

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

**GR CASE NO.1594/2015
U/S 279/338/304A IPC.**

PRESENT:

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

PARTIES:

STATE OF ASSAM

Vs

MD. JOHIRUL HAQUE SAIKH

..... ACCUSED PERSON

Appearance:

For the State: MR. JANGKI DOLEY

For the accused person: MR. DIPAK POKHREL

Dates of Evidences: 21.02.2019, 01.04.2019,
25.06.2019, 02.08.2019,
21.09.2019

Date of Arguments:14.11.2019 & 28.11.2019

**(on date fixed for judgment, i.e., 12.12.2019, the court work was
disrupted due to Assam Bandh as called by some organisations)**

Date of Judgment: 23.12.2019

JUDGMENT

- 1.** The accused person, namely, **Md. Jahirul Haque Saikh**, Son of Md. Moniruddin Saikh, R/o Village: Baghmora, Police Station – Goripur, District – Dhubri, in the District of Lakhimpur, here in this case has been put to trial to answer the charges for the offence Punishable under Section 279/338/304A of IPC.
- 2.** The brief facts of the prosecution case is that on 11.08.2015 at about 8 A.M. while the grandfather of the informant Nironjan Hazong was going towards Soraimoriya in his bicycle on his side of the road, then a Mahindra Jeep bearing Reg. No.AS01-BK-1853 being driven in a speedy and a negligent manner knocked him down, as a result of which, he sustained grievous injuries. Thereafter, he was taken to the hospital and was referred to Guwahati due to his severe injuries and due to lack of money he could not be taken to Guwahati. Hence, the case, and the same was registered as Boginadi Police Station Case No.80/2015 under Sections 279/338 of the Indian Penal Code against the driver of Mahindra Jeep bearing Reg. No.AS01-BK-1853.
- 3.** On 28.08.2015 Nironjan Hazong succumbed to his injuries and therefore, the Investigating Officer prayed to add Section 304A of the Indian Penal Code alongwith the other Sections, which was allowed vide order dated 31.08.2015 by the Hon'ble Chief Judicial Magistrate, Lakhimpur, North Lakhimpur.
- 4.** The Investigating Officer submitted Charge Sheet against the

accused person, namely, Md. Johirul Haque Saikh, under Sections 279/304A of the Indian Penal Code.

5. After appearance of the accused person, 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 279/338/304A of IPC were read over and explained to the accused person to which the accused pleaded not guilty and claimed to be tried.
6. In support of the case, the prosecution has adduced 7(seven) PWs. The statement of the accused person was recorded under Section 313 Cr.P.C. and he stated that all the allegations are false against him and denied to adduce the evidence in his support.
7. After perusing the case record and hearing both sides the following points for determination are framed:
 - (i) Whether the accused, on 11.08.2015 at about 8 A.M. at Soraimoriya, drove a Mahindra Jeep bearing Reg. No.AS01-BK-1853 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 11.08.2015 at about 8 A.M. at Soraimoriya, caused grievous hurt to the grandfather of the informant, namely, Nironjan Hazong by doing any act so rashly or negligently as to endanger human life or the

personal safety or others, and thereby committed offence under section **338** IPC?

- (iii) Whether the accused, on 11.08.2015 at about 8 A.M. at Soraimoriya, caused the death of the grandfather of the informant, namely, Nironjan Hazong 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:

- 8.** I have heard the argument from both sides.
- 9.** All the points for determination are discussed together as they are interconnected and the same is essential for brevity and convenience.
- 10.** The informant stated in his ejahar that on 11.08.2015 at about 8 A.M. while the grandfather of the informant Niranjan Hazong was going towards Soraimoriya in his bicycle on his side of the road, then a Mahindra Jeep bearing Reg. No.AS01/BK1853 being driven in a speedy and a negligent manner knocked him down, as a result of which, he sustained grievous injuries. Thereafter, he was taken to the hospital and was referred to Guwahati due to his severe injuries and due to lack of money he could not be taken to Guwahati.
- 11.** The informant alleged that while the deceased Nironjan Hazong was riding his bicycle and going by riding the same on his side of the road, a Mahindra Jeep being driven in a speedy and a

negligent manner, coming from the opposite direction knocked him down due to which the deceased sustained grievous injuries and ultimately succumbed to his injuries.

- 12.** The informant in his evidence as PW1 stated that he did not see the incident and the deceased was taken to the hospital by the people nearby. He admitted in his cross-examination that he does not know who drove the offending vehicle.
- 13.** The PW2 stated in his evidence that he was not present at the time of the incident and he was informed about the accident after 2-3 days when he returned to his house. He admitted in his cross-examination that he does not know who was driving the car.
- 14.** The PW3 does not know anything about the accident.
- 15.** The PW4 does not remember anything about the accident.
- 16.** The PW5 does not know anything about the accident.
- 17.** The PW6 is the Medical Officer and the PW7 is the Investigating Officer.
- 18.** For all the Sections for which the accused has been charged, it is essential for the prosecution to prove that the accused has been driving the offending vehicle in a rash or negligent manner due to which he endangered human life and caused the death of the deceased. But from the evidences of the prosecution, it can be seen that none of the witnesses including the informant deposed about the rash or negligent driving by the accused. In fact, none of the witnesses saw the accused driving the offending vehicle and

causing the accident. Even there are no circumstantial evidences to support the case of the prosecution. Even most of the witnesses do not know who was driving the offending vehicle. As such, it can be seen that the evidences of the prosecution has fallen insufficient in proving the guilt of the accused for which he has been charged. And under the backdrop of such evidences, it cannot be held that the accused person committed the offence. Hence, the prosecution has miserably failed in proving the guilt of the accused person beyond all reasonable doubts thereby making him not guilty under Sections 279/338/304A of IPC. **(Contd....)**

ORDER

As this court finds the accused person, namely, **Md. Johirul Haque Saikh**, not guilty of the offence u/s 279/338/304A of IPC, the accused person is acquitted of the charges u/s 279/338/304A 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 are hereby made absolute.

Given under my hand and seal of this court on 23rd Day of December, 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 RUPESWAR HAZONG
2. PW2 KULASAR HAZONG
3. PW3 DIPANJIT GOGOI
4. PW4 PRANJAL GOGOI
5. PW5 KUSHA GOGOI @ KUSHAL GOGOI
6. PW6 DR. GUNA RANJAN MIRI
7. PW7 ASI DAMBARU DUTTA

Defence witnesses

Nil.

Documents exhibited by the prosecution

1. EXT.1: EJA HAR
2. EXT.2: SKETCH MAP & POSTMORTEM REPORT
3. EXT.3: SEIZURE LIST
4. EXT.4: CHARGESHEET

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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