



							section 428 of IPC
A-1	Sri Nayand hiju Sarma			U/S 279/337 of IPC	Acquitted	N/A	N/A

## APPENDIX-13

Date of offence	30/04/2016
Date of FIR	08/06/2016
Date of charge-sheet	25/07/2016
Date of O.E.	01/11/2021
Date of commencement of evidence	29/04/2022
Date on which judgment is reserved	31/08/2022 & 07/09/2022
Date of judgment	07/09/2022
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, Sri Manoj Das stating that on 30.04.2016 at about 10:00 P.M., while he was going from Hajo Road in Nalbari town towards Chowk Bazaar in a motor cycle i.e., Hero Karijma bearing registration no. AS-14-D-8545, then in Jilikoni Chowk near Maruti Dealer, the accused Sri Nayandhiju Sarma in a Hyundai Eon bearing registration no. AS-01-MA-3846

came from wrong side rashly and negligently, hit his bike. As a result the informant sustained injury to his person. He was taken to Pragati Nursing Home for treatment. Though the accused promised to pay for his treatment and for the damage of the bike and went by giving him the phone no. 9864055225, but thereafter the accused never made any kind of contact with him. The accused promised to pay the compensation and compromise the matter on 02/06/2016, but as the accused failed to meet his promise, the informant lodged the case on 08/06/2016. Hence, this case.

- 2.** The Officer-in-charge, Nalbari Police station, on receipt of the Ejahar registered Nalbari P.S. Case No. 383/16, 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 Nayandhiju Sarma under Section 279/337 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 Cr.P.C. Particulars of offence u/s 279/337 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 six (06) witnesses. As per the submission of Ld. Assistant Public Prosecutor, further evidence of prosecution side was closed. The statement in defence of the accused person u/s 313 of the Code of Criminal Procedure was recorded. Defence side examined no

witnesses. I have heard the arguments advanced by the Ld. Counsels for both sides.

**5. POINTS FOR DETERMINATION:-**

- (i) *Whether the accused person, Sri Nayandhiju Sarma, on 30.04.2016 at about 10:00 P.M., at Jilikoni Chowk in front of Maruti Dealer, under the jurisdiction of Nalbari P.S. drove a vehicle 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 Sri Nayandhiju Sarma, caused hurt to the informant Sri Manoj Das by driving a Hyundai Eon bearing registration no. AS-01-MA-3846 rashly/negligently and thereby committed an offence u/s 337 I.P.C?*

**DISCUSSION, DECISION AND REASONS THEREOF:**

- 6.** In the instant case, the accused is facing trial u/s 279/337 of IPC. As per the FIR one Sri Manoj Das stated that on 30.04.2016 at about 10:00 P.M., while he was going from Hajo Road in Nalbari town towards Chowk Bazaar in a motor cycle i.e., Hero Karijma bearing registration no. AS-14-D-8545, then in Jilikoni Chowk near Maruti Dealer, the accused Sri Nayandhiju Sarma in a Hyundai Eon bearing registration no. AS-01-MA-3846 came from wrong side rashly and

negligently, hit his bike. As a result the informant sustained injury to his person. He was taken to Pragati Nursing Home for treatment. Though the accused promised him to pay for his treatment and compensation but has not paid it. Hence, informant lodged this case.

7. On various dates summons was issued to the informant and as per the prayer of the Ld. APP, PW evidence was closed. Ld. APP verbally submitted that apart from issuance of summons the informant was communicated by telephone, but the informant did not turn up. Another PW, Md. Hussain Ali has expired and his evidence was dispensed with.
8. From the evidence of MVI (PW-3), Mr. R.K. Dutta it is seen that he was on duty as MVI at Nalbari on 30-06-2016. On that day, he inspected the MV No. AS 01/MA 3846 at Nalbari Police Station and submitted inspection report vide memo no. DTNB/MVI/1247/16 dated 30-06-2016 in reference to Nalbari PS case No. 383/2016, u/s 279/338/427 of IPC. **Exhibit P-3/PW-3** is the report submitted by him. **Exhibit P-3(1)** is his signature. Name and address on the owner of MV no. AS 01/MA 3846 is Nayandijen Sarma, S/o- Late Dhiren Sarma, H/no. 30 , FC Road, Uzan Bazar, Guwahati. Driving License No. AS0119940172393. He further submitted that on examination no damage was found. He also examined vehicle No. AS 14/D 8545 in connection with the above mentioned case on 18/7/2016 at Nalbari police Station. He submitted report vide memo no. DTNB/MVI/1280/2016 dated 18/7/2016. **Exhibit**

**P-4/PW-3** is the report submitted by him. **Exhibit P-4(1)** is his signature. On examination: No damage was found on the vehicle. **Exhibit P-4(2)** and **Exhibit P-3(2)** are also his signatures that he counter signed as DTO, Nalbari.

**9.** PW-1 Sri Sourav Bhuyan reached at the place of occurrence after the incident. When he reached he saw that the informant was lying on the road. His bike was also lying there. He does not know what happened. Exhibit P-1/PW-1 is the seizure list and Exhibit P-1(1) is his signature. He does not know what was the content of the document where he put his signature nor it was read over to him. As per the direction of the police he put his signature.

**10.** From the evidence of PW-5, Sri Biki Das and PW-6, Sri Binay Das it is found that they do not have any knowledge of the alleged incident.

**11.** PW-2 (M/O), Dr. Sanjit Talukdar examined Sri Manoj Das on 30-04-2016 at 10:00 P.M., and found simple injury, fresh in nature (less than 24 hours) caused by blunt object. During cross-examination PW-2 (M/O) says that the injured was not in police escort. At the time of examination on 30-04-2016, no police case was registered at that time. The history of the injuries mentioned in the report was as per the statement of the injured person. No copy of the police requisition is submitted in the court on the day of his deposition. Such kind of injuries may also be self inflicted. No colour of the injury is mentioned in the report.

- 12.** The case is summon procedure case and as per the prayer of the Ld. APP PW evidence was closed. Ample opportunity was given to the prosecution side to adduce his evidence. The summon which was issued with the mobile phone number comes back with report that no such person is found in the given address. From the entire materials on record it is found that there is nothing on record which implicate that accused is involved in commission of offence for rash and negligent driving.
- 13.** PW-4 (I/O), ASI Lutfur Rahman has stated about the investigation of the case. During cross-examination of PW-4 (I/O) it is seen that the date of alleged occurrence as per the FIR is 30-04-2016. The FIR was lodged on 07-06-2016. At the time of lodging the FIR, the informant was physically sound and healthy. The father's name and other address of the informant is not mentioned in the FIR. As such, the hardship of the prosecution side to adduce the evidence of the informant could be understood. The I/O visited the place of occurrence on 08-06-2016. The alleged place of occurrence is a crowded business place. No shopkeeper was made witness in this case as the shops were closed when he visited. He has not recorded the statements of the friends of the accused. He investigated the case as per the statement of the complainant.

- 14.** Hence, from the entire materials on record I found that prosecution side miserably failed to prove the guilt of the accused beyond reasonable doubt.

### **CONCLUSION**

- 15.** The prosecution side failed to prove its case that accused person has committed an offence u/s 279/337 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 Nayandhiju Sarma is acquitted from the offence Under Section 279/337 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 Cr.P.C.

**Given under my hand and seal of this court on this 07<sup>th</sup> day of September, 2022.**

Sri Jayanta Kumar Saikia  
Addl. Chief Judicial Magistrate  
Nalbari



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

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Mr. Sourav Bhuyan	Other witness
PW-2	Dr. Sanjit Talukdar	Medical witness
PW-3	Mr. R.K. Dutta	MVI
PW-4	ASI Lutfur Rahman	Police witness
PW-5	Mr. Biki Das	Other witness
PW-6	Mr. Binay Das	Other witness

**B. Defence witnesses, if any: NOT APPLICABLE**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
-------------	-------------	---------------------------------------------------------------------------------------------------------------------------

**C. Court witnesses, if any: NOT APPLICABLE**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)

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

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1	Exhibit P-1/PW-1	Seizure list
2	Exhibit P-1(1)	Signature of PW-1, Mr. Sourav Bhuyan
3	Exhibit P-2/PW-2	Injury report
4	Exhibit P-2(1)	Signature of PW-2 (M/), Dr. Sanjit Talukdar
5	Exhibit P-3/PW-3	Report
6	Exhibit P-3(1)	Signature of PW-3 (MVI), Mr. R.K. Dutta
7	Exhibit P-4/PW-3	Report
8	Exhibit P-4(1)	Signature of PW-3 (MVI),

		Mr. R.K. Dutta
9	Exhibit P-1(2)	Signature of PW-4 (I/O), ASI Lutfur Rahman
10	Exhibit P-2/PW-4	Sketch map
11	Exhibit P-2(1)	Signature of PW-4 (I/O), ASI Lutfur Rahman
12	Exhibit P-3/PW-4	Seizure list
13	Exhibit P-3(1)	Signature of PW-4 (I/O), ASI Lutfur Rahman
14	Exhibit P-4/PW-4	Charge sheet
15	Exhibit P-4(1)	Signature of PW-4 (I/O), ASI Lutfur Rahman

**B. Defence: NOT APPLICABLE**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
----------------	-----------------------	--------------------

**C. Court Exhibits: NOT APPLICABLE**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
----------------	-----------------------	--------------------

**D. Material Objects: Not applicable**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
----------------	-----------------------	--------------------

Sri Jayanta Kumar Saikia  
Addl. Chief Judicial Magistrate  
Nalbari