

**IN THE COURT OF ADHOC ADDL.DISTRICT AND
SESSIONS JUDGE (FTSC-II), JAJPUR**

Presents: - Sri Bijaya Kumar Jena, M.A.LL.M.,
Adhoc Addl. District and Sessions Judge
(FTSC-II), Jajpur.

Dated this the 19th Day of April, 2025

C.T Spl.G.R POCSO No.36/2016
(Comp. No.36/2016)

**Offence U/s 376(2)(i)/302/201 IPC
r/w Sec. 6 POCSO Act**

(Arising out of Binjharpur P.S Case No.45 dt.17.02.2016)

Complainant	State of Odisha
Represented by	Sri Rajendra Prasad Nayak, Spl. Public prosecutor.
Accused No.1	Nakula Jena , aged about 50 Years, S/o Late Khatu Jena of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur
Accused No.2	Sanju Jena , aged about 48 Years, W/o Nakula Jena of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur

Accused No.3	Jada @ Jadei Jena , aged about 65 years, S/o Late Ankura Jena of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur
Accused No.4	Taru @ Tarakanta Jena , aged 60 years, S/o Late Rabindra Jena of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur
Accused No.5	Paikira Jena , aged about 46 years, S/o Late Baruni Jena of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur
Accused No.6	Kabuli @ Gabuli Jena , aged 54 years, S/o Late Baruni Jena of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur
Accused No.7	Bhimasen Jena , aged about 60 years, S/o Late Khatu Jena, of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur
Accused No.8	Sashi @ Sashmita Jena , aged 51 years, W/o Bhima Jena of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur
Accused No.9	Bambula @ Babuli @ Amiya Jena , aged about 45 years, S/o Pagal @ Balaram Jena of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur

Accused No.10	Teru @ Ranjan Jena , aged about 59 years, S/o Late Naba Jena of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur
Accused No.11	Ramesh Jena , aged about 42 years, S/o Late Ania Jena, of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur
Accused No.12	Kalia @ Dhana @ Ghana @ Ghanashyama Jena , aged about 58 years, S/o Late Jaga @ Jagabandhu Jena, of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur
Accused No.13	Garia @ Gania @ Ganesh Jena , aged about 51 years, S/o Late Ratnakar Jena of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur
Accused No.14	Geru @ Gedu @ Gedum @ Sanjib Jena , aged about 45 years, S/o Bharat Jena of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur
Accused No.15	Madhu Jena , aged about 60 years, S/o Ghanashyama Jena of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur
Accused No.16	Sunil Jena , aged about 35 years, S/o Madhia Jena, of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur
Accused No.17	Nalua Jena , aged about 40 years, S/o Rama Jena of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur

Accused No.18	Madhia Jena , aged about 65 years, S/o Late Ghanashyama Jena, of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur
Accused No.19	Goura @ Gouranga @ Sudarsan Jena , aged about 65 years, S/o Raji Jena of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur
Accused No.20	Birua @ Dhirua @ Dhiru @ Dhirendra Jena , aged about 45 years, S/o Nanda @ Sarat Jena, of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur
Accused No.21	Nanda @ Sarat Jena , aged about 66 years, S/o Late Babaji Jena of village Laxminarayan Harijan Tala Sahi, P.S. Binjharpur, District- Jajpur
Represented by	Sri Prabira Ray, H.K.Pradhan, B. B.Nayak, Jyoti Prakash Das and associates, Advocates

FORM- B

Date of offence	14.02.2016
Date of FIR	16.02.2016
Date of Charge Sheet	31.07.2020
Date of framing of Charges	17.01.2024
Date of commencement of evidence	13.02.2024
Date of which judgment is reserved	19.04.2025
Date of sentencing order, if any	19.04.2025

ACCUSED PERSONS DETAILS

Rank of the accused	Name of the accused	Date of arrest	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial for the purpose of section 428 of Cr.P.C
1	Nakula Jena	17.02.2016	16.12.2016	U/s.302 r/w Sec. 201 IPC	Convicted	Imprisonment for life and to pay fine of Rs.10000/- each i.d to undergo further imprisonment for a period of six months each for the offence U/s 302 IPC. Further both the convicts are sentenced to undergo R.I for a period of 5 years and to pay fine of Rs.10,000/- each i.d to undergo R.I for a period of six months each for the offence U/s 201 IPC. Both the said substantive sentences shall run concurrently and period of detention undergone as UTP is set off.	17.02.2016 To 16.12. 2016
2	Sanju Jena	17.02.2016	16.12.2016	U/s.302 r/w Sec.	Convicted		17.02.2016 To 16.12. 2016
3	Jada @ Jadei Jena	04.04.2016	16.12.2016	U/s 376(2)(i)/ 201 IPC r/w Sec. 6 POCSO Act	Acquitted	N.A	04.04.2016 to 16.12. 2016

4	Taru @ Taraakanta Jena	12.03. 2016	12.03. 2016	U/s.302 r/w Sec. 201 IPC	Acquitted	N.A	16.03.2016 To 12.03.2016
5	Paikira Jena	16.05. 2016	16.05. 2016	U/s.302 r/w Sec. 201 IPC	Acquitted	N.A	16.05.2016 to 16.05.2016
6	Kabuli @ Gabuli Jena	16.05. 2016	16.05. 2016	U/s.302 r/w Sec. 201 IPC	Acquitted	N.A	16.05.2016 to 16.05.2016
7	Bhimsen Jena	23.5. 2016	23.05. 2016	U/s.302 r/w Sec. 201 IPC	Acquitted	N.A	23.05.2016 to 23.05.2016
8	Sashi @ Sashmita Jena	01.07. 2016	01.07. 2016	U/s.302 r/w Sec. 201 IPC	Acquitted	N.A	01.07.2016 to 01.07.2016
9	Bambula @ Babuli @ Amiya Jena	31.08. 2019	31.08. 2019	U/s.302 r/w Sec. 201 IPC	Acquitted	N.A	31.08.2019 To 31.08.2019
10	Teru @ Ranjan Jena	31.08. 2019	18.09. 2019	U/s.302 r/w Sec. 201 IPC	Acquitted	N.A	31.08.2019 To 18.09.2019
11	Ramesh Jena	31.08. 2019	18.09. 2019	U/s.302 r/w Sec. 201 IPC	Acquitted	N.A	31.08.2019 To 18.09.2019
12	Kalia @ Dhana @ Ghana @ Ghanshyama Jena	31.08. 2019	18.09. 2019	U/s.302 r/w Sec. 201 IPC	Acquitted	N.A	31.08.2019 To 18.09.2019
13	Garia @ Gania @ Ganesh Jena	31.08. 2019	18.09. 2019	U/s.302 r/w Sec. 201 IPC	Acquitted	N.A	31.08.2019 To 18.09.2019
14	Geru @ Gedu @ Gedum @ Sanjib Jena	20.09. 2021	20.09. 2021	U/s.302 r/w Sec. 201 IPC	Acquitted	N.A	20.09.2021 to 20.09.2021
15	Madhu Jena,	20.09. 2021	20.09. 2021	U/s.302 r/w Sec. 201 IPC	Acquitted	N.A	20.09.2021 to 20.09.2021
16	Sunil Jena	20.09. 2021	20.09. 2021	U/s.302 r/w Sec. 201 IPC	Acquitted	N.A	20.09.2021 to 20.09.2021

17	Nalua Jena	20.09.2021	20.09.2021	U/s.302 r/w Sec. 201 IPC	Acquitted	N.A	20.09.2021 to 20.09.2021
18	Madhia Jena	20.09.2021	20.09.2021	U/s.302 r/w Sec. 201 IPC	Acquitted	N.A	20.09.2021 to 20.09.2021
19	Goura @ Gouranga @ Sudarsan Jena	05.10.2021	05.10.2021	U/s.302 r/w Sec. 201 IPC	Acquitted	N.A	05.10.2021 to 05.10.2021
20	Birua @ Dhirua @ Dhiru @ Dhirendra Jena	25.07.2020	12.08.2020	U/s.302 r/w Sec. 201 IPC	Acquitted	N.A	25.07.2020 To 12.08.2020
21	Nanda @ Sarat Jena	06.11.2024	08.11.2024	U/s.302 r/w Sec. 201 IPC	Acquitted	N.A	06.11.24 to 06.11.2024

JUDGMENT

Accused persons Nakula Jena and Sanju Jena stand charged U/s.302/201 IPC whereas accused Jada @ Jadei Jena stands charged U/s 376(2)(i)/ 201 IPC r/w Sec. 6 POCSO Act and other accused persons stand charged U/s 201 IPC r/w Sec. 302 IPC.

2. The case of the prosecution in nutshell is as follows:

On 16.02.2016 one Mataji Jena W/o Bira Jena of village Laxminarayan Harijan Sahi under

Binjharpur P.S, Dist. Jajpur reported before the IIC, Binjharpur Police station to the effect that on 14.02.2016 night at about 10 p.m she heard the sound of crying from the house of her neighbour Nakula Jena and she and other neighbours came out of their respective house and heard that the victim deceased was requesting her father Nakula Jena to leave her and not to kill her and was telling she would not keep any physical relation with Jadei Jena. At that time Nakula Jena was abusing victim deceased like BEDHA TOO MAA JADEI JENA SAHITA ACHHI TOO JADEI JENA SAHITA SAMPARKA RAKHI TINI MASARA GARBHA DHARANA KARICHU AU TOTE SE GOTE NUA MOBILE DEICHI, TOTE JIBANARU MARIDEBI and after sometimes no noise came out of the house of Nakula Jena. On the next day early morning Nakula Jena, Sanju Jena along with Gouranga, Babuli, Paikira, Dhana and Madhia cremated the dead body of victim by setting fire in the dry pond situated behind the house of Nakula Jena. After cremation, Nakul, Sanju and other accused persons had packed up the ashes in two

plastic cement bags and threw it in the water of the river Kharasrota. It is further alleged that three months prior to the occurrence, Nakula Jena had seen the illicit relationship of his wife Sanju with Jada @ Jadei Jena and assaulted her brutally and Sanju Jena had attempted to commit suicide by taking poison.

On the basis of the FIR of the informant lady in the aforesaid lines, the case was registered vide Binjharpur P.S Case No.45 dt.16.02.2016 U/s 302/201/34 IPC and investigation commenced. During investigation the I.O visited the spot, examined the witnesses and got reliable information that after commission of murder of victim deceased by her parents (Nakul and Sanju), the dead body of the deceased was disposed of by them with the help of other accused persons. So the I.O apprehended the Nakula Jena and Sanju Jena (parents of the victim deceased) and during interrogation they confessed their guilt that the deceased was in love with the accused Jada@ Jadei Jena and was pregnant and wanted to marry him for which both Nakula and

Sanju assaulted her and out of fear she concealed herself in the house of their neighbour Babby Jena and on 14.02.2016 both Nakula and Sanju brought her to their house and in the dead of the night both murdered her by means of her ODHANI and after murder, they burnt the dead body in the dry pond situated behind their house with the assistance of other accused persons and threw away the ashes and half burnt bones in the river Kharasrota by keeping the same in two plastic bags. The I.O recorded their aforesaid confessional statements U/s 27 of Evidence Act in separate sheets. The I.O also seized one black coloured Micromax mobile set presented by accused Jadei @ Jada Jena which was used by the deceased victim on production by them in presence of witnesses and on the basis of their confessional statements, they led the I.O to the spot wherefrom the I.O seized ash mixed soil, half burnt bamboos and half burnt wood. They also led the I.O and witnesses to the embankment of river Kharasrota where they had burnt the wearing apparels of deceased and I.O recovered some ashes,

bangles and a belt monogram of deceased. They also led the I.O to a place of river Kharasrota where they had thrown the ashes and burnt bones by keeping in two plastic bags and gave recovery of two white-coloured plastic bags containing the ashes and small pieces of burnt bones tied with plastic rope and the I.O also seized the same. During investigation the I.O also examined other witnesses. Other accused persons were also arrested by the I.O for their assistance to accused Nakula Jena and Sanju Jena for cremation of the dead body of the victim. After completion of investigation, the I.O submitted charge sheet under section U/s.302/201/34 IPC against accused persons Nakula Jena and Sanju Jena, U/s 302/201/376(2)(i)/417/109 IPC r/w Sec. 6 POCSO Act against accused Jada @ Jadei Jena and U/s 302/201/109 IPC against the other accused persons.

But charge U/s.302/201 IPC is framed against accused persons Nakula Jena and Sanju Jena, Charge U/s 376(2)(i)/201 IPC r/w Sec. 6 POCSO Act is framed against accused Jada @ Jadei

Jena and charge U/s 201 r/w Sec.302 IPC is framed against other accused persons namely Tarakant Jena, Paikira Jena, Kabuli @ Gabuli Jena, Bhimasen Jena, Sashi @ Sasmita Jena, Bambula @ Babuli @ Amiya Jena, Teru @ Ranjan Jena, Ramesh Jena, Kalia @ Ghana @ Ghanshyama Jena, Ganesh Jena, Gedu @ Sanjeeb Jena, Madhu Jena, Sunil Jena, Nalua Jena, Madhia Jena, Goura @ Sudarsan Jena, Dhirua @ Dharendra Jena and Nanda @ Sarat Kumar Jena to face their trial. Hence the case.

3. The accused persons pleaded not guilty to the above charges and faced trial.

4. In order to bring home the charge U/s. 302/ 201 IPC against the accused persons Nakul Jena and Sanju Jena, the prosecution has to prove the following points for determination:

i) That on 14.02.2016 midnight at Vill: Laxminarayanpur (Harijan Talasahi) under Binjharpur P.S. limits accused persons Nakula Jena and Sanju Jena committed murder of deceased victim inside their house.

ii) That on 15.02.2016 early morning at the aforesaid place the accused persons Nakula and Sanju knowing that the murder of deceased victim is punishable with imprisonment of life-or-death sentence having been committed, caused the evidence of the said murder to disappear with the intention of screening themselves from legal punishment.

4(i). In order to bring home the charge U/s. 376(2)(i)/201 IPC r/w Sec. 6 POCSO Act against the accused Jada @ Jadei Jena, the prosecution has to prove the following points for determination:

i) That 4/5 months prior to 14.02.2016 at Vill: Laxminarayanpur (Harijan Talasahi) under Binjharpur P.S. limits accused Jada @ Jadei Jena committed rape repeatedly on deceased victim, a minor girl.

ii) That on 15.02.2016 early morning accused Jada @ Jadei Jena knowing that the murder of deceased is punishable with imprisonment of life-or-death sentence having been committed by accused persons Nakula Jena and Sanju Jena, caused the evidence of the said murder of victim to

disappear with the intention of screening themselves from legal punishment.

iii) That 4/5 months prior to 14.02.2016 accused Jada @ Jadei Jena committed aggravated penetrative sexual assault upon the victim.

4(ii). In order to bring home the charge U/s 201 r/w 302 IPC against accused persons namely Tarakant Jena, Paikira Jena, Kabuli @ Gabuli Jena, Bhimasen Jena, Sashi @ Sasmita Jena, Bambula @ Babuli @ Amiya Jena, Teru @ Ranjan Jena, Ramesh Jena, Kalia @ Ghana @ Ghanshyama Jena, Ganesh Jena, Gedu @ Sanjeeb Jena, Madhu Jena, Sunil Jena, Nalua Jena, Madhia Jena, Goura @ Sudarsan Jena, Dhirua @ Dharendra Jena and Nanda @ Sarat Kumar Jena, the prosecution has to prove the following points for determination.

i) That on 15.02.2016 early morning at Vill: Laxminarayanpur (Harijan Talasahi) under Binjharpur P.S. limits accused persons Tarakant Jena, Paikara Jena, Kabuli @ Gabuli Jena, Bhimasen Jena, Sashi @ Sasmita Jena, Bambula @ Babuli @

Amiya Jena, Teru @ Ranjan Jena, Ramesh Jena, Kalia @ Ghana @ Ghanshyama Jena, Ganesh Jena, Gedu @ Sanjeeb Jena, Madhu Jena, Sunil Jena, Nalua Jena, Madhia Jena, Goura @ Sudarsan Jena, Dhirua @ Dhirendra Jena and Nanda @ Sarat Kumar Jena knowing that the murder of deceased is punishable with imprisonment of life-or-death sentence having been committed by accused persons Nakula Jena and Sanju Jena, caused the evidence of the said murder of victim to disappear with the intention of screening themselves from legal punishment.

5. As many as 30 witnesses have been examined by the prosecution to prove its case as against one on behalf of the defence. Of 30 Prosecution witnesses, P.Ws. 1, 2, 3, 4, 5, 6, 7, 8, 11, 13, 15, 16 , 17 and 20 are the co-villagers of the deceased, P.W.10 is the informant, P.W.s 9 and 12 are the witnesses to the leading to discovery statement dt.17.02.2016 of accused Nakul and Sanju and seizure of incriminating articles, P.Ws.14, 18, 19, 24 and 27 are the witnesses to the seizure of different articles, P.W.21 is the Medical Officer,

who examined accused persons Nakula and Sanju Jena, P.W.22 is the Revenue Inspector who prepared the spot map, P.W.23 is the Medical Officer who examined the deceased victim 4 months prior to her death for complaining pain in her lower abdomen, P.Ws. 25, 26 and 27 are the Headmasters of Binjharpur High School and P.W.28 is the Headmaster of Binjharpur Primary School who has proved the date of birth of the victim, P.Ws. 29 and 30 are the Investigating Officers. That apart, prosecution has also relied upon the documents marked as Exhibits such as Ext.1 to Ext.21 series in support of its case. On the other hand, defence examined none on its behalf.

6. When it is a case U/s 6 of POCSO Act and U/s 376(2)(i) IPC along with Sec.201 IPC against accused Jada @ Jadei Jena, it is the first and foremost duty of the court to determine the age of the deceased victim girl at the time of the occurrence i.e 4/5 months prior to 14.02.2016 and on 14.02.2016. First of all, I scrutinized the

evidence of informant (P.W.10) and found that at para- 2 and 3 of her examination in chief she has stated that the occurrence took place about 8/9 years back in which deceased victim died by way of hanging and at that time she was 15/16 years old and reading in Binjharpur High School. P.W.28 (Headmaster in-charge of Binjharpur Primary school) has stated that on 07.03.2016, the I.O of this case seized the admission register of his school to know the date of birth of the deceased victim and as per that admission register vide Serial No. 4601/50 of page No.50, the date of birth of the victim was 03.10.2000 and she was admitted in that school in class-I and he has also stated to have signed in the relevant seizure list marked as Ext.P-14 and admitted his signature to be Ext.P-14/2. According to him, he has taken zima of the original admission register vide zimanama marked as Ext.P-17 and the I.O retained a Xerox copy of that seized admission register. P.W.25 has supported to the said evidence of P.W.28 in stating that on 07.03.2016 the I.O has seized the said admission

register in his presence. P.W.26 another Headmaster of Binjharpur High School has stated that in the year 2016, the deceased victim was a student of class-IX of Binjharpur High School. Thus, on a conjoint reading of the said evidence of P.Ws.28, 25 and 26, it emerges that the date of birth of the deceased victim is 03.10.2000 and she was reading in class -IX at Binjharpur High School on the aforesaid date of the occurrence. On calculation, the age of the deceased-victim was found to be 14 years four months prior to 14.02.2016 and as on 14.02.2016, she was aged about 15 years 2 months 11 days and accordingly she was below 18 years of age and as such she was a child within the meaning of POCSO Act as well as a minor within the meaning of IPC.

7. Now it is required to examine the evidence of the prosecution witnesses for just decision of the case. It is seen that P.Ws.1, 2, 3, 4, 5, 6, 7, 8, 11, 13, 15, 16 and 17 have univocally disowned their knowledge about the occurrence and simply stated

that about 8 years back the deceased victim died and they cannot say as to how she died. All of them have been declared hostile by the prosecution U/s 154 Indian Evidence Act. Nothing substantial has been brought out from their evidence by the prosecution to help the prosecution to prove the aforementioned charges against the accused persons. But the fact remains that the occurrence took place about 8 years back in which the victim died.

8. P.W.10 (informant lady) who is a co-villager of accused persons has stated that she is the informant of this case and she knows the deceased victim who is the daughter of accused Nakula Jena and Sanju Jena and equally she knows all the accused persons who are her co-villagers. According to her, the occurrence took place about 8/9 years back in which the victim died and she cannot say as to how she died as she was not present at the time of her death and was at Jajpur Medical on account of birth of her grandson. After 2 days of the victim's

death, she came to her house and heard that the victim died by way of hanging and at that time she (deceased victim) was a student and reading in Binjharpur High School. Also, she has stated to have lodged FIR vide Ext.P-6 wherein she put her LTI. Further she has stated that somebody of her village scribed the FIR and she put her LTI therein. Also, she has stated to have gone to Jajpur Court where she put her LTI on a paper before the Magistrate and Ext.P-7 is that paper on which she had given her LTI. After her such evidence she has been declared hostile by the prosecution and confronted to her statements given before the police to which she has denied to have stated before the police. In her cross examination she has added that the contents of the FIR were not read over and explained to her and at the time of putting LTI, the said FIR was completely blank and it was scribed in her absence and she is seeing that FIR in the court for the first time on the date of her examination. Similarly, she has stated in her cross examination that she cannot say the contents of the FIR vis-à-vis

she does not remember the contents of the statement given by her before the Magistrate. On the whole she has stated to have not been examined by police in connection with this case and she is an illiterate lady unable to read and write Odia languages. From such state of evidence of the informant lady (P.W.10), I find that she is not stating as to how the victim died though she has stated that the victim being the daughter of accused persons Nakul Jena and Sanju Jena died on the day of the occurrence by way of hanging.

9. P.W.14, 18, 19 and 24 being the witnesses to the seizure of different articles have not supported to the factum of seizure save and except admitting their respective signatures in the seizure lists dated 19.02.2016 and 17.02.2016 respectively,

10. P.W.20 being another witness of the occurrence village has bluntly denied to have known anything about the occurrence though speaks to have known all the accused persons. She has also stated to have not known the informant lady and

deceased girl. So, she has been declared hostile by the prosecution and nothing substantial has been brought out by the prosecution from her mouth to help the prosecution.

11. P.W.21 is the medical officer of DHH, Jajpur who examined the health condition of accused Sanju Jena and Nakula Jena (mother and father of the deceased victim girl) on 01.03.2016 and opined that both were conscious and their vitals were within normal limit and there were no injuries on their persons. According to him, he examined the said accused persons as per the request of SDPO, Jajpur. The same sort of evidence of P.W.21 is of no help to the prosecution to prove the charges against the accused persons.

12. P.W.23 is another medical officer of Cuttack who had examined the victim girl on 15.11.2015 for her complaint regarding abdominal pain and prescribed medicine. The same sort of evidence of P.W.23 is of no help to the prosecution in as much

as the victim girl was examined by P.W.23 much prior to her death.

13. P.W.27 is a police constable of Binjharpur police station who is a witness to the seizure of wearing apparels of the accused Jada @ Jadei Jena on production by constable Santosh Jena in his presence on 05.04.2016. His such evidence is of no help to the prosecution especially when the investigation of this case does not reveal regarding existence of any clue on those seized wearing apparels of accused Jada @ Jadei Jena.

14. P.W.22 is the Revenue Inspector of Binjharpur who on police requisition visited the spot being accompanied with Tahasil Amin Saroj Kumar Malick and police staff and found that the spot where murder of victim was committed is a thatched house and the spot where the deceased was set fire was situated on same plot bearing No.1253 under Khata No.773 of mouza Binjharpur with an area of Ac.0.45 decimal. Further he has stated to have visited the site of river embankment where from police had

recovered wearing apparels of the deceased and other spot which was a river in which the ashes of dead body of deceased were thrown. He has proved his said measurement report vide Ext.P-12 and Ext.12/1 is his signature on it.

From such state of evidence of P.W.22 it is apparent that the victim was murdered in a thatched house and her dead body was set fire over the same plot where that thatched house was situated. Similarly, his evidence also reveals that wearing apparels of the deceased was recovered by the police from the river embankment and the ashes of the deceased were thrown in to the river.

15. P.W.9 (Witness Gopabandhu Das) has stated to have known the informant lady as well as the accused persons who are his co-villagers. Further he has stated that sometimes in the year 2016, police interrogated Nakula Jena and Sanju Jena in connection with death of a girl and police reduced their statements in writing in two separate sheets of paper and took his signature on that

paper. According to him, Ext.P-1 is said statement and Ext.P-1/1 is his signature and Ext.P-2 is another statement and Ext.P-2/1 is his signature. Those Ext.P-1 and Ext.P-2 have been identified by this court to be leading to discovery statement dated 17.02.2016 of accused Nakula Jena and Sanju Jena respectively who are non-else the father and mother of the deceased girl. Further this P.W.9 has stated that on 17.02.2016 police seized two numbers of Gunny bags containing some ashes and some pieces of bones from river Kharasrota situated near their house and signed on that seizure list. Ext.P-3 is that seizure list and Ext.P-3/1 is his signature thereon. He has also stated that on the same day police seized a belt along with other materials from the said river Kharasrota vide seizure list marked as Ext.P-4 and Ext.P-4/1 is his signature therein. Similarly, he has also stated that on the same date police also seized some other articles to which he does not remember and Ext.P-5 is his signature on that seizure list (which has identified by this court to be seizure list dated 17.02.2016). Soon thereafter

this witness has been declared hostile by the prosecution. In his cross examination at para-14 he has admitted that one Babar Alli Khan of his village has signed on the said seizure lists and he cannot say as to who others signed in it and those seizure lists were prepared by police at 11 a.m.

From such state of evidence of P.W.9, I find that in fact accused Nakul Jena and Sanju Jena were interrogated by the police and given their statements vide Ext.P-1 and Ext.P-2 in presence of this witness as well as in presence of witness Babar Alli Khan (P.W.12) and there was seizure of two gunny bags containing some ashes and some piece of bones from Kharasrota river and also there was seizure of a belt along with other seized materials available in the seizure list marked as Ext.P-4 and Ext.P-5/1. So, his evidence is relevant to the extent that accused Nakul Jena and Sanju Jena gave their statements before the I.O (P.W.30) with regard to the occurrence of this case, though he has not stated about what sort of statements were given by

the said two accused persons before the I.O (P.W.30). Further his evidence reveals that in presence of witness Babar Ali Khan of his village both the said two accused persons had given their statements and the above articles were also seized in presence of Babar Alli Khan.

16. When it appears that Babar Alli Khan is one of the witnesses to the disclosure statements/leading to discovery statements U/s 27 of Evidence Act of accused Nakul Jena and Sanju Jena as well as a witness to the seizure of the incriminating articles such as burnt ashes, small bones etc. vide seizure lists Ext.P-3, Ext.P-4 and Ext.P-5/1, I switched over to the evidence of said witness Babar Ali Khan.

17. Babar Alli Khan has been examined as P.W.12 in this case who is claimed by P.W.9 to be a witness to the leading to discovery statements / disclosure statements of accused Nakul Jena and Sanju Jena vide Ext.P-1 and Ext.P-2 and also witness to the seizure of articles such as two gunny bags containing some ashes and bones, a belt and

other articles vide seizure lists marked as Ext.P-3, Ext.P-4 and Ext.P-5/1. This P.W.12 has stated that he knows the informant Mataji Jena who belongs to his village and also know all the accused persons including the deceased. According to him, the occurrence took place some times in the year 2016 in which occurrence the victim died. Further he has stated that getting information about the death of the deceased, he had been to the house of accused Nakul Jena and Sanju Jena and Police had come to that place and on being asked by the police, accused Nakul and Sanju confessed before the police that they murdered victim and hanged her in their house with a view to give it a colour of suicidal hanging by the deceased and further they stated that with the help of some of their villagers they burnt the dead body of the deceased in their Bari and threw away the ashes into river Kharasrota which is situated near their house and the police reduced the said confessional statements of accused Nakul and Sanju to writing in separate sheets, wherein both accused persons Nakul and Sanju lent their respective LTIs. Also,

he has stated that both the accused persons led the police to nearby Kharasrota river where from they gave recovery of burnt ashes, some small pieces of bones kept inside two plastic gunny bags and both the said accused persons gave recovery of four numbers of broken glass bangles and monogram of a belt along with some burnt ashes from near that river. Ext.P-1 is that leading to discovery statement of the accused Nakula Jena already marked earlier and Ext.P-1/2 is his signature on it. Further he has stated that Ext.P-2 is the leading to discovery statement of accused Sanju Jena already marked earlier and Ext.P-2/2 is his signature on it.

18. In addition to the above, this P.W.12 has stated that Ext.P-3 already marked earlier is the seizure list under which the police seized the said two numbers of plastic gunny bags containing burnt ashes and small bones and Ext.3/2 is his signature on it. Similarly, he has stated that Ext.P-4 is the seizure list containing some burnt ashes, four numbers of broken bangles and monogram of a belt

and Ext.P-4/2 is his signature on it. Besides he has stated that police had also seized some burnt woods and ashes from behind the Bari of the accused Nakula and Sanju which were lying in a dry pond and he had signed on that seizure list. He has proved that seizure list which has been marked as Ext.P-5/1 and his signature to be Ext.P-5/2 available therein. Lastly, he has stated in his examination in chief that in all the said three seizure lists accused Nakula and Sanju have lent their respective LTIs and he has been examined by the police in connection with this case and have stated the above facts to the police.

19. Nothing substantial has been brought out by the defence in the cross examination of this P.W.12 to discredit his evidence with regard to the admission of the accused Nakul and Sanju in commission of the murder of the victim girl who is non-else their daughter in that fateful night of 14.02.2016 and setting fire to her dead body on 15.02.2016 early morning in their Bari and throwing

away the burnt ashes and bones of the deceased in the nearby river Kharasrota to which place both the accused Sanju and Nakul led the police (P.W.30) to discover those articles.

20. In his cross examination at para-6 he has also clarified that at the place of recovery the I.O also recorded his 161 Cr.P.C statement after recording the statements of accused Nakul Jena and Sanju Jena. Though at para-11 of his cross examination, the defence has tried to bring out a contradiction that this witness has not stated to the police that on being asked by police, accused Nakula and Sanju confessed before the police that they murdered the victim and hanged in their house with a view to give it a colour of suicidal hanging, still this witness has bluntly answered that he has stated such fact to the police. The said contradiction has not been confronted to the I.O (P.W.30) who recorded the said disclosure statements of the accused Nakul Jena and Sanju Jena and also seized the aforementioned articles on 17.02.2016. When

the said contradiction has not been confronted to the I.O (P.W.30) by the defence, it gives a clear indication that the accused Nakul and Sanju had confessed before the I.O that they murdered the victim girl and hanged her in their house and thereafter they cremated her dead body in their Bari with the help of some of their villagers.

21. Ext.P-1 and Ext.P-2 (disclosure statements of accused Nakul Jena and Sanju Jena respectively) clearly reveals that they confessed before the I.O (P.W.30) to have murdered the victim girl and thereafter they cremated the dead body of the deceased in a dry pond situated behind their Bari and threw away the burnt ashes and bones of the deceased in two gunny bags at river Kharasrota situated near their house. Further Ext.P-3, Ext.P-4 and Ext.P-5/1 are the relevant seizure lists showing seizure of plastic bag containing some burnt ashes and some burnt small pieces of bones from the river Kharasrota and seizure of some burnt ashes, four numbers of Broken bangles and one Monogram of a

belt and seizure of some ashes mixed with earth, one half burnt bamboo and one half burnt wood along with some earth in presence of accused Nakul and Sanju and in presence of P.Ws.9 and 12 to which places both the said accused persons led P.W.30 and gave recovery thereof. I find no reason to disbelieve the evidence of P.W.30 (preliminary I.O) who recorded the disclosure statements of accused Nakul and Sanju vide Ext.P-1 and Ext.P-2 and made seizure of aforementioned articles from the river Kharasrota and from their Bari where they had cremated the dead body of the deceased.

22. P.W. 29 is another I.O who took charge of investigation of this case from preliminary I.O (P.W.30) on 20.02.2016 and examined other witnesses and submitted charge sheet on 12.06.2016 against the accused persons. Though P.W.29 has submitted charge sheet after examining some of the witnesses, still none of the said witnesses have supported the prosecution case and accordingly they have been declared hostile by the

prosecution. The evidence of P.W.29 is relevant to the extent of submission of charge sheet basing upon the statements of the witnesses already examined by P.W.30 and basing upon evidence of some other witnesses to whom he has examined.

23. On close scrutiny of the evidence of the above witnesses and findings given on them in the preceding paragraphs coupled with the leading to discovery / disclosure statements of accused Nakul Jena and Sanju Jena recorded U/s 27 of Evidence Act vide Ext.P-1 and P-2 and the seizure lists vide ERxt.P-3, Ext.P-4 and Ext.P-5/1, I reach a definite conclusion that accused Nakul Jena and Sanju Jena being the father and mother of the deceased girl murdered her in the night of 14.02.2016 and cremated her dead body by setting fire on it in a dry pond situated in their Bari with the help of some of their villagers and threw away the burnt ashes and burnt bones of the deceased at river Kharasrota to which they gave recovery to the police (P.W.30) and also they showed the place of cremation of dead

body of the deceased where from half burnt bamboo and half burnt wood were recovered and seized by police (P.W.30).

24. Further, commission of the murder of the victim by accused Nakula Jena and Sanju Jena and cremation of her dead body in their Bari also comes in to picture in as much as they have not explained in their statement's U/s 313 Cr.P.C as to how the victim girl died and what happened to her dead body especially when the victim died in their house on 14.02.2015 night. As per section 106 Indian Evidence Act, burden lies on them to prove such facts when they are parents of the deceased victim girl and victim died in their house as per the evidence of the informant (P.W.10) and P.W.12. Their bald denial plea in their statements U/s 313 Cr.P.C does come to their rescue in the facts and circumstances of this case particularly when the aforementioned independent witnesses such as p.Ws.9 and 12 have supported to the prosecution case lending corroboration to the evidence of

preliminary Investigating Officer P.W.30. **In the case of Perumal Raja @ Perumal Vrs. State, Rep. By Inspector of Police reported in (2024) 93 OCR-(SC)-759 at para 24 and 30 it has been held by the Hon'ble Apex Court of India is as follows: -**

24. *Section 27 of the Evidence Act is frequently used by the police, and the Courts must be vigilant about its application to ensure credibility of evidence, as the provision is vulnerable to abuse. However, this does not mean that in every case invocation of Section 27 of the Evidence Act must be seen with suspicion and is to be discarded as perfunctory and unworthy of credence.*

30. *However, evidentiary value to be attached on evidence produced before the Court in terms of Section 27 of the Evidence Act cannot be codified or put in a straightjacket formula. It depends upon the facts and circumstances of the case. A*

holistic and inferential appreciation of evidence is required to be adopted in a case of circumstantial evidence.

25. Being alive to the said dictum of the Hon'ble Apex Court of India, I based the above findings relying upon the disclosure statements of accused Nakula Jena and Sanju Jena which have been corroborated by independent witnesses such as P.Ws.9 and 12. Similarly, I also relied upon the seizure lists vide Ext.P-3, Ext.P-4 and Ext.P-5/1 (supra) under which both accused persons gave recovery of burnt ashes and bones of the deceased victim from river Kharasrota where they had thrown away in gunny bags and other half burnt bamboo, wood and ashes from their Bari where they had cremated the dead body of the deceased and also other incriminating articles. Accordingly, I hold the accused Nakula Jena and Sanju Jena guilty of the offence U/s 302/201 IPC for commission of murder of their daughter (victim girl) and causing disappearance of the evidence of such murder by cremating her dead body inside their Bari.

26. None of the witnesses including P.Ws.9 and 12 have stated anything against the accused Jada @ Jadei Jena regarding his commission of offence U/s 376(2)(i)/201 IPC r/w Sec.6 POCSO Act. So, prosecution has failed to prove the said charge against the accused Jada @ Jadei Jena and resultantly therefore he is acquitted from the said charges.

27. Further the said P.Ws.9 and 12 and other witnesses have not stated about the names of other accused persons to have burnt the dead body of the deceased along with accused Nakul and Sanju. Simply, P.W.12 has stated that some of the villagers of accused Nakul and Sanju including themselves burnt the dead body of the deceased. So, there being no clear and cogent evidence against the other accused persons namely Tarakant Jena, Paikira Jena, Kabuli @ Gabuli Jena, Bhimasen Jena, Sashi @ Sasmita Jena, Bambula @ Babuli @ Amiya Jena, Teru @ Ranjan Jena, Ramesh Jena, Kalia @ Ghana @ Ghanshyama Jena, Ganesh Jena, Gedu @ Sanjeeb

Jena, Madhu Jena, Sunil Jena, Nalua Jena, Madhia Jena, Goura @ Sudarsan Jena, Dhirua @ Dhirendra Jena and Nanda @ Sarat Kumar Jena, they are entitled for an order of acquittal from the charges U/s 201 r/w Sec.302 IPC and accordingly, they are acquitted.

28. As I have already held accused Nakula Jena and Sanju Jena guilty of the offences U/s 302/201 IPC, they are convicted thereunder.

**Adhoc Addl. District and Sessions Judge
(FTSC-II), Jajpur**

HEARING ON THE QUESTION OF SENTENCE

Heard the convicts Nakula Jena and Sanju Jena on the question of sentence. They pleaded their innocence to which I did not concede. Since this case does not come under the category of rearrest of rare case and such type of honour killing is taking place in the society, I sentence both the convicts Nakula Jena and Sanju Jena to undergo imprisonment for life and to pay a fine of

Rs.10,000/- each in default to undergo further imprisonment for a period of six months each for the offence U/s 302 IPC. Further both the convicts are sentenced to under rigorous imprisonment for a period of 5 years and to pay fine of Rs.10,000/- each i.d to undergo R.I for a period of six months each for the offence U/s 201 IPC. Both the said substantive sentences shall run concurrently and period of detention undergone as UTP is set off.

**Adhoc Addl. District and Sessions Judge
(FTSC-II), Jajpur.**

The Seized un useful articles be destroyed and useful articles be returned from whom it was seized after expiry of the appeal period in case of no appeal and in case of any appeal, the same be disposed of as per the orders of the appellate Court and zimanama, if any, be cancelled.

**Adhoc Addl. District and Sessions Judge
(FTSC-II), Jajpur.**

The judgment is dictated and corrected by me and pronounced in the open Court on this the **19th day of April, 2025** under my signature and seal of the Court.

**Adhoc Addl. District and Sessions Judge
(FTSC-II), Jajpur.**

FORM-C

List of Prosecution/Defence/Court witnesses		
A. Prosecution Witnesses:		
Rank	Name	Nature of evidence
P.W.1	Smt. Malli Jena	Co-villager of deceased
P.W.2	Smt. Basanta Jena	Co-villager of deceased
P.W.3	Smt. Benga Jena	Co-villager of deceased
P.W.4	Smt. Boula Jena	Co-villager of deceased
P.W.5	Smt. Subhadra Jena	Co-villager of deceased
P.W.6	Smt. Rukumani Jena	Co-villager of deceased
P.W.7	Smt. Sita Jena	Co-villager of deceased
P.W.8	Smt. Subasi Jena	Co-villager of deceased
P.W.9	Gopa bandhu Das	Witness leading to discovery
P.W.10	Smt. Mataji Jena	Informant
P.W.11	Smt. Bobby Jena	Co-villager of deceased
P.W.12	Babur Alli Khan	Witness leading to discovery
P.W.13	Subash Kumar Jena	Co-villager of deceased
P.W.14	Dhirendra Kumar Das	Seizure witness
P.W.15	Smt. Sunita Jena	Co-villager of deceased
P.W.16	Sanatan Jena	Co-villager of deceased
P.W.17	Rabi Jena	Co-villager of deceased
P.W.18	Nilamani Das	Seizure witness
P.W.19	Mir Sonu	Seizure witness
P.W.20	Roba Bibi	Co-villager of deceased

P.W.21	Dr. Sibasis Moharana	Medical Officer
P.W.22	Nidhi Behera	Seizure witness
P.W.23	Dr. Mrutunjaya Mohapatra	Medical Officer
P.W.24	Jagannath Dalai	Seizure witness
P.W.25	Bijaya Kumar Nayak	Seizure witness
P.W.26	Ratnakar Malick	Independent witness
P.W.27	Bidyapati Palai	Seizure witness
P.W.28	Sk.Didar Bakhs	Seizure witness
P.W.29	Jaladhar Jali	Investigating Officer
P.w.30	Surendra Ku. Nayak	Investigating Officer
B. Defence witnesses, if any		
Rank	Name	Nature of evidence
	Nil	
List of Prosecution/Defence/Court Exhibits		
A. Prosecution Exhibits:		
Sl. No.	Exhibit Number	Description
1	Ext.P-1	Leading to discovery statement of Nakula Jena
2	Ext.P-1/1	Signature of P.W.9
3	Ext.P-1/2	Signature of P.W.12
4	Ext.P-2	Leading to discovery statement of Sanju Jena
5	Ext.P-2/1	Signature of P.W.9
6	Ext.P-2/2	Signature of P.W.12
7	Ext.P-3	Seizure list dt. 16.2.2016
8	Ext.P-3/1	Signature of P.W.9
9	Ext.P-3/2	Signature of P.W.12
10	Ext.P-3/3	Signature of P.W.30
11	Ext.P-4	Seizure list dt.17.2.2016
12	Ext.P-4/1	Signature of P.W.9
13	Ext.P-4/2	Signature of P.W.12
14	Ext.P-4/3	Signature of P.W.30
15	Ext.P-5	Signature of P.W.9
16	Ext.P-5/1	Seizure list dt.16.2.2016

17	Ext.P-5/2	Signature of P.W.12
18	Ext.P-5/3	Signature of P.W.30
19	Ext.P-6	F.I. R
20	Ext.P-7	164 Cr.P.C statement of P.W.10
21	Ext.P-8	Signature of P.W.14
22	Ext.P-8/1	Signature of P.W.8
23	Ext.P-8/2	Seizure List dated 19.02.2016
24	Ext.P-8/3	Signature of P.W.30
25	Ext.P-9	Signature of P.W.19
26	Ext.P-9/1	Signature of P.W.24
27	Ext.P-9/2	Seizure list dt.17.2.2016
28	Ext.P-9/3	Signature of P.W.30
29	Ext.P-10	Medical Examination report of accused Sanju
30	Ext.P-10/1	Signature of P.W.21
31	Ext.P-11	Medical Examination report of accused Nakul
32	Ext.P-11/1	Signature of P.W.21
33	Ext.P-12	Sketch Map prepared by R.I (P.W.22)
34	Ext.P-12/1	Signature of P.W.22
35	Ext.P-13	Medical Prescription
36	Ext.P-13/1	Signature of P.W.23
37	Ext.P-14	Ultrasonography Report
38	Ext.P-15	Seizure list dt.07.03.2016
39	Ext.P-15/1	Signature of P.W.25
40	Ext.P-15/2	Signature of P.W.28
41	Ext.P-15/3	Signature of P.W.29
42	Ext.P-16	Seizure list dt.17.2.1016
43	Ext.P-16/1	Signature of P.W.27
44	Ext.P-16/2	Signature of P.W.29
45	Ext.P-17	Zimanama
46	Ext.P-17/1	Signature of P.W.28
47	Ext.P-17/2	Signature of P.W.29
48	Ext.P-18	Seizure list
49	Ext.P-18/1	Signature of P.W.29
50	Ext.P-19	Post Mortem Report
51	Ext.P-20	Acknowledgement receipt of SFSL of exhibits
52	Ext.P-21	Spot Map

53	Ext.P-21/1	Signature of P.W.30
B. Defence Exhibits, if any		
Sl. No.	Exhibit Number	Description
	Nil	
D. Material Objects:		
Sl. No.	Exhibit Number	Description
	Nil	

**Adhoc Addl. District and Sessions Judge
(FTSC-II), Jajpur.**

