

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

Present : Imdad Ahmed, Chief Judicial Magistrate, Nalbari.

Date of Judgment – 21/09/2022

Case – PRC no. 1748/2019

The case arose out of FIR lodged by informant Sri Anuj Bhuyan, registered on 20/05/2019 vide Belsor P.S case no. 111 u/s 279/338 IPC under Nalbari District.

Complainant :	State of Assam Or Name of the complainant (Sri Anuj Bhuyan)
Represented by	Mr. D. Talukdar (Ld. APP)
Accused	1. Sri Chitra Talukdar / A-1, S/o – Sri Ajit Talukdar, Village – Rupiabathan, PS - Belsor & Dist – Nalbari.
Represented by	Smti Kabita Dutta (Ld. Defence Advocate)

Date of Offence	20/05/2019
Date of FIR	20/05/2019
Date of Charge sheet	30/06/2019 vide Charge sheet no. 72
Date of Framing of Charges	20/07/2022
Date of commencement of evidence	21/09/2022
Date on which judgment is reserved	N/A
Date of Judgment	21/09/2022
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 20/05/2019 filed by the informant Sri Anuj Bhuyan is that on 20/05/2019 at about 2:15 pm, when his six year old child Murchana Bhuyan came out of her school Sutradhar Buniyad Bidyapeeth, Chamata, the accused Mintu Barman came riding a bike negligently at a high speed from the east side of the road and thereafter lost control and hit his daughter on the wrong side of the road and hurled his daughter to the road resulting which his daughter sustained several injuries on her body. He took his daughter to Sarathi Hospital for treatment. Hence the case.

2. The said 'ejahar' was received and registered as Belsor PS case no. 111/2019 u/s 279/338 I.P.C. After completion of investigation charge-sheet no. 72 dated 30/06/2019 was submitted against accused Chitra Talukdar u/s 279/337 I.P.C. Copy was furnished to the accused person. Particulars of offence and substance of accusation u/s 279/337 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 20/05/2019 at about 2:15 pm in front of Sutradhar Buniyad Bidyapith under Belsor P.S, the accused drove Achiever motorcycle bearing registration no. AS-01-BZ-4174 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 20/05/2019 at about 2:15 pm in front of Sutradhar Buniyad Bidyapith under Belsor P.S, the accused caused hurt to Murchana Bhuyan by riding Achiever motorcycle bearing registration no. AS-01-BZ-4174 rashly/negligently and thereby committed an offence u/s 337 I.P.C?

4. DECISION AND REASONS THEREOF:

The prosecution examined the informant as PW-1. 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, Anuj Bhuyan who is the informant deposed that he filed this case against the accused. On 20/05/2019 at about 2 pm, his 6 year old daughter Murchana Bhuyan was awaiting for a vehicle to return home after school hours and at that time one motorcycle knocked her down due to which she sustained minor injury on one finger of her foot. The accused and other nearby persons took his daughter to Sarathi Hospital, Nalbari and the accused provided necessary treatment expense at the hospital. PW-1 stated that as the accused had borne the expenses for the treatment of his daughter, he does not have any grievance against the accused. Exhibit P-1 / PW-1 is the FIR and Exhibit P-1(1) / PW-1 is his signature.

6. 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.

7. 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 the Achiever

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motorcycle bearing registration no. AS-01-BZ-4174 in a rash and negligent manner, thereby causing injury/hurt to the victim. 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.

8. Considering the nature of evidence adduced by the prosecution side, the accused Sri Chitra Talukdar is declared not guilty u/s 279/337 I.P.C and hence, acquitted and set at liberty forthwith. Bail bond shall remain in force for a further period of six months.

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

10. Given under my hand and seal of this court on this 21st 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	Chitra Talukdar	27/05/2019	27/05/2019	279/337 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	Anuj Bhuyan	Informant

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