

			on bail		d		for the purpose of section 428 of IPC
A-1	Sri Mantoraj Basumatary			U/S 279/337/ 427 of IPC	Acquitte d	N/A	N/A

APPENDIX-13

Date of offence	20/12/2016
Date of FIR	24/12/2016
Date of charge-sheet	31/01/2017
Date of O.E.	04/09/2018
Date of commencement of evidence	20/10/2018
Date on which judgment is reserved	N/A
Date of judgment	28/09/2022
Date of the Sentencing Order, if any	N/A

(J U D G M E N T)

- 1.** The prosecution case sets into motion by filing a FIR by the informant, Maniram Barman alleging that on 20-12-2016 at 5-15 pm, his adopted brother Sri Jogesh Baruah and his friend Sri Bipul Barman was carrying kher by thela and one vehicle bearing registration number AS-01-MA 8024, EON ERA vehicle, which was driven in high speed and negligently hit them from the back and caused injury to them. Hencer, he lodged this case.
- 2.** The Officer-in-charge, Nalbari Police station, on receipt of the Ejahar registered Nalbari P.S. Case No. 899/2016, under section 279/338/427 of IPC and endorsed the concerned I/O for investigation. After completion of the investigation, the concerned I/O submitted charge sheet against the accused person, Sri Mantoraj Basumatary under Section 279/337/427 of IPC.
- 3.** In due course, the accused person appeared before the Court and the copies of relevant documents were furnished to him as per section 207 of CrPC. Particulars of offence u/s 279/337/427 of IPC were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

4. The prosecution side examined five (5) witnesses. As per the submission of Ld. Assistant Public Prosecutor, further evidence of prosecution side was closed.
5. The statement in defence of the accused person u/s 313 of the Code of Criminal Procedure was recorded. Defence side examined no witnesses.
6. I have heard the arguments advanced by the Ld. Counsels for both sides.

7. POINTS FOR DETERMINATION:-

- (i) *Whether on 20-12-2016 at 5-15 pm, on National Highway at Akhara under the jurisdiction of Nalbari P.S. a EON ERA vehicle, bearing registration no. AS-01-MA 8024, drove 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 I.P.C ?*
- (ii) *Whether on the same day, time and place, the accused caused hurt to informant's adopted brother Sri Jogesh Baruah and his friend Sri Bipul Barman by driving a EON ERA vehicle bearing registration no. AS-01-MA 8024, rashly/negligently and thereby committed an offence u/s 337 I.P.C?*
- (iii) *Whether on the same day, time and place, the accused with intent to cause, or knowing likely to cause wrongful loss or damage to the 'thela' by driving a EON ERA vehicle bearing registration no.*

AS-01-MA 8024, rashly/negligently and thereby committed an offence u/s 427 of I.P.C?

DISCUSSION, DECISION AND REASONS THEREOF:

8. The accused person is facing trial in this case with allegation that he has committed offenses under section 279/337/427 of IPC by driving speedily and negligently one vehicle and due to which the vehicle hit two victims and caused injuries to them. The evidences reveal that the victims were carrying kher on their thela and a vehicle hit them from the back.

9. PW-1 informant was at that time at his home and he was informed by phone about the incident. Being hear say witness, his evidence could not be relied upon.

10. PW-2 also has not seen the incident and he does not know where the seizure list is prepared. He gave his signature at the seizure list i.e. Exhibit 2.

11. PW-3 (victim) also says that one 4 wheeler vehicle hit him from the back, when he was going on road while carrying kher in his thela and he became senseless. There is no incriminating material in his evidence against the accused. He does not know the accused nor he knows the vehicle that hit him from the back.

12. PW-4 is another seizure witness. He says that police took his signature on the seizure list. However, he does not

know why police took his signature and he does not know due to whose fault the accident took place.

13. During his evidence, PW-5 (IO) says the investigation of the case. His cross-examination is declined by the prosecution side. His evidence also does not show due to what reason, the link is established between the accused and his vehicle with the alleged incident.

14. From the entire evidence on record it can be seen that not a single person has seen that it was the accused who was driving the offending vehicle.

15. The rash and negligent driving is the crux of the offence u/s 279/337/338/427 of IPC. From the evidence it is found that not a single witness has deposed incriminating against the accused saying that at the time of the incident the accused was driving in rash and negligent manner.

16. Hence, from the aforesaid discussions and decisions, it is clear that prosecution side failed to adduce credible evidence to prove that on the day of the incident it is the accused who was driving the vehicle in high speed and hit the victim.

CONCLUSION

17. The prosecution side failed to prove its case that accused person has committed an offence u/s 279/337/427 of IPC.

ORDER

In the light of aforesaid discussions and reasons, it is seen that the prosecution side failed to prove the guilt of the accused person beyond reasonable doubt.

Accordingly, the accused Sri Mantoraj Basumatary is acquitted from the offence under section 279/337/427 of IPC and he is set at liberty forthwith.

The bail bond of the accused person and his surety shall remain in force for a period of 6 months from today as per amended CrPC. The seized materials to be disposed of as per law.

Given under my hand and seal of this court on this 28th day of September, 2022.

Sri Jayanta Kumar Saikia
Addl. Chief Judicial Magistrate
Nalbari

APPENDIX-14**LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES****A. Prosecution witness**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Sri Maniram Barman	Informant
PW-2	Sri Naren Barman	Other witness
PW-3	Sri Jogesh Baruah	Other witness
PW-4	Sri Jugal Barman @ Nabajit Barman	Other witness
PW-5	Sri Bhabesh Kalita	Other witness

B. Defence witnesses, if any: NOT APPLICABLE

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH
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		WITNESS, OTHER WITNESS)
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C. Court witnesses, if any: NOT APPLICABLE

RANK	NAME	NATURE OF EVIDENCE
		(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)

LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1.	Exhibit 1	Ejahaar
2.	Exhibit -2	Seizure list
3.	Exhibit -3	Seizure list
4.	Exhibit - 4	Sketch map
5.	Exhibit -5	Charge sheet

B. Defence: NOT APPLICABLE

Sr. No.	Exhibit Number	Description
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C. Court Exhibits: NOT APPLICABLE

Sr. No.	Exhibit Number	Description
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D. Material Objects: Not applicable

Sr. No.	Exhibit Number	Description
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Sri Jayanta Kumar Saikia
Addl. Chief Judicial Magistrate
Nalbari