

**IN THE COURT OF JUDICIAL MAGISTRATE 1ST CLASS,
LAKHIMPUR, NORTH LAKHIMPUR.**

**GR CASE NO.369/2018
U/S 279/304A IPC**

PRESENT:

SMT. SWEETY BHUYAN
Judicial Magistrate 1st Class
Lakhimpur, North Lakhimpur.

PARTIES:

STATE OF ASSAM

Vs

LAKHI LIGIRA

..... ACCUSED PERSON

Appearance:

For the State: MR. JANGKI DOLEY

For the accused person: MR. SUREN BORAH
&
MR. GIRISH RAJKHOWA

Date of Evidence: 05.04.2019

Date of Argument: 05.04.2019

Date of Judgment: 05.04.2019

JUDGMENT

- 1.** The accused person, namely, **Lakhi Ligira**, Son of Sri Suren Ligira, R/o No.3 Simaluguri Gaon, Police Station- Bihpuria, District - Lakhimpur, in the District of Lakhimpur, here in this case has been put to trial to answer the charges for the offence Punishable under Section 279/304A of IPC.
- 2.** The brief facts of the prosecution case is that on 31.01.2018 at about 5:30 P.M. while the husband of the informant Mridul Ligira alongwith his brother, i.e., the accused was coming from Dhrupang in a Royal Enfield Bike bearing Reg. No.AS 12T 3043, Chesis No. ME3U3S5C1HM557385 and Engine No. U3S5C1HM219117 to their house, on the road at Balikusi suddenly a cow came in front of the motorcycle and in order to save the cow, the accident took place and as a result the husband of the informant sustained grievous injury on his head. He was taken to the Dholpur Hospital from where he was referred to Guwahati and he was admitted at Dispur Hospital. After three days, he was taken to GMCH and while his treatment he expired on 07.02.2018 at 6 A.M. Hence, the case, and the same was registered as Narayanpur Police Station Case No.69/2018 under Sections 279/304A of the Indian Penal Code against Lakhi Ligira, named in the ejahar. The Investigating Officer submitted Charge Sheet against the accused person, namely, Lakhi Ligira, under Section 279/304A of the Indian Penal Code.
- 3.** After the appearance of the accused, the copy of the relevant

document was furnished to him. Upon hearing and on perusal of the case record the particulars of offence under sections 279/304A of IPC were read over and explained to the accused person to which the accused pleaded not guilty and claimed to be tried.

4. In support of the case, the prosecution has adduced 3(three) PWs including the informant. Defence adduced none. The statement of the accused person u/s 313 CrPC is dispensed with due to lack of incriminating materials.
5. After perusing the case record and hearing both sides the following points for determination are framed:

The Points for Determination:

- (i) Whether the accused, on 31.01.2018 at about 5:30 P.M. while the husband of the informant Mridul Ligira alongwith his brother, i.e., the accused was coming from Dhrupang in a Royal Enfield Bike, drove his bike on the public way in a manner so rash or negligent as to endanger human life or to be likely to cause hurt or injury to any other person, and thereby committed offence under section 279 IPC?
- (ii) Whether the accused, on 31.01.2018 at about 5:30 P.M. while the husband of the informant Mridul Ligira alongwith his brother, i.e., the accused was coming from Dhrupang in a Royal Enfield Bike, caused the death of the husband of the informant by doing any rash or negligent act not amounting

to culpable homicide, and thereby committed offence under section 304A IPC?

DECISIONS AND REASONS FOR DECISION:

6. I have heard the argument from both sides.
7. Both the points for determination are decided together for the purpose of convenience.

The informant stated in her ejahar that on 31.01.2018 at about 5:30 P.M. while the husband of the informant Mridul Ligira alongwith his brother, i.e., the accused was coming from Dhrupang in a Royal Enfield Bike bearing Reg. No.AS 12T 3043, Chesis No. ME3U3S5C1HM557385 and Engine No. U3S5C1HM219117 to their house, on the road at Balikusi suddenly a cow came in front of the motorcycle and in order to save the cow, the accident took place and as a result the husband of the informant sustained grievous injury on his head. He was taken to the Dholpur Hospital from where he was referred to Guwahati and he was admitted at Dispur Hospital. After three days, he was taken to GMCH and while his treatment he expired on 07.02.2018 at 6 A.M.

The informant stated in her evidence as PW1 that the incident took place on 31st January, 2018 on the road at Dhrupang at night. She does not know anything about the incident as she was in her house. There was an accident of her husband as he was returning from his work in his bike. She does not know due to whose fault the accident took place or who was driving the offending vehicle. The

victim was taken to the Dholpur hospital by the accused, and he was referred to Guwahati and he passed away while his treatment at Guwahati. She lodged the case against the accused as the police told her to lodge a case against the accused.

In cross-examination, the PW1/informant stated that she does not know how the accident took place.

The PW2 stated in her evidence that she does not know anything about the incident as she was in her house. Somebody informed that her son Mridul Ligira met with an accident. He was taken to the Dholpur hospital by the accused, and he was referred to Guwahati and he passed away while his treatment at Guwahati.

The PW2 stated in her cross-examination that she does not know how the accident took place. She does not know for whose fault the accident took place.

The PW3 stated in his evidence that there was a bike accident of Mridul Ligira and he was taken to the Dholpur Hospital by the accused, and he was referred to Guwahati and he passed away while his treatment at Guwahati.

The PW3 stated in his cross-examination that the accident took place as the victim hit a cow by his bike. He does not know for whose fault the accident took place.

For proving the guilt of the accused under both the above Sections the ingredients of rashness or negligence on the part of the accused has to be proved. But in the instant case neither the

informant nor any other witnesses stated above rash or negligence on the part of the accused, which either endangered human life or caused the death of the deceased. No doubt that the deceased expired, but there is no evidence to prove that such death was the result of rashness or negligence on the part of the accused. Moreover, the informant stated that she lodged the case against the accused as she was told to do so by the police and she also stated that she does not know for whose fault the accident took place. The other PWs also stated that they do not know for whose fault the accident took place and from their evidence, it could be known that they were not present at the time of the accident on the place of occurrence.

Hence, in view of the discussions made, it can be held that the prosecution has miserably failed in establishing the guilt of the accused under Sections 279 and 304A of IPC beyond reasonable doubt, thereby making him not guilty under the said Sections.

(Contd....)

ORDER

As this court finds the accused person, namely, **Lakhi Ligira**, not guilty of the offence u/s 279/304A of IPC, the accused person is acquitted of the charges u/s 279/304A of IPC.

The accused person is set at liberty forthwith.

The bail bond is extended for 6 (six) months from today.

The judgment is pronounced in the open court.

The zimma of the seized articles mentioned in MR No.77/18 are hereby made absolute.

Given under my hand and seal of this court on 5th of April, 2019.

(SMT. SWEETY BHUYAN)
JUDICIAL MAGISTRATE 1ST CLASS
LAKHIMPUR, NORTH LAKHIMPUR

Dictated & Corrected by me:

(SMT. SWEETY BHUYAN)
JMFC, NORTH LAKHIMPUR

Transcribed & typed by me:

Kumar Gaurav (Stenographer)

APPENDIX

Prosecution witnesses

1. PW1: NIKU MORANG LIGIRA
2. PW2: DHANESWARI LIGIRA
3. PW3: BITUPAN CHETIA

Defence witnesses

Nil.

Documents exhibited by the prosecution

1. EXT.1: EJA HAR

Documents exhibited by the Defence

Nil.

(SMT. SWEETY BHUYAN)
JUDICIAL MAGISTRATE 1ST CLASS
LAKHIMPUR, NORTH LAKHIMPUR

Dictated & Corrected by me:

(SMT. SWEETY BHUYAN)
JMFC,NORTH LAKHIMPUR

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Kumar Gaurav (Stenographer)