

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,
LAKHIMPUR, NORTH LAKHIMPUR, ASSAM**

Present: Shri Akhtabul Ala, AJS,
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur, Assam.

G.R. 212/2015

Under section 279/304-A/427 of the Indian Penal Code

State of Assam

-Vs-

Sri Pradip Chutia

.....Accused person

Date of offence explanation : 20.06.2016
Dates of recording evidence of PWs : 05.09.2016, 24.04.2017,
21.11.2017, 25.02.2019,
21.09.2019, 08.11.2019
Date of recording of statement u/s 313, Cr.P.C: 14.02.2020
Date of argument : 28.02.2020
Date of judgment : **13.03.2020**

Advocates appeared in the case:-

Sri Prasanta Dutta, Addl. P.P., for the State

Sri Rajib Gogoi, Advocate, for the accused person

J U D G M E N T

1. The brief of the prosecution case is that one Miss Marie Induwar had lodged an ejahar before the Officer-in-Charge of North Lakhimpur Police Station on 01.02.2015 stating that on 30.01.2015, at about 7:00 PM, her husband Jonas Induwar while returning from North Lakhimpur Town towards home in his cycle a vehicle driven in a rash and negligent manner had hit him and knocked him down in front of the Anupam Hotel at North Lakhimpur as a result of which her husband sustained

grievous injuries and was taken to the hospital but he on 31.01.2015 had succumbed to his injuries. Hence, the case.

2. After receiving the FIR, the Officer-in-Charge of North Lakhimpur Police Station had registered a case vide NLPS Case No. 108/20145 u/s 279/338/304-A of the Indian Penal Code. The I/O after investigation had submitted charge-sheet u/s 279/304-A/427 of the Indian Penal Code against the accused Sri Pradip Chutia.

3. On receipt of the charge-sheet, cognizance of the offence under section 279/304-A/427 of the Indian Penal Code was taken as per section 190(1)(b) of the Code of Criminal Procedure. After the appearance of the accused person before the Court, copies were furnished to him as per section 207 Code of Criminal Procedure. The particulars of the offence under section 279/304-A/427 of the Indian Penal Code were explained to the accused person to which he pleaded not guilty and claimed to face the trial.

POINTS FOR DETERMINATION:

4. The points which are required to be determined for a just decision of this case are as follows:

(a) Whether the accused, on 30.01.2015, at about 7:00 PM had rashly and negligently driven the offending vehicle ?

(b) Whether the accused due to his such rash and negligent driving had hit Jonas Induwar, the husband of the informant for which he died ?

(c) Whether the accused had caused damaged to the cycle worth more than Rs. 50/- with his said rash and negligent driving ?

5. During the trial the prosecution side could altogether examine 6 (six) PWs, including the I/O and had exhibited 6 (six) documents as Ext-1 to Ext-6. On closure of the prosecution witnesses all the incriminating

materials surfaced thereon against the accused person were put to his explanation under section 313 Code of Criminal Procedure. The defence plea was in complete denial. I have heard the Argument of both sides and thereupon come to the following finding:

DISCUSSION, DECISION AND REASONS THEREOF:

6. To determine the aforesaid points of determination let us have a scrutiny of the evidence of the PWs on record.

7. Now, the PW-1 Smti. Marie Induwar testified that she does not know the accused and at the time of incident her husband was returning home from work in his cycle and then in front of Anupam Hotel a vehicle had hit her husband from the backside for which her husband sustained injuries and was taken to the hospital but he succumbed to his injuries.

8. The PW-1 in her cross-examination stated that she doesn't know which vehicle had knocked her husband down and who was driving the offending vehicle. She further stated that she didn't write the ejahar i.e. Ext-1 and the contents of the same was not read over to her.

9. PW-2 Stephan Induwar deposed that on the date of incident his younger brother Jonas Induwar was returning home from work in his bicycle and he met with an accident in front of Anupam Hotel. He stated that he doesn't know the accused. He further stated that the police had taken his signatures on Ext-2 and Ext-3 but however the PW-2 in his cross-examination had stated that he doesn't know what was written on those papers. He further stated that he doesn't know the owner of the vehicle.

10. The PW-3 Selbez Kharia deposed that on the date of incident he along with Jonas Induwar and two other persons returned from their work to their house. After he reached his house he could hear that

Jonas had met with an accident and that an Alto Car had committed the accident and Jonas died in that accident.

11. PW-3 in his cross-examination stated that he doesn't know how the accident took place and due to whose fault the accident took place.

12. PW-4 Bijoy Tete deposed that on the date of incident both he and Jonus were riding their bicycles and then a vehicle coming from Panigaon direction had hit Jonas from his backside. The PW-4 stated that he at that time was riding his cycle in front of Jonas and as such he could not see which vehicle had hit him but Jonas was lying on the road with severe injuries. He was take to the hospital but he died.

13. PW-4 in his cross-examination stated that he does not know how the accident took place and due to whose fault.

14. PW-5 Moina Orang deposed that on the date of incident while he was returning from his work could see gathering in front of Anupam Hotel and on going near he could see Jonas who worked with him to be lying in the road but he doesn't know how the accident took place.

15. PW-6 Inspector Jiban Das, the I/O, stated that he conducted the investigation of this case and the accused had voluntarily appeared at the police station and he had seized the vehicle and later he submitted charge sheet against the accused u/s 279/304-A/427, IPC.

16. So, from the evidence of the PWs it clearly transpires that none of the PWs have implicated the accused nor they had witnessed the accident nor they knew that due to whose fault the accident occurred. The I/O i.e PW-6 also didn't state specifically that how he came to the conclusion that it was the accused who was driving the offending vehicle and that he was driving it in a rash and negligent manner and caused death to the victim by knocking him down.

17. So from the evidence and materials on record it can be seen there is no evidence at all to bring home the charge against the accused and it can no way be concluded that the accused was the driver of the offending vehicle or that the accident occurred due to his rash and negligent driving

18. Hence all the aforesaid points of determination are held in negative.

19. The prosecution has failed to prove the offence against the accused under section 279/304-A/427 of the Indian Penal Code and as such he is acquitted from the said offences and is set at liberty.

Seized articles to be retained with the lawful owner.

Bail bonds are extended to for the further 6(six) months from today.

The judgment is delivered and operative part of the same is pronounced in the open court on this 13th day of March, 2020.

(Shri Akhtabul Ala)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Dictated & corrected by me-

(Shri Akhtabul Ala)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Transcribed & typed by-
Sri Narayan Chetri, Stenographer

Contd. Appendix

A P P E N D I X

WITNESSES FROM THE PROSECUTION SIDE

Smti. Marie Induwar (PW-1)
Sri Stephen Induwar (PW-2)
Sri Selbez Kharia (PW-3)
Sri Bijay Tete (PW-4)
Sri Moina Orang (PW-5)
Inspector Jiban Das (PW-6)

PROSECUTION EXHIBIT

Ejhar (Ext-1)
Signature of PW-1 [Ext-1(1)]
Seizure list (Ext-2)
Signature of PW-2 [Ext-2(1)]
Signature of PW-6 [Ext-2(2)]
Seizure list (Ext-3)
Signature of PW-2 [Ext-3(1)]
Signature of PW-6 [Ext-3(2)]
Rough sketch map of the P.O. (Ext-4)
Signature of PW-6 [Ext-4(1)]
MVI Report (Ext-5)
Charge-sheet (Ext-6)
Signature of PW-6 [Ext-6(1)]

WITNESSES FROM THE DEFENCE SIDE

Nil

DEFENCE EXHIBIT

Nil

(Shri Akhtabul Ala)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur