inside the mouth of the minor boy and when his son bite his penis, accused slapped him and committed his murder, who was about 4 years old. In his cross-examination P.W.12 stated that there was gathering about 30 persons outside the house of the accused. His brother/P.W.11 brought the deceased outside, from the house of the accused being accompanied by Anganwadi teacher. Accused Srikanta came outside and was wearing a Lungi. The fact that accused admitted regarding putting his penis inside the mouth of the deceased boy and when the deceased boy bite his penis, he slapped and committed his murder has not been stated by P.W.12 to the I.O.

7(a). P.W.11/younger brother of the informant, who found the dead body inside the house of the accused deposed that on 24.01.2023 at about 5.00 P.M the deceased was found missing in the house. They searched for him in the nearby places and after receiving information they visited to the house of Srikanta and found the house to be locked. The mother of Srikanta was sitting in front of her house. P.W.11 along with Anganwadi teacher forcibly opened the door of Srikanta and entered inside his house. He found his pant having stool (foul substance) therein. P.W.11 also found one *chapal* of deceased inside that

room. He searched for the deceased in the house of accused and went to a dark room. He found Srikanta washing his hand. Then P.W.11 continued his search and found the deceased lying in his upstairs. There was bleeding from his head and face. He brought the deceased, came outside and took him to the hospital. There was no other person in that room except accused Srikanta. He suspected that accused had committed carnal intercourse upon the victim boy causing his death. The inquest of the dead body of the deceased held in his presence and he signed in the Inquest form. In cross-examination P.W.11 admitted that the father of accused Srikanta was not present during the time of search and P.W.11 alone entered inside the upstairs and brought the dead body of the deceased. None of his family members accompanied him to the house of Srikanta.

7(b). P.W.13/scribe of the F.I.R, admitted his signature and endorsement in regard to that. In cross-examination P.W.13 admitted, that he was present near the house of accused Srikanta. Rohita (PW11) brought the deceased outside from the house of Srikanta and they accompanied him accordingly. He admitted to have examined by the police.

7(c). P.W.10 stated that on the relevant day evening, the mother of the deceased arrived in her house, in search of her son. She asked regarding the

whereabouts of her son, but P.W.10 denied knowing anything about him. P.W.10 accompanied the mother of the deceased in searching the deceased. They found there was huge crowd in front of the house of the accused. P.W.10 returned home. She admitted to have deposed before learned Magistrate.

7(d). P.W.17/mother of the victim was not able to identify the accused but she stated that while her son was playing in front of her house, after sometime, he was found missing. She searched for her son and it is ascertained that her son was in the house of the accused. The aunty of the accused accompanied her husband and brother-in-law (P.W.12 and P.W.11) went to the house of accused. They opened the door which was locked from outside. They entered inside and found her son was lying in the pool of blood. They brought the son outside and took him to the hospital. At the hospital the deceased was declared brought dead. Thereafter the matter was reported to police. She was not able to speak anybody as she became senseless hearing about the death of her minor son.

In cross-examination she stated that aunty of the accused visited to his house at about 4.00 P.M. P.W.17 further stated that she searched for her son in the locality but has not visited near the house of accused. She admitted to have not visited to the house of accused and not seen the spot where the deceased

was lying. She further added that she was not examined by the police.

7(e). P.W.16/friend of the informant who is the witness to the statement of the victim recorded u/s. 27 of the Indian Evidence Act (Ext.15/2) stated before this Court that on 24.01.2023, informant telephoned her and intimated about the missing of her son. He arrived near his house and searched for the minor boy. He arrived in the house of the accused and saw the entrance door to be locked. He along with other co-villagers requested the mother of the accused to open the door but she denied. The maternal aunty of the accused requested the mother of the accused to open the entrance door, then his mother opened the entrance door and P.W.16 found accused inside the house. On being asked regarding the whereabouts of the minor, accused denied knowing anything about him. She along with other, searched the house of accused and found a small *chapal* of the victim boy. He went to the upstairs and found the boy lying, in naked condition. The police arrived at the spot and searched the house. After returning from hospital, they found accused to be absconded from the village. On the next morning, being called by the police, P.W.16 arrived at the police station and consented to be the witness to discovery of the *half pant* of the deceased boy. She admitted regarding recording of the statement of the accused in

his presence along with witness Santosh Patra. Both of them put their respective signatures, in the statement of the accused. P.W.17 is also the seizure witness to the *chapal* of the victim boy by the police. He admitted the seizure list (Ext.P-14) and the signature of the witness was also admitted by P.W.16 along with his own signature (Ext.P-14/2 and Ext.14/3). He admitted to the seizure of the *half pant* of the deceased boy in his presence, his signature (P.W.16) and signature of witness Santosh Patra (Ext.P-16/2).

In cross-examination he admitted to have not deposed about the fact as stated in his examination-in-chief before the police. But he admitted that he accompanied the police to the river bank where the *pant* of the deceased boy was discovered. P.W.16 is a witness to the statement of the accused recorded u/s.27 of the Indian Evidence.

### **Medical Evidence**

8. P.W.14/Medical Officer, who is the Professor of the department of F.M&T, MKCG Medical College hospital, Berhampur Dr. Manoj Kumar Hansda conducted postmortem examination of the dead body of minor deceased and opined vide his report Ext.P-11 that -

#### **External findings**

i) Abraded bruise reddish brown in colour

extending upwards more or less horizontally from mid forehead level starting 2 cm above the glabella of size 10.5 cm x 7.5 cm extending to 4 cm beyond the hair-line.

ii) Avulsion laceration of size 3 cm x 1.5 cm x periosteum layer deep present at the right lateral inferior end.

iii) A superficial lacerated wound of size 2 cm x 0.5cm x scalp tissue deep present at the left lateral upper end.

Both the lacerated wound appears obliquely inline across the abraded-contused wound.

iv) Bruise reddish in colour extending over the mouth and nostrils with multiple linear abrasion over the philtrum, nasal tip and right naso-labial fold and adjoining cheek over an area 5.5cm x 4.5 cm, on exploration of the inner aspect of the lips, superficial lacerated wound of size 0.5cm x 0.1cm x mucus layer deep present at the right half of both the lips corresponding with the right central incisor tooth and of size 0.3cm x 0.2cm x mucus layer deep at the right angle of the mouth.

v) Right eye-swollen with peri-orbital haematoma.

vi) Two numbers of liner abrasion present 0.5cm apart present parallel to each other of size 1.5 cm in length present along the medial aspect of right arm starting 2.5cm above the medial epicondyle

prominence.

vii) Abrasion reddish in colour of size 2cm x 1cm present along the left posterior axillary line, 7cm below the axillary fold.

viii) Oval shaped abrasion reddish brown in colour of size 1.5cm x 1.2 cm present 3 cm right lateral of middle of the back middle part.

**Internal findings**

- a) Scalp and Skull. The under surface of the scalp found contused over the frontal region extending up till the coronal suture line. Subscalpal haematoma at the centre under external injury No.(i) and (ii). There is fissured fracture of the orbital roof of the frontal bone in right anterior cranial-fossa.
- b) Brain and Meninges – The dura is tense with bluish hue. The brain is oedematous and softened with thin layer of subarachnoid hemorrhage over the entire brain.
- c) The lumen of larynx and trachea are found intact and free. The neck structure like the hyoid bone and thyroid cartilages are found intact.
- d) Ribs and cartilages are found intact. Both the lungs are intact and pale. The pericardium and heart are intact.
- e) The stomach contains about 100 ml of semi-digested fluid emitting non-specific odour.

**Opinion**

1. All the injuries described above are ante mortem in nature. All the injuries are caused due to hard blunt rough surface trauma except the internal injuries of the lips described under external injury No.(iv) which is caused due to pressure over the mouth.
2. The death is due to crano cerebral injuries sustained and its complication thereof. External Injury No.(i) and (ii) with their corresponding internal injuries are fatal in ordinary course of nature.
3. Time since death is within about 18 to 24 hours at the time of autopsy.
4. Exhibits i.e scalp hair samples, nail clippings and swab, blood in gauge, buccal swab, perianal swab collected, preserved and sealed in a paper envelop and handed over to the escort police for onward transmission to SFSL/RFSL for examination.

In the cross-examination P.W.14 stated that all the injuries can be possible by falling on stony surface except the external injury No.(iv).

**9.** P.W.15/I.O during investigation examined, the witnesses along with the scribe of the F.I.R. On 25.01.2023 at about 6.30 A.M to 7.30 A.M

the inquest of the dead body of the deceased was conducted and accordingly she prepared the Inquest Report (Ext.P-5/2). On the same day he sent the dead body for post mortem examination along with dead body challan (Ext.P-7/1). The I.O visited the spot and prepared spot map (Ext.P-12). On the same day at about 9.00 A.M she seized the gauge having suspected blood collected from floor, control gauge, gauge having suspected blood collected from wall, control gauge, underwear having suspected blood and black pant suspected of deceased on production by Pranati Nayak, ASO, DFSL Chatrapur in presence of witness and prepared seizure list Ext.P-13. On the same day on the spot she along with scientific team seized light yellow colour bed sheet, having suspected blood, one navy blue colour full pant having suspected blood, one blue colour *chapal* of deceased and prepared seizure list (Ext.P-14). On the same day at about 10 A.M. she arrested accused Srikant@ Sukanta Sethi from his house and recorded his statement u/s. 27 of Evidence Act (Ext.P-15). She seized the pant of accused Srikanta Sethi from the backside of his house and prepared seizure list (Ext.P-16). On the same day she seized the wearing apparels of the accused i.e full sleeve cotton shirt, half nylon pant, half cotton brief and one red colour realme mobile phone along with two airtel Sim and prepared seizure list (Ext.17). P.W.15/I.O sent the

deceased victim boy for his medical examination to the department of FM&T, MKCG MCH, Berhampur and accordingly seized the biological samples of the deceased. On the same day she also seized the envelope containing biological samples of the accused along with command certificate and prepared the seizure list (Ext.1) and on the same day accused was forwarded to the Court and on 03.02.2023 I.O sent the exhibits for chemical examination to RFSL, Berhampur vide forwarding letter (Ext.P-19). On the same day she made requisition (Ext.P-20) to Tahasildar, Dharakote to furnish ROR and sketch map of spot house and exhibits for chemical examination to RFSL, Berhampur. On 04.02.2023 she received the medical opinion of the accused and on the same day she seized the receipt of RFSL, Berhampur and command certificate issued to OAPF/James Raika and prepared seizure list (Ext.P-4) and the acknowledgement receipt is marked Ext.P-21. On 06.02.2023 she received the post mortem report. On 07.02.2023 she seized one blue colour *chapal* from the spot suspected to be of deceased and prepared seizure list (Ext.P-22). On 08.02.2023 at 2. P.M she received the letter from Tahasildar, Dharakote regarding ROR and sketch map of the informant and it is ascertained that the spot in murder case is the residential house of Mukta Sethi (mother of the accused) W/o Kirtan Sethi.

On the same day i.e 08.02.2023 she made prayer to this Court for recording statement of witness B. Manguli Patra u/s. 164 Cr.P.C which was allowed. On 15.02.2023 she received the spot visit report of D.F.S.L, Chatrapur (Ext.P-24). On 13.03.2023 she made query to Professor department of FM&T, MKCG, MCH, Berhampur by producing medical examination report of accused and post mortem report of the deceased (Ext.P-25). On 15.03.2023 she made prayer to send the exhibits i.e blue colour *chapal* to RFSL, Berhampur through C/308 Sadananda Behera on requisition (Ext.P-26) and issued Command Certificate and received the acknowledgement receipt of RFSL, Berhampur (Ext.P-27). On 21.03.2023 she received the querry opinion (Ext.P-28) from Medical Officer Doctor Chaman Bisoyi of FM&T, MKCG MCH, Berhampur.

On the same day she submitted preliminary charge sheet against accused Srikanta Sethi u/s.363/377/302/201 I.P.C and u/s. 6 POCSO Act. On 23.03.2023 at 3.30 P.M she sent the red colour realme mobile to SFSL, Bhubaneswar for chemical examination vide forwarding letter marked Ext.P-29 and on 24.03.2023 she received the acknowledgement receipt from SFSL, Rasulgarh, Bhubaneswar (Ext.P-30). On 25.03.2023 she seized the Anganwadi Admission Register regarding the date of birth of the

deceased and prepared seizure list (Ext.P-8) and as per the Admission Register the date of birth of the deceased is 07.05.2019 and at the time of incident he was 3 years 8 months and 17 days (Ext.P-7). On 06.04.2023 she submitted final charge sheet u/s. 363/377/302/201 I.P.C and u/s.6 of POCSO Act.

In cross-examination P.W.15 admitted that the spot house happens to be a two storied building. The dead body was recovered from 2<sup>nd</sup> room of the first floor. P.W.15 admitted regarding recording of the statement of the accused u/s. 27 of the Indian Evidence Act. She further stated that P.W.11 has stated before her, that deceased was lying in the stair of the accused. She denied to the suggestion that she has not properly investigated this case.

### **Death/Homicidal or suicidal**

**10.** To establish the nature of death, the prosecution relied on the postmortem report vide Ext.P-25.Basing upon the opinion of the doctor/P.W.18, it is proved and ascertained that death of the missing child was homicidal in nature as it was caused due to *cranio cerebral injuries* sustained and its complication thereof. The reply to the querry by Dr. Chaman Kumar Bisoyi vide Ext.P-28 also reveals the death of deceased could have been caused due to thrashing of the deceased's head to the wall.

### **Chemical Examination Report**

**11.** The Chemical Examination Report/ Ext.P-33 (4 sheets) submitted by Subhasish Sahu, Reporting Officer-cum-ACE who also supervised the same as State Forensic Science Laboratory, Rasulgarh reveals that-

xxx xxx xxx

1. Autosomal male DNA profiles generated from exhibits A(blood stained gauze from spot), B(blood stained gauze from spot), C (cut portion of underwear of accused stained with blood), J2 (nail clippings of deceased stained with blood), K(cut portion of t-shirt of deceased stained with blood) and Q(cut portion of pant of accused stained with blood) are matching with the autosomal male DNA profile generated from exhibit j4 (blood stained gauze of deceased) (Ref. Annexure A, 186DNA23, Table I)
2. The autosomal male DNA profiles generated from exhibits P (nail clippings of accused stained with blood) and P1(blood stained gauze of accused) are consistently available in the mixed DNA profile generated from exhibit E(cut portion of bed sheet stained with blood)(Ref. Annexure A,

186DNA23, Table II).

3. The Y-STR male DNA profiles generated from exhibits C(cut portion of under wear of accused stained with blood) and Q (cut portion of pant of accused stained with blood) are matching with the Y-STR male DNA profile generated from exhibit J4 (blood stained gauze of deceased).(Ref. Annexure A, 186DNA23, Table III).

In regard to the Chemical examination Report (Ext.P-33) dated 15.07.2023 of SFSL, Rasulgarh, Bhubaneswar the seizure of biological samples of the deceased (Ext.P-3) and seizure of biological sample of accused (Ext.P-1) are proved accordingly. The seizure list and result of chemical examination report further reveals that both are consistently available in the autosomal DNA profile generated from blood gauze of the deceased which is matching to the cut portion of the pant of the accused stained with blood. The blood stained of the accused of his nail clippings is also consistent to blood stained gauze and to the cut portion of the bed sheet stained with blood seized by the I.O. Further the cut portion of the underwear of the accused stained with blood and cut portion of the pant of the accused stained with blood are matching with the male DNA profiles

generated from blood stained gauze of the deceased. As per the chemical examination report, the DNA profile generated matched with the blood of the deceased boy. The circumstances relating to the presence of the minor deceased with the accused is proved beyond reasonable doubt.

The statement of the seizure witness to the seizure of the wearing apparels of the deceased boy (Ext.P-3) is proved and seizure of the wearing apparels of the accused (Ext.P-17) is also proved to connect the link between, deceased with the accused. It is true from the face of the record and as available from the statement of the witnesses such as P.W.11, P.W.12 and P.W.16 that on 24.01.2023 around 5.00 P.M the deceased was found missing and after receiving intimation from one Aditya (not examined by the prosecution) they visited to the house of accused Srikanta and found the house to be locked. It is stated by P.W.11, P.W.12, P.W.16 and P.W.17 that the mother of Srikanta was sitting in front of her house and forcibly the door was opened by P.W.11 along with one Anganwadi worker (P.W.8) who did not support the prosecution story), forcibly opened the door of Srikanta and entered inside his house. P.W.11 found the pant of the deceased inside the room which was dark and subsequently deceased was lying dead in the staircase. He was lying in the pool of blood and at the

hospital he was declared dead. It is suspected by P.W.11 regarding commission of carnal intercourse upon the minor victim boy causing his death.

Apart from moving towards discussion in regard to the evidence, direct and circumstantial, I am of the opinion to discuss regarding the statement of the accused recorded u/s. 27 of the Indian Evidence Act which says:-

**27 of Indian Evidence Act:- How much of information received from accused may be proved.**

*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 thereby discovered, may be proved.*

Under Section 27 of the Indian Evidence Act, the confession before the police, have been made admissible. When any fact is deposed to have been discovered basing upon the information of an accused in custody, so much of such information, has been made admissible, which directly relates to the facts discovered. If the information given by the accused amounts to a confession then also it can be proved against the accused.

In this case the statement of accused recorded u/s. 27 of Indian Evidence Act in presence of

witnesses Padmanabha Pradhan (P.W.16) who proved his signature (Ext.P-15/2) and the signature of Santosh Patra (not examined) Ext.P-15/3 reveals the fact, that on 24.01.2023 at about 5.00 P.M accused took the minor boy to his upstairs. Accused insisted the minor boy to put his (accused's) private part (penis) into his mouth. Subsequently, accused further put his private part to his mouth to which the minor boy cried and out of suspicion of disclosing such fact before others, accused hit the head of the minor victim boy to the wall, causing bleeding injuries. After sometimes the family members of the deceased boy arrived in his house. Accused left the house and threw the *pant* of the deceased boy in a solitary place and cleaned himself. Accused confessed that he can discover the *pant* from that place.

The essential requirements to prove section 27 of the Indian Evidence Act, is to be looked into as guided by **Hon'ble Supreme Court in the case of Anter Singh V. State of Rajasthan (2004) 10 SCC 657**, the Court summoned up the various requirements of Section 27 as follows:

- i. The fact of which evidence is sought to be given must be relevant to the issue. It must be borne in mind that the provision has nothing to do with the question of relevancy. The relevancy of the fact

discovered must be established according to the prescriptions relating to relevancy of other evidence connecting it with the crime in order to make the fact discovered admissible.

- ii. The fact must have been discovered.
- iii. The discovery must have been in consequence of some information received from the accused and not by the accused's own act.
- iv. The person giving the information must be accused of any offence.
- v. He must be in the custody of a police officer.
- vi. The discovery of a fact in consequence of information received from an accused in custody must be deposed to.
- vii. Thereupon only that portion of the information which relates distinctly or strictly to the fact discovered can be proved. The rest is inadmissible.”

As per the above guidelines, the fact regarding the case in hand relates to the *pant* of the deceased thrown by the accused which was discovered as shown by him(accused). The *pant* discovered relates to the information regarding the deceased lying in naked condition inside the house of accused Srikanta

co-relates to the death of the deceased. So also the witnesses to the seizure and seizure list vide Ext.P-13 proved the *pant* belongs to the deceased boy. It is also clear that the persons who gave information about the *pant* is Srikanta Sethi who is the accused of this case and is in the custody of the police officer at the time of discovery.

Further in the case of **NCT of Delhi Vs Navjot Sandhu@ Afsan Guru (2005)11 SCC 600.**

*The requisite condition for witness witnessing section 27 of Indian Evidence Act in support of prosecution case is that the Investigating Police Officer who deposed that he discovered a fact in consequence of the information received from an accused person in police custody.*

Thus, P.W.16, who is a witness to the statement u/s. 27 of Evidence Act, has also admitted about the discovery of the fact i.e *the pant* of the deceased by the police and here the disclosure reveals, the discovery of the article i.e *pant* belongs to the deceased boy which cannot be discarded, as it was recovered, on the statement of disclosure and the item (*pant*) has been seized from where it has been placed, within the special knowledge of accused. Thus it is accepted regarding the admissibility of the disclosure statement. As the statement u/s. 27 of Evidence Act is admitted, it will go against the accused as per the

settled principle of law.

Apart from the materials, it is clear and apparent from the face of the record that there is no direct/ocular evidence in this case. This case is based upon the circumstantial evidence. It is true that P.W.10 while sitting in her verandah, the mother of the deceased/P.W.17 arrived at her house in search of her son. So missing of the child, cannot be discarded as P.W.10 has stated in this regard in her previous statement u/s. 164 Cr.P.C (Ext.P-31). She admitted that on 07.02.2023 at about 5.00 P.M the mother of the deceased asked her that whether her minor son was in her house or not and further disclosed the fact, that she found there was huge crowd in front of the house of accused, is also available in her previous statement recorded u/s. 164 Cr.P.C (Ext.P-31), wherein, she has stated that the villagers near the house of Srikanta, received information from one Aditya about the missing boy and found the *chapal* of the boy near his house. Other required contents as available vide Ext.P-31, has lost its stand as P.W.10 has not averred anything in regard to that. Over and above, even though there is no eye witness, but P.W.11 and P.W.12 went inside the house of Srikanta and saw the deceased boy was lying in the pool of blood. Both found accused Srikanta near the dead body. In this circumstances it is proved that accused is guilty and the prosecution is

required to discuss, the five golden principles of criminal law in the celebrated judgment of Hon'ble Supreme Court in the case of **Sharad Birdhi Chand Sarda Vs State of Maharashtra, (1884)4 SCC 116** that :--

“Circumstantial evidence is indirect evidence that suggest a fact or event without directly proving it. Instead of direct proving a fact it provides circumstances from which a fact can be inferred. It requires the fact/finder to draw inference to connect the evidence to the conclusion.”

The five golden principles of circumstantial evidence also known as the **“Panchsheel”** of circumstantial evidence are a set of rule that guide the court in determining the guilt, when relying on indirect evidence. These principles ensured that the evidence presented if reliable and strong enough to support a conviction.

These five principles are:-

- 1) *The circumstances must be fully established*
- 2) *Circumstances must be consistent with the hypothesis of guilt.*
- 3) *The circumstances must be conclusive in nature.*
- 4) *The circumstances must exclude every hypothesis over the guilt and*
- 5) *The chain of evidence must be complete.*

Here the evidence of P.W.17 being

corroborated with the statement of P.W.10 proved the missing of the victim child on the relevant day i.e on 24.01.2023 evening and subsequently after receiving information that the victim was with Srikanta, P.W.11 and P.W.12 visited near the house of Srikanta and found the house to be locked. The mother of Srikanta then opened the door and P.W.1 saw the *chapal* of the deceased inside that room. Then P.W.11 and P.W.12 went inside to the upstairs of the house and found Srikanta to be present there and the deceased was lying in the pool of blood in naked condition. There was no other person in that room except Srikanta and as the deceased was in naked condition. It is a link to the fact that accused making the victim boy naked and killing him by giving pressure inside the room in absence of any other person and thereafter causing bodily injuries by hitting his head with multiple injuries as alleged from the side of prosecution. The post mortem report of the deceased does not co-relate any injuries to prove the fact of inserting the private part of the accused inside the mouth of the minor victim, but the guilt of the accused for his involvement in the crime is proved having circumstance of consistent. The offence committed by the accused is conclusive in nature which excludes every hypothesis over the guilty of the accused. On the other hand the chain of evidence linking each other is complete to prove the accused

guilty having no missing link therein. Thus the chain of circumstance from missing of the victim child till discovery of the dead body including the discovery of the *pant* establishes the circumstances, forming a complete and unbroken chain leading to the inevitable conclusion that the accused committed the crime with no reasonable doubt.

### **Motive**

**12.** The motive to commit a crime is not always legally required to prove a crime, though it is considered relevant u/s.8 of the Indian Evidence Act, if serves as a supporting factor to corroborate evidence, but is not a substitute for proof. While highly significant in circumstantial cases, the absence of motive does not weaken a case.

**In Sukhpal Singh Vs. State of Punjab (2019) 15 SCC-622** Hon'ble Supreme Court found that: "*if prosecution establishes motive, it will undoubtedly strengthen the prosecution case, but to say that absence of motive will be fatal to the prosecution, irrespective of other material before the Court in the form of circumstantial evidence is far-fetched.*

*"Para 15. It is undoubtedly true that the question of motive may assume significance in a prosecution case based on circumstantial evidence. But*

*the question is whether in a case of circumstantial evidence inability on the part of the prosecution to establish a motive is fatal to the prosecution case. We would think that while it is true that if the prosecution establishes a motive for the accused to commit a crime it will undoubtedly strengthen the prosecution version based on circumstantial evidence, but that is far cry from saying that the absence of a motive for the commission of crime by the accused will irrespective of other material available before the Court by way of circumstantial evidence be fatal to the prosecution.*

Further Hon'ble Supreme Court in the case of **Subash Aggarwal Vs. The State of NCT of Delhi Crl.A @ SLP (Crl.)No.1069 of 2025** held that:

*“24. Motive remains hidden in the inner recesses of the mind of the perpetrator, which cannot, oftener than ever, be ferreted out by the investigating agency. Though in a case of circumstantial evidence, the complete absence of motive would weigh in favour of the accused, it cannot be declared as a general proposition of universal application that, in the absence of motive, the entire inculpatory circumstances should be ignored and the accused acquitted.*

**Culpability of the accused with respect to the alleged offences.**

13. In order to establish the offence punishable u/s. 302 of I.P.C in context of the present case, it is incumbent on the part of the prosecution to establish that:-

- 1) *The act is done with the intention of causing death.*
- 2) *The act is done with the intention of causing such bodily injury as the offender knows to be likely to cause death of the person to whom harm is caused.*
- 3) *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.*
- 4) *With the knowledge that the act is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death.*

In the instant case accused did the act in the evening of 24.01.2023 which indicate that he has got intention of causing bodily injury likely to cause death as stipulated U/s 300 I.P.C Clause 2–With the intention of causing bodily injury likely to cause death  
– **In Rajwant V. State AIR 1966 Sc 1874:1966 Cr.LJ**

**1509, The Hon'ble Supreme Court held that:-**

*“The essence of crime under the second clause of Section 300 I.P.C is that there must be intention of causing such bodily injury as the accused knows it to be likely to cause death of the person to whom the injury is caused.”*

In the instance case, the bodily injury inflicted as reveals from the post mortem report vide Ext.P-14 is likely to cause death is one of the facts which has been discussed basing upon the circumstances holding the accused responsible for the death of the deceased boy. The injury appears upon the parts of the body inflicted and the force of the stroke made by the accused, reveals serious injury as available on head, forehead, mouth and nostrils of the body upon the minor child aged about four years old only. In these circumstances the accused is held guilty for committing murder of the minor child having 8 nos of injuries found upon the major vital parts of his body. It is definitely within the knowledge of the accused while cause bodily injury, that while using such force upon a minor child of four years, would definitely result his death. Here the accused has caused the act of eminent danger having knowledge and intention to cause death of the minor child. It is further proved the presence of *mens rea* within the act of the accused intending to cause serious bodily harm, resulting his

death. Thus, committing murder of the minor boy is proved basing upon the postmortem and chemical examination report, including the evidence of the material witnesses.

The Chemical Examination Report available establishes the fact of murder which is proved as admitted in the evidence. Hon'ble Apex Court in the case of state of **Himanchal Pradesh -Vs- Mast Ram (2004)** clarified that- *“any document purporting to be a report under the hand of a government Scientific expert upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under the Cr.P.C (now BNSS) may be used as evidence in any inquiry, trial or other proceeding.”*

In this context by applying the ratio of the Hon'ble Apex Court, the Scientific Expert Report is accepted. Hence, basing upon the concrete evidence available in record, the involvement of the accused for committing murder of the minor kid is accordingly made out and proved against him beyond all reasonable doubt.

Further to prove the of offence u/s.363 I.P.C against the accused for kidnapping of the minor child, the prosecution is required prove the following ingredients of offence as envisaged u/s.361 I.P.C.

*The essential ingredients of the offence*

*u/s. 361 I.P.C are: -*

- (1) The accused took or enticed any minor or a person of unsound mind;*
- (2) Such minor, if male, must be under 10 years of age*
- (3) The act must be one of taking or enticing out of the keeping of the lawful guardian of such minor*
- (4) The act of taking or enticing away must be done without consent of the lawful guardian.*

In this case taking the minor victim boy by the accused is definitely made out, as the dead body of the deceased was found in the pool of blood inside the house of the accused Srikanta, who was alone present on that spot. Even though there is no direct evidence to this aspect, but the circumstances proves the guilt of the accused for his involvement in the crime. The basic ingredients in regard to taking the minor victim boy by the accused, from his lawful guardianship, without consent, is proved accordingly as because the dead body was recovered inside the house of the accused. Hence, Section 363 I.P.C is proved against the accused.

**14.** Further, allegation against the accused is u/s. 377 I.P.C for committing carnal intercourse upon

the victim boy by inserting his private part into his (victim boy's) mouth.

For discussion in regard to section 377 I.P.C, it is to be reminded regarding the case of **Navtej Singh Johar –vs- Union of India**. In 2018 Hon'ble Supreme Court partially struck down the law and decriminalized consensual homosexual acts between adult. However, the law still applies to non-consensual act, acts involving minor and acts involving animal. If the individual involved as minor, the act is considered non-consensual and illegal u/s. 377 I.P.C.

In cases u/s. 377 I.P.C the following points need to be determined: -

- 1) Whether carnal intercourse against the order of nature occurred particularly, if so,
- 2) Whether it was voluntary,
- 3) Nature of act (Penetration is sufficient),
- 4) Whether the persons are consenting adults,
- 5) Age of the individuals involved,
- 6) Presence of any coercion or violence are also relevant.

Here the prosecution must prove, the act was done voluntarily by the accused. No statement of the witnesses and no medical evidence proved, that accused, voluntarily had carnal intercourse against the order of nature with the victim boy. In this case victim

was found in naked condition, lying dead. But in absence of any clue regarding penetration, it cannot be presumed the accused is guilty. Over and above there is also not found any injuries upon the private part of the victim boy. Hence, Section 377 I.P.C is not proved against the accused.

**15.** Further to prove the offence u/s.201 I.P.C the prosecution is to prove the essential ingredients u/s. 201 I.P.C which are:-

- 1) *An offence has been committed;*
- 2) *the accused knew or had reason to believe that such offence has been committed;*
- 3) *The accused caused disappearance of the evidence thereof;*
- 4) *The accused gave false information in respect thereof;*
- 5) *the accused knew or had reason to believe the same to be false;*
- 6) *The accused did so with intention to screen himself from legal punishment;*
- 7) *For aggravating circumstances the offence in question was punishable with death or imprisonment for life or with imprisonment extending to 10*

*years.*

It is proved that murder of the minor kid has been committed with the knowledge of the accused. By throwing the *pant* of the deceased, in the solitary place, accused caused to disappear the evidence. He did such act with intention to screen himself from legal punishment. In this context accused is also liable for the offence u/s. 201 of I.P.C.

**16.** As the victim was minor section 6 of the POCSO Act was attracted. For proof of section 6 POCSO Act, the basic ingredients u/s.5 (m) of the POCSO Act needs for its discussion.

Aggravated penetrative sexual assault upon a child below twelve years has been defined in section 5 (m) of the POCSO Act which reads as follows:

## “5. *Aggravated penetrative sexual assault-*

\*\*\*                    \*\*\*                    \*\*\*                    \*\*\*

“(m) Whoever commits penetrative sexual assault on a child below twelve years.”

\*\*\* \* \*\*\* \* \*\*\*

Earlier it has been categorically discussed regarding the fact of carnal intercourse, in which the accused was not found guilty due to non-availability of evidence, oral or documentary. Thus, commission of

penetrative sexual assault, upon the minor victim boy is not proved. Earlier as the discussion has already been elaborated, further discussion for proof of section 5(m) POCSO Act will only be a repetition to the above facts and nothing more. In this context Section 6 of POCSO Act is not made out against the accused.

### **Presumption**

**17.** As per the settled position of law, accused Srikanta Sethi is required to prove his innocence as per Sec.29 of POCSO Act which reveals that:-“*where a person is prosecuted for committing or abetting or attempting to commit any offence under Sections 3, 5, 7 and Section 9 of this Act, the Special Court shall presume, that such person has committed the offence, unless the contrary is proved.*

In the instant case, there are reasons to raise presumption that accused Srikanta Sethi had committed the murder of the minor boy. But in this case prosecution failed to prove the act of penetrative sexual assault by the accused upon the minor victim prior to his murder.

**18.** It is further to be looked into in regard to the presumption of culpable mental state of the accused as envisaged in Sec.30 of the POCSO Act, 2012 which reveals 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 but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.*

*For the purposes of this section, a fact is said to be proved only when the Special Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.*

On careful evaluation of the evidence, I found the prosecution has successfully proved that the accused has committed the murder of the minor victim boy after kidnapping him and also committed the disappearance of evidence of offence. Thus, it is of my considered view that accused has failed to prove the fact that he had no such mental state with respect to the act charged against him. Hence, this Court believes that intention and motive for committing such act by the accused was very much within his knowledge to commit the crime.

On the other hand there are no materials against the accused to prove the offence of carnal intercourse upon the deceased boy, falls within the ambit of aggravated penetrative sexual assault.

### **Negligent Investigation**

**19.** In this case the medical examination report of the accused has not been submitted by the Investigating Agency. Over and above the said document has also not been produced through prosecuting agency and no steps have also been taken in-spite of repeated advancement taken by the Court. In the case of negligent investigation, the Court has to be circumspect in evaluating evidence and may have to adopt an active and analytical role to ensure that truth is found. **Hon'ble Supreme Court** in the case of **Hema Vs. State (2013)** clarified that negligent investigation, omission or fault by the Investigating Agency are not sufficient ground for acquittal if other evidence exists.

Therefore, legal precedent dictates that the Court must ignore, or compensate for, negligent police work to prevent the failure of justice, focusing on the overall reliability of prosecution's case.

Hence, by relying on credible and cogent evidence, so also basing upon the post mortem report, the allegation against the accused is proved beyond reasonable doubt.

### **Conclusion**

**20.** Here the materials available on record more particularly the testimonies of the prosecution witnesses being coupled with post mortem report, chemical examination report and other corroborating

evidence, goes against the accused. Thus, commission of kidnapping and murder of the minor boy by accused is proved against him beyond all reasonable doubt.

**21.** From the above discussion I hold accused **Srikanta Sethi @ Sukanta Kumar Sethi** is responsible for committing the offences U/s. **363/302/201 I.P.C** and he is found guilty and convicted thereunder U/s.235(2) of Cr.P.C. Accused is not found guilty for the offences punishable u/s. 377 of I.P.C and u/s. 6 of POCSO Act and he is acquitted therefrom u/s. 235(1) of Cr.P.C.

**22.** Considering the nature of offences committed by the convict against the minor boy, I am not inclined to extend the benefit of Probation of Offenders Act towards him.

Sd/- Smt.P.Pattanaik

**Addl. District Judge-cum- Special Court  
under POCSO Act, Berhampur.**

**Hearing on the question of sentence**

**23.** Heard on the question of sentence. The convict is present before this Court. Ld. defence Counsel for the convict submitted to take a lenient view while awarding sentence, looking to the age of the convict. He is the first offender and is the earning member of his family.

On the other hand, Ld. Special P.P.

submitted that the convict committed murder of a minor child who is below 12 years of age. An exemplary punishment be given to the accused. He further submitted that any sentence less than imprisonment for life would not commensurate with gravity of the said offences.

In the case of **Alister Anthoni Vs. State of Maharashtra, 2012**, the Hon'ble Court has guided that sentencing is an important task in the matter of crime. The prime object of criminal law is, the imposition of an appropriate, adequate, just and proportion sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no straight jacket formula for sentencing an accused on proof of crime.

Time and again the Hon'ble Court has directed certain principle that what sentence would meet the ends of justice depends on the facts and circumstances of each case and Court must keep in mind the gravity of crime, motive of the crime, nature of the offence and other attendance circumstances.

In the case of murder, the conduct of convict, the state and age of the minor deceased and gravity of criminal act is to be looked into.

In the present case the accused has been convicted for the offences punishable with section 363/302/201 of I.P.C which deals with kidnapping and

murder of a minor boy aged about 4 years old.

It is to be mentioned that accused Srikanta is not found guilty u/s. 6 of the POCSO Act. As he is found guilty for the offence u/s. 363/302/201 of I.P.C it would be appropriate that the convict is to be punished under the provision of Indian Penal Code.

In the instant case, the convict committed murder of a tender age boy aged about 4 years old. In my opinion no leniency to the convict would be proper, and if taken it would encourage the offenders to indulge in such activities. Hence, the present convict **Srikanta Sethi @ Sukanta Kumar Sethi** is sentenced to undergo:-

**(i) Imprisonment for life and to pay fine of Rs.10,000/-(Rupees Ten thousand) and in default to suffer Rigorous Imprisonment (R.I.) for 06 (six) months for commission of offence U/s.302 of I.P.C.**

**(ii) Rigorous Imprisonment (R.I.) for 07 (seven) years and to pay fine of Rs.5,000/-(Rupees five thousand) only and in default to suffer Rigorous Imprisonment (R.I.) for 3 (three) months for commission of offence U/s.363 of I.P.C**

**(iii) Rigorous Imprisonment (R.I.) for 07 (seven) years and to pay fine of Rs.5,000/-(Rupees five thousand) only and in default to suffer Rigorous Imprisonment (R.I.) for 3 (three) months**

**for commission of offence U/s.201 of I.P.C.**

All the sentences shall run concurrently.

The question of set off u/s. Sec.428 of Cr.P.C does not arise as the convict has been sentenced to suffer imprisonment for life.

Sd/- Smt.P.Pattanaik

**Addl. District Judge-cum-Special Court  
under POCSO Act, Berhampur.**

**Compensation to the Victim**

**24.** Considering the gravity of offence and the severity of mental harm suffered by the parents of the child, I am of the opinion that this is an appropriate case to recommend the D.L.S.A, Berhampur for award of compensation to the victim.

As per **2(1)(y) of Bharatiya Nagarik Surakshya Sanhita, 2023** “Victim” means a person who has suffered any loss or injury caused by reason of the act or omission of the accused person and include the guardian or legal heir of such victim.

As per Scheduled of Odisha Victim compensation Scheme, 2017 Scheduled-1 Death(loss of life) Rs.2,00,000/- (Rupees Two Lakhs) is awarded as final compensation in favour of the victims (parents of the child).

A copy of the judgment be sent to the Secretary, DLSA, Ganjam at Berhampur, for necessary

compliance of the order.

Sd/- Smt.P.Pattanaik

**Addl. District Judge-cum-Special Court  
under POCSO Act, Berhampur.**

The Zimanama vide Ext.P-9 be cancelled and the seized articles vide Ext.P-1, Ext.P-3, Ext.P-8, Ext.P-13, Ext.P-14, Ext.P-16, Ext.P-17 and Ext.P-22 be destroyed after four months of the expiry of the appeal period, if no appeal is preferred and if preferred the same shall be dealt as per the order of Hon'ble Appellate Court.

Sd/- Smt.P.Pattanaik

**Addl. District Judge-cum-Special Court  
under POCSO Act, Berhampur.**

The judgment is dictated and corrected by me and the same is delivered under my signature and seal of the Court and is pronounced in the open court on this the **13th day of February, 2026.**

Sd/- Smt.P.Pattanaik

**Addl. District Judge-cum-Special Court  
under POCSO Act, Berhampur.**

**FORM-C**

| <b>LIST OF PROSECUTION/ DEFENCE/ COURT<br/>WITNESSES</b> |             |                                                                     |
|----------------------------------------------------------|-------------|---------------------------------------------------------------------|
| <b>A. Prosecution Witnesses</b>                          |             |                                                                     |
| <b>RANK</b>                                              | <b>NAME</b> | <b>NATURE OF<br/>EVIDENCE<br/>(EYE WITNESS,<br/>POLICE WITNESS,</b> |
|                                                          |             |                                                                     |

|        |                                                 |                                                                   |
|--------|-------------------------------------------------|-------------------------------------------------------------------|
|        |                                                 | <b>EXPERT WITNESS,<br/>MEDICAL<br/>WITNESS,<br/>PANCH WITNESS</b> |
| P.W.1  | Rabin Ranjan<br>jali                            | Official seizure<br>witness                                       |
| P.W.2  | N. Ramakrishna<br>Rao                           | Official seizure<br>witness                                       |
| P.W.3  | Bhagirathi Jena                                 | Official seizure<br>witness                                       |
| P.W.4  | Satyanarayan<br>Behera                          | Official seizure<br>witness                                       |
| P.W.5  | Simanchala<br>Maharana                          | Official seizure<br>witness                                       |
| P.W.6  | Rinku Sethi                                     | Independent witness                                               |
| P.W.7  | Radha Sethi                                     | Independent witness                                               |
| P.W.8  | Sabitri Sethi                                   | Independent witness                                               |
| P.W.9  | Papina Biswal                                   | Independent witness                                               |
| P.W.10 | B. Manguli Patra                                | Independent seizure                                               |
| P.W.11 | Paternal uncle of<br>the deceased<br>victim boy | Elder brother of<br>informant                                     |
| P.W.12 | Father of the<br>deceased victim<br>boy         | Informant                                                         |
| P.W.13 | Siba Sankar<br>Patra                            | Scriber of F.I.R                                                  |
| P.W.14 | Dr. Manoj<br>Kumar Hansa                        | Medical Officer who<br>conducted post<br>mortem examination       |
| P.W.15 | Mamata Kumari<br>Samantaray                     | Investigating Officer                                             |
| P.W.16 | Padmanav<br>Pradhan                             | Independent witness                                               |

|                           |                                   |                                                                                                  |
|---------------------------|-----------------------------------|--------------------------------------------------------------------------------------------------|
| P.W.17                    | Mother of the deceased victim boy | Wife of informant                                                                                |
| <b>B. Defence Witness</b> |                                   |                                                                                                  |
| RANK                      | NAME                              | NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS) |
|                           | NONE                              |                                                                                                  |
| <b>C. Court Witnesses</b> |                                   |                                                                                                  |
| RANK                      | NAME                              | NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS) |
|                           | NIL                               |                                                                                                  |

**LIST OF PROSECUTION/ DEFENCE/COURT EXHIBITS**

| <b>A. Prosecution Exhibits</b> |                 |                                  |
|--------------------------------|-----------------|----------------------------------|
| 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               |
| 3.                             | Ext.P-1/2/P.W.1 | Signature of Suriyam Sabar, OAPF |
| 4.                             | Ext.P-1/3/P.W.1 | Signature of Hirendra Kumar      |

|     |                  |                                              |
|-----|------------------|----------------------------------------------|
|     |                  | Gouda, constable                             |
| 5.  | Ext.P-1/4/P.W.15 | Signature of P.W.15 on seizure list          |
| 6.  | Ext.P-2/P.W.2    | Seizure list                                 |
| 7.  | Ext.P-2/1/P.W.2  | Signature of P.W.2                           |
| 8.  | Ext.P-2/2/P.W.2  | Signature of Hirendra Kumar Gouda, constable |
| 9.  | Ext.P-2/3/P.W.2  | Signature of constable Sadananda Behera      |
| 10. | Ext.P-2/4/P.W.15 | Signature of P.W.15 on seizure list          |
| 11. | Ext.P-3/P.W.3    | Seizure list                                 |
| 12. | Ext.P-3/1/P.W.3  | Signature of P.W.3                           |
| 13. | Ext.P-3/2/P.W.15 | Signature of P.W.15 on seizure list          |
| 14. | Ext.P-3/3/P.W.15 | Signature of C/315 Tumbanath Behera          |
| 15. | Ext.P-3/4/P.W.15 | Signature of HG/567 Rajkishore Sahu          |
| 16. | Ext.P-4/P.W.4    | Seizure list                                 |
| 17. | Ext.P-4/1/P.W.4  | Signature of P.W.4                           |
| 18. | Ext.P-4/2/P.W.5  | Signature of P.W.5 on seizure list           |
| 19. | Ext.P-4/3/P.W.15 | Signature of P.W.15 on seizure list          |
| 20. | Ext.P-5/P.W.11   | Signature of P.W.11 on inquest               |

|     |                   | report                                   |
|-----|-------------------|------------------------------------------|
| 21. | Ext.P-5/1/P.W.12  | Signature of P.W.12 on Inquest Report    |
| 22. | Ext.P-5/2/P.W.14  | Inquest Report                           |
| 23. | Ext.P-5/3/P.W.14  | Signature of P.W.14                      |
| 24. | Ext.P-5/4/P.W.15  | Signature of P.W.15 on Inquest Report    |
| 25. | Ext.P-6/P.W.12    | F.I.R                                    |
| 26. | Ext.P-6/1/P.W.12  | Signature of P.W.12                      |
| 27. | Ext.P-6/2/P.W.13  | Signature of P.W.13 on F.I.R             |
| 28. | Ext.P-6/3/P.W.15  | Endorsement with signature of P.W.15     |
| 29. | Ext.P-6/4/P.W.15  | Formal F.I.R                             |
| 30. | Ext.P-6/5/P.W.15  | Signature of P.W.15                      |
| 31. | Ext.P-7/P.W.12    | Signature of P.W.12 on dead body channel |
| 32. | Ext.P-7/1/P.W.14  | Dead body challan of deceased victim     |
| 33. | Ext.P-7/2/P.W.14  | Signature of P.W.14                      |
| 34. | Ext.P-7/3/P.W.15  | Signature of P.W.15 on dead body challan |
| 35. | Ext.P-8/P.W.8     | Seizure list                             |
| 36. | Ext.P-8/1/P.W.8   | Signature of P.W.8                       |
| 37. | Ext.P-8/2/P.W.8   | Signature of husband of P.W.8            |
| 38. | Ext.P-8/3/ P.W.15 | Signature of P.W.15 on seizure list      |

|     |                    |                                                          |
|-----|--------------------|----------------------------------------------------------|
| 39. | Ext.P-9/P.W.8      | Zimanama                                                 |
| 40. | Ext.P-9/1/P.W.8    | Signature of P.W.8                                       |
| 41. | Ext.P-9/2/ P.W.15  | Signature of P.W.15 on Zimanama                          |
| 42. | Ext.P-10/P.W.8     | Original Anganawadi Admission Register                   |
| 43. | Ext.P-10/1/P.W.8   | Relevant entry showing Sl.No.11/23 of Admission Register |
| 44. | Ext.P-11/P.W.14    | Post Mortem report of P.W.14                             |
| 45. | Ext.P-11/1/P.W.14  | Signature of P.W.14                                      |
| 46. | Ext.P-12/ P.W.15   | Spot Map                                                 |
| 47. | Ext.12/1/P.W.15    | Signature of P.W.15                                      |
| 48. | Ext.P-13/P.W.15    | Seizure list                                             |
| 49. | Ext.P-13/1/ P.W.15 | Signature of P.W.15                                      |
| 50. | Ext.P-13/2/ P.W.15 | Signature of ASI Balaram Raut                            |
| 51. | Ext.P-13/3/ P.W.15 | Signature of ASI Abhimanyu Pandey                        |
| 52. | Ext.P-14/P.W.15    | Seizure list                                             |
| 53. | Ext.P-14/1/ P.W.15 | Signature of P.W.15                                      |
| 54. | Ext.P-15/ P.W.15   | Statement of accused u/s.27 Evidence Act                 |
| 55. | Ext.P-15/1/ P.W.15 | Signature of                                             |

|     |                    |                                                                                                 |
|-----|--------------------|-------------------------------------------------------------------------------------------------|
|     |                    | P.W.15                                                                                          |
| 56. | Ext.P-16/P.W.15    | Seizure list                                                                                    |
| 57. | Ext.P-16/1/ P.W.15 | Signature of P.W.15                                                                             |
| 58. | Ext.P-17/P.W.15    | Seizure list                                                                                    |
| 59. | Ext.P-17/1/ P.W.15 | Signature of P.W.15                                                                             |
| 60. | Ext.P-17/2/P.W.15  | Signature of C/16<br>Harendra Kumar<br>Gouda                                                    |
| 61. | Ext.P-17/3/P.W.15  | Signature of OAPF/99 Sunyan<br>Sabar                                                            |
| 62. | Ext.P-18/P.W.15    | Command<br>Certificate                                                                          |
| 63. | Ext.P-18/1/P.W.15  | Signature of P.W.15                                                                             |
| 64. | Ext.P-19/P.W.15    | Forwarding letter<br>to RFSL,<br>Berhampur for<br>sending exhibits                              |
| 65. | Ext.P-19/1/P.W.15  | Signature of P.W.15                                                                             |
| 66. | Ext.P-20/P.W.15    | Requisition to<br>Tahasildar,<br>Dharakote to<br>furnish R.O.R &<br>Sketch Map of<br>spot house |
| 67. | Ext.P-20/1/P.W.15  | Signature of P.W.15                                                                             |
| 68. | Ext.P-21/P.W.15    | Acknowledgement<br>receipt of RFSL,<br>Berhampur                                                |
| 69. | Ext.P-22/ P.W.15   | Seizure list                                                                                    |
| 70. | Ext.P-22/1/P.W.15  | Signature of P.W.15                                                                             |
| 71. | Ext.P-23/P.W.15    | Report from<br>Tahasildar,                                                                      |

|     |                    |                                                                                                                                   |
|-----|--------------------|-----------------------------------------------------------------------------------------------------------------------------------|
|     |                    | Dharakote<br>regarding R.O.R<br>& Sketch Map of<br>the informant<br>(four sheet)                                                  |
| 72. | Ext.P-24/ P.W.15   | Spot visit report of<br>DFSL, Chatrapur                                                                                           |
| 73. | Ext.P-25/ P.W.15   | Query requisition<br>for production of<br>medical exami-<br>nation report of<br>the accused from<br>FM&T, MKCG,<br>MCH, Berhampur |
| 74. | Ext.P-25/1/P.W.15  | Signature of<br>P.W.15                                                                                                            |
| 75. | Ext.P-26/P.W.15    | Requisition for<br>sending exhibits<br>to RFSL,<br>Berhampur                                                                      |
| 76. | Ext.P-26/1/P.W.15  | Signature of<br>P.W.15                                                                                                            |
| 77. | Ext.P-27/P.W.15    | Acknowledgement<br>receipt of R.F.S.L,<br>Berhampur                                                                               |
| 78. | Ext.P-28/P.W.15    | Query opinion<br>from M.O,<br>FM&T, MKCG<br>MCH, Berhampur                                                                        |
| 79. | Ext.P-29/P.W.15    | Forwarding letter<br>to SFSL,<br>Bhubaneswar for<br>sending exhibits                                                              |
| 80. | Ext.P-29/1/ P.W.15 | Signature of<br>P.W.15                                                                                                            |
| 81. | Ext.P-30/ P.W.15   | Acknowledgement<br>receipt of S.F.S.L,<br>Bhubaneswr                                                                              |

|     |                    |                                                                     |
|-----|--------------------|---------------------------------------------------------------------|
| 82. | Ext.P-31/ P.W.10   | Statement u/s. 164<br>Cr.P.C of P.W.10                              |
| 83. | Ext.P-31/1/ P.W.10 | Signature of<br>P.W.10                                              |
| 84. | Ext.P-32           | Chemical<br>Examination<br>Report from<br>R.F.S.L,<br>Berhampur     |
| 85. | Ext.P-33           | Chemical<br>Examination<br>Report from<br>S.F.S.L,<br>Rasulgarh     |
| 86. | Ext.P-34           | Chemical<br>Examination<br>Report from<br>R.F.S.L,<br>Berhampur     |
| 87. | Ext.P-35           | Chemical<br>Examination<br>Report from<br>R.F.S.L,<br>Berhampur     |
| 88. | Ext.P-36           | Chemical<br>Examination<br>Report from<br>S.F.S.L,<br>Rasulgarh     |
| 89. | Ext.P-15/2         | Confessional<br>statement u/s. 27<br>Evidence Act of<br>the accused |
| 90. | Ext.P-15/3         | Signature of<br>witness Santosh<br>Patra                            |
| 91. | Ext.P-14/2/ P.W.16 | Signature of<br>P.W.16 on seizure<br>list                           |

|                            |                        |                                     |
|----------------------------|------------------------|-------------------------------------|
| 92.                        | Ext.P-14/3/ P.W.16     | Signature of witness Santosh Patra  |
| 93.                        | Ext.P-16/2/ P.W.16     | Signature of P.W.16 on seizure list |
| 94.                        | Ext.P-16/3/ P.W.16     | Signature of witness Santosh Patra  |
| <b>B. Defence Exhibits</b> |                        |                                     |
| Sl.No.                     | Exhibit Number         | Description                         |
|                            | NIL                    |                                     |
| <b>C. Court Exhibits</b>   |                        |                                     |
| Sl.No.                     | Exhibit Number         | Description                         |
|                            | NIL                    |                                     |
| <b>D. Material Objects</b> |                        |                                     |
| Sl.No.                     | Material Object Number | Description                         |
|                            | NIL                    |                                     |

Sd/- Smt.P.Pattanaik

**Addl. District Judge-cum-Special Court  
under POCSO Act, Berhampur.**