

**IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE,
NALBARI**

P.R.C. Case No.1072/2018

u/s 279/304(A) I.P.C

State of Assam

-Vs-

Md. Merajul AliAccused

PRESENT : Smti Sorbani Bhattacharjee, A.J.S,

Additional Chief Judicial Magistrate, Nalbari.

ADVOCATES APPEARED:

For the state : Mr. Sonabar Ali, Ld. A.P.P,

For the accused : Mr. Kamal Ali, Ld. Defence Advocate,

Dates of evidence : 18.06.19, 29.07.2019 and 16.12.19.

Date of argument : 18.11.2020

Date of judgment : 18.11.2020

J U D G M E N T

1) The prosecution case in brief as unfolded from the 'ejahar' dated 25.05.2012 filed by the informant Sri Promod Deka is that on that day

at about 11 a.m., when the brother-in-law namely Sri Chandra Kalita of the informant was coming from his house towards Ghograpar by riding a bicycle at that moment a tractor bearing registration No.AS-14/C-2902 came in a rash and negligent manner hit and knocked down him at village Na-Hawli Gaon under a 'Siris' tree over the Damodar Dham PWD road. Immediately, the injured Chandra Kalita was brought to Ghograpar Block PHC but as his condition became serious so he was referred to SMK Civil Hospital, Nalbari where he later on succumbed to his injuries there.

2) The said 'ejahar' was received and registered as Ghograpar P.S., case No.105/2012 u/s 279/304(A) I.P.C dated 25.05.2012. After completion of investigation charge-sheet No.66/2012 dated 19.07.2012 was submitted against accused Md. Merajul Ali u/s 279/304(A) I.P.C.

3) In due course accused appeared before the court complying with summons issued to him and Copy was furnished to the accused person u/s 207 of CrPC and particulars of offences u/s 279/304(A) I.P.C were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

4) **POINTS FOR DETERMINATION:**

- I. Whether on 25.05.2012 at about 11:00 a.m., the accused ride a tractor bearing registration No.AS-14/C-2902 in a public way in rash/negligent manner so as to endanger human life or to be likely to cause hurt or injury to any other person and thereby committed an offence u/s 279 of I.P.C ?

- II. Whether the accused on the same date, time and place caused death of Chandra Kalita by doing any rash and negligent act not amounting to culpable homicide and thereby committed an offence u/s 304 (A) of I.P.C?

5) DISCUSSION, DECISION AND REASONS THEREOF:

The prosecution side examined three (3) witnesses including the informant. In due course accused was examined u/s 313 of CrPC and he declined to adduce defence evidence. I have heard the arguments advanced by learned counsels of both the sides and also perused the evidence available on record, my findings with reasons are as follows:

6. The evidence of PW1 Sri Promod Ch. Deka reveals that he was the informant of this case and he has not witnessed the incident. According to him on the day of incident at about 11 a.m., one tractor bearing registration No.AS-14/2903 hit Chandra Kanta Kalita at Na-Hali Gaon and at about 3 p.m., the injured died at SMK Civil Hospital. Although he has alleged that the tractor was going in high speed and that the accident took place due to the fault of the driver of the tractor but from his evidence it is seen that he came to the P.O., after hearing loud noise and he does not have personal knowledge about the incident. Further as per the FIR the registration number of the offending vehicle is AS-14/C-2902 but in his evidence he has mentioned different registration number of the offending vehicle. From the evidence of PW1 it is apparent that there is contradiction between his evidence and the FIR regarding the offending vehicle. Further, he is not a eye witness of the case and hence, his version regarding the fault of the driver of the tractor cannot be relied upon as he also failed to disclose from whom he came to know as to which vehicle hit Chandra

Kanta Kalita. Further although he alleged the driver of the tractor driving the vehicle in high speed but he could not say the speed of the tractor in his evidence. Merely stating that the offending vehicle was going in high speed is not enough to hold the accused guilty. Let us now see what the other two witnesses had deposed in this case regarding the incident. The evidence of PW2 Sri Khanindra Kumar Lahkar reveals that he does not know the accused and he only heard that one tractor hit Chandra Kanta Kalita at Damodhar Dham PWD road. He expressed his ignorance as to due to whose fault the accident took place. He also revealed that he had not seen the incident. The evidence of PW3 Srimanta Deka reveals that he does not know the accused and the informant is his father. He came to the P.O., after hearing sound. Although he stated that he saw the accident but he was about 100/150 meter from the place of occurrence and he could not recognize the registration number of the tractor. In his cross-examination he admitted that he stated before I.O., that the bicycle rider hit the rear wheel of the tractor and fell down. From the evidence of PW3 it is seen that he could not identify the accused and he could not disclose how the alleged incident took place in details. Merely saying that one tractor hit one bicycle rider cannot be sufficient to hold that the bicycle rider was Chandra Kanta Kalita as he has nowhere mentioned the name of the injured person in his evidence. Prosecution failed to examine any other witnesses in this case. Prosecution failed to prove the ingredients of the offences u/s 279/304(A) of IPC beyond all reasonable doubt. In such circumstances the accused is entitled to get acquitted.

7. Accordingly, the accused person namely Md. Merajul Ali is held not guilty u/s 279/304(A) of I.P.C and hence, he is acquitted and set at liberty forthwith. Bail bond of the accused person and his surety shall

remain in force for a further period of six months as per amended CrPC.
The articles seized (if any) be disposed off in due course as per law.

Given under my hand and seal of this court on this 18th day of
November, 2020.

Smti Sorbani Bhattacharjee, A.J.S,
Additional Chief Judicial Magistrate,
Nalbari, Assam

APPENDIX

Prosecution witness:

PW 1- Sri Pramod Chandra Deka (Informant),

PW 2- Sri Khanindra Kr. Lahkar.

PW 3- Sri Simanta Deka.

Prosecution Exhibits:

Ext 1 - Ejahar,

Ext 1(1) - Signature of the informant Sri Pramod Chandra Deka.

Defence witnesses :

Nil

Defence Exhibits :

Nil

Court Witness:

Nil

Court Exhibits :

Nil

Smti Sorbani Bhattacharjee, A.J.S,
Additional Chief Judicial Magistrate,
Nalbari, Assam