

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

Present : Imdad Ahmed, Chief Judicial Magistrate, Nalbari.

Date of Judgment – 23/09/2022

Case – PRC no. 1668/2019

The case arose out of FIR lodged by informant Miss Rafida Begum, registered on 24/02/2019 vide Belsor P.S case no. 45 u/s 279/338 IPC under Nalbari District.

Complainant :	State of Assam Or Name of the complainant (Miss Rafida Begum)
Represented by	Mr. D. Talukdar (Ld. APP)
Accused	1. Md. Tafikur Rahman / A-1, S/o – Lt. Aftab Ali, Village – Bihampur, PS - Belsor & Dist – Nalbari.
Represented by	Mr. Nazrul Zaman (Ld. Defence Advocate)

Date of Offence	03/02/2019
Date of FIR	23/02/2019
Date of Charge sheet	28/02/2019 vide Charge sheet no. 25

Date of Framing of Charges	22/01/2020
Date of commencement of evidence	16/09/2022
Date on which judgment is reserved	16/09/2022
Date of Judgment	23/09/2022
Date of the Sentencing Order, if any	N/A

## **J U D G M E N T**

### **PROSECUTION CASE:**

1. The prosecution case in brief as unfolded from the 'ejahar' dated 23/02/2019 filed by the informant Miss Rafida Begum is that on 03/02/2019 her husband Md. Makibar Rahman was on his way from Bihampur 'chowk' towards their house at Khaliha on foot and as he reached near village Simoliya, the rider of the offending motorcycle bearing registration no. AS-01-DS-7448 by riding the vehicle in a rash and negligent manner at a high speed knocked down her husband from behind while he was walking on the left side of the road and thereafter fled away. After the accident her husband fell down on the ground and nearby people with the help of police admitted her husband in a hospital. Her husband later took treatment at Gate Hospital, Guwahati. Hence the case.

2. The said 'ejahar' was received and registered as Belsor PS case no. 45/2019 u/s 279/338 I.P.C. After completion of investigation charge-sheet no. 25 dated 28/02/2019 was submitted against accused Md. Tafikur Rahman u/s 279/338 I.P.C. Copy was furnished to the accused person. Particulars of offence and substance of accusation u/s 279/338 IPC was read over and explained to the accused person to which the accused pleaded not guilty and claimed to be tried.

### **3. POINTS FOR DETERMINATION**

(i) Whether on 03/02/2019, near village Simaliya under Belsor P.S, the accused drove motorcycle bearing registration no. AS-01-DS-7448 in a public way in a 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 03/02/2019, near village Simaliya under Belsor P.S, the accused caused grievous hurt to Makibar Rahman by driving motorcycle bearing registration no. AS-01-DS-7448 rashly/negligently and thereby committed an offence u/s 338 I.P.C?

### **4. DECISION AND REASONS THEREOF:**

The prosecution examined the informant and victim as PW-1 & PW-2. The defence declined to adduce any evidence. The statement in defence of the accused person u/s 313 Cr.P.C was dispensed with. I have heard the argument advanced by

learned counsel of both the sides and also perused the evidence available on record, my findings with reasons are as follows –

5. PW-1, Rafida Begum who is the informant deposed that she lodged the FIR against accused Tafikur Rahman who is her nephew. Around 3 years ago at about 3 pm, when her husband was going towards Bihampur 'chowk' on a bicycle, one motorcycle knocked down her husband and hurled him to the road due to which her husband sustained injuries. On being informed by nearby people, she rushed to the place of occurrence. Her husband was taken to the hospital before she had reached the P.O. She later met her husband at the hospital. Exhibit P-1 / PW-1 is the FIR and Exhibit P-1(1) / PW-1 is her signature. PW-1 deposed that after the FIR was lodged, they entered into a compromise with the accused and hence, she does not want to proceed with this case.

6. PW-2, Makibar Rahman who is the victim deposed that informant is his wife and accused Tafikur Rahman is his nephew. Around 3 years ago, one afternoon at about 3 pm, when he was going towards Bihampur 'chowk' on a bicycle, one motorcycle knocked him down and hurled him to the road due to which he sustained various injuries. After filing the FIR, he and his wife entered into a compromise with the accused and hence, he does not want to proceed further with this case.

7. In order to constitute an offence u/s 279 I.P.C it must be established that the accused was driving the vehicle in

a rash & negligent manner so as to endanger human life or likely to cause hurt or injury to other persons. Negligence connotes want of proper care and caution while rashness conveys idea of reckless doing of an act without consideration of any consequences. Rashness or negligence to be established must be more than mere error of judgment.

8. On appreciation of the testimonies of witnesses and the materials available on record, I find that there is no evidence to show that the accused was driving motorcycle bearing registration no. AS-01-DS-7448 in a rash and negligent manner, thereby causing injury/hurt to the victim Makibar Rahman. The prosecution has failed to establish the essential ingredients so required to constitute the charged offence beyond reasonable doubt by leading clear, cogent & convincing evidence.

9. The accused Md. Tafikur Rahman is found not guilty u/s 279/338 I.P.C and hence, acquitted and set at liberty forthwith. Bail bond shall remain in force for a further period of six months.

10. Judgment is pronounced in open court. Case is disposed of on contest.

11. Given under my hand and seal of this court on this 23<sup>rd</sup> day of September, 2022.

Chief Judicial Magistrate  
Nalbari

**Accused Details**

Rank of the accused	Name of 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 purpose of Sec. 428 Cr.P.C
A-1	Md. Tafikur Rahman	26/02/2019	26/02/2019	279/338 IPC	Acquitted	N/A	N/A

Chief Judicial Magistrate  
Nalbari

**List of Prosecution / Defence / Court Witnesses**

A. Prosecution:

Rank	Name	Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other witness)
PW-1	Rafida Begum	Informant
PW-2	Makibar Rahman	Victim

B. Defence Witnesses, if any:

Rank	Name	Nature of evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other witness)
Nil		

C. Court Witnesses, if any:

Rank	Name	Nature of evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other witness)
Nil		

Chief Judicial Magistrate

Nalbari

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

A. Prosecution:

Sr. No.	Exhibit number	Description
1.	Exhibit P-1 / PW-1	Ejahar
2.	Exhibit P-1(1) / PW-1	Signature of informant

B. Defence:

Sr. No.	Exhibit Number	Description
Nil		

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
Nil		

D. Material Objects:

Sr. No.	Exhibit Number	Description
Nil		

Chief Judicial Magistrate  
Nalbari