

**IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE
(SADAR), NORTH LAKHIMPUR, LAKHIMPUR**

GR CASE NO: 962 of 2014

U/s- 279/338/427 of IPC

State

-Versus-

Sri Yadav Bhoumik

.....Accused Person

**PRESENT : Smt. Sorbani Bhattacharjee , AJS
Sub Divisional Judicial Magistrate (Sadar)
Lakhimpur, North Lakhimpur.**

ADVOCATES APPEARED-

FOR THE PROSECUTION : Sri Khirod Kr. Kakoti.

FOR THE ACCUSED : Md. Mostafa Hasan

EVIDENCE RECORDED ON : 18.03.2019, 06.05.2019

ARGUMENT HEARD ON : 24.05.2019

JUDGMENT DELIVERED ON: 24.05.2019

JUDGMENT

1. The prosecution story in brief is that on 17.04.2014 at about 6:30 PM, while the son of the informant namely Md. Biki Hussain was on his way to Lakhimpur Town in the motor cycle of one Ranjit Borah which was without number plate and then near Kabarsthan

the accused by riding his truck bearing registration No. AS 07C-3624 in a rash and negligent manner hit Biki Hussain's bike. Due to the accident Biki Hussain sustained injury over various parts of the body. At first Biki Hussain was admitted at North Lakhimpur Civil Hospital and later on he was taken to Hayat Hospital, Guwahati for his better treatment. The bike of Ranjit Borah also got damaged in the incident.

2. The Officer-in-charge, North Lakhimpur police station, on receipt of Ejahar registered North-Lakhimpur P.S. Case No. 502/2014, U/S 279/338/427 of IPC and started investigation. After completion of the investigation, the concerned I.O. submitted charge sheet against the accused person Sri Yadav Bhowmick U/S 279/338/427 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 CrPC. Having found a prima facie case against the accused person, the particulars of offences U/S 279/338/427 of IPC are read over and explained to him to which he pleaded not guilty and claimed to be tried.

4. The prosecution, in support of its case, examined 4 (four) witnesses including the informant. As per the submission of learned Assistant Public Prosecutor further evidence of prosecution side is closed. As there is no incriminating evidence against the accused person hence recording of his statement U/S 313 of the Code of Criminal Procedure is dispensed with. Defence side examined no witnesses. I have heard the arguments advanced by the learned counsels for both sides.

5. POINTS FOR DETERMINATION:-

(i) Whether the accused person on 17.04.2014, drove the vehicle bearing registration No. AS-07-C-3624 (Truck) at Lakhimpur town (near Kabarsthan) under the jurisdiction of

North Lakhimpur Police Station, in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt to the son of the informant Md. Biki Hussain, and thereby committed an offence punishable U/S 279 of Indian Penal Code ?

(ii) Whether the accused on the same date, time and place, caused grievous hurt to Md. Biki Hussain by doing an act i.e., by driving vehicle bearing registration No. AS-07-C-3624 (Truck), in a manner so rash or negligent as to endanger human life, and thereby committed an offence punishable u/s 338 of Indian Penal Code ?

(iii) Whether the accused person on the same date, time and place, caused mischief by damaging the motorcycle Of Sri Ranjit Borah and thereby committed an offence punishable U/S 427 of Indian Penal Code ?

DISCUSSION, DECISION AND REASONS THEREOF:

6. PW-1 Md. Victor Ahmed in his evidence deposed that he does not know the informant and accused of this case. He has not seen the incident. He does not know anything about the incident. Defence declined to cross-examine him.

7. PW-2 Md. Abul Hussain in his evidence deposed that he does not know the informant and accused of this case. He has not seen the incident. He does not anything about the incident. Defence declined to cross-examine him.

8. PW-3 Musstt. Narzi Begum in her evidence deposed that she is the informant of this case. Ext.1 is the ejahar and Ext.1(1) is her signature. She does not know accused of this case. She has not seen the incident. After the incident someone informed her over phone that her son Biki Hussain met with an accident at Khelmati. In the year 2014 one day at about 9:30 PM her son met with the accident. She does not know how the accident occurred. Her son

was driving a bike at the time of incident. He sustained injury over his head, leg and nose. Her son was taken to Guwahati for his treatment. After 20 days of the incident she lodged this case. Biki's bike got damaged in the accident.

In cross-examination she deposed that she does not know who hit whom in the incident as she has not seen the incident. Her son was not riding his bike. It was his friend's bike. She admitted the fact that her son had no driving license at the time of incident as he was minor at that time. She denied the suggestion that the truck had not hit her son and her son hit the truck which was parked in the side of the road.

9. PW-4 Md. Biki Hussain in his evidence deposed that he knows the informant of this case who is his mother. He does not know the accused person of this case. In the month of April, 2014 incident occurred one day at night at about 9:00 PM at Khelmati near Sarkar Hotel. On the day of incident a truck was coming from near Sarkar Hotel at Khelmati and he hit the truck with his bike. He became senseless and what happened after that he cannot say.

In cross-examination, he deposed that the incident was an accident. It was a night. The incident would not have occurred if he would not have hit the truck.

10. From the testimony of the PW 1, 2, 3 and 4 it is apparent that none of the PW's could identify the accused of this case. PW-1 who is the informant of this case has stated in her evidence that she does not know how the accident occurred. In her cross-examination she stated that she does not know who hit whom in the incident as she has not seen the incident. She also admitted the fact that her son had no driving license at the time of incident as he was minor at that time. The evidence of PW-1, 2 it is revealed that they does not know how the incident occurred and who was driving the offending vehicle at the time of incident. PW-4 who is the victim of this case in his evidence stated that the incident was an accident. and the incident would not have occurred if he would not have hit the truck. Thus, from the testimony of the PW's it is apparent that the accident occurred due to the fault of

the accused who was a minor at that time and had no driving license. Situated thus, I am of the opinion that the ingredients of the offences u/s 279/338/427 of IPC have not been proved against the accused person beyond all reasonable doubt by the prosecution and hence the accused person is hold not guilty for the alleged offences.

ORDER

11. Accordingly, the accused person Sri Yadav Bhoumik is acquitted of the offences U/S 279/338/427 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 CrPC.

Given under my hand and seal of this court on this 24th day of May, 2019.

**Smti Sorbani Bhattacharjee, AJS
Sub Divisional Judicial Magistrate (S)
Lakhimpur, North Lakhimpur**

APPENDIX

PROSECUTION EXHIBITS:

Ext.1 : Ejahar

DEFENCE EXHIBITS

NIL

PROSECUTION WITNESSES :

- (1) PW-1 Md. Victor Ahmed
- (2) PW-2 Md. Abul Hussain
- (3) PW-3 Musstt. Narzi Begum
- (4) PW-4 Md. Biki Hussain

COURT WITNESSES :

NIL

DEFENCE WITNESSES

NONE

MATERIAL EXHIBITS

NIL

**Smt. Sorbani Bhattacharjee, AJS
Sub Divisional Judicial Magistrate (S)
Lakhimpur, North Lakhimpur**