

BEFORE THE COURT OF JUDICIAL MAGISTRATE 1ST CLASS , SONITPUR

Present :- Smti Sabita Bharadwaj , AJS

Judicial Magistrate 1st Class Sonitpur, at Tezpur

G.R.CASE NO :-122/2017

Under section 279/338 IPC

State of Assam

-VERSUS-

Mukesh Nath

S/o- Jogen Ch. Nath

Vill- Chagali Chuburi

P.S.- Tezpur

District- Sonitpur

-Accused person

Appeared

Learned App for State..... Karabi Das

Learned Counsel for Defence..... Biraj Nath.

Date of Evidence..... 28.05.2019

Date of Argument 28.05.2019

Date of Judgment..... 30.05.2019

JUDGMENT

1. Accused person viz. Mukesh Nath stood for trial for the allegations of committing offences u/s 279/338 IPC.
2. The prosecution case in brief is that on 09-01-17 the informant viz. Minakhi Mahanta lodged an "Ejahaar" before the Officer-in-charge Tezpur police station stating inter alia as on 17-05-15 at around 12:30 PM at Murhateteli the accused person had ridden a motor cycle bearing registration no. AS-12G-2678 in a rash and negligence manner and sustained serious injuries to the husband of the informant.
3. On the basis of the 'Ejahaar' a case has been registered at Tezpur P.S. Case no. 56/17 u/s 279/338 IPC and investigation was initiated and after completion of investigation charge sheet was submitted against accused Mukesh Nath u/s 279/338 IPC.
4. On the appearance of the above named accused person before the Court and also after furnishing the copies to him substance of offences u/s 279/338 IPC on being stated to the accused person by me and he pleaded not guilty and claimed trial.
5. The prosecution has examined 3 (three) nos. of witnesses and exhibited 1 no. of document. The examinations of the accused u/s 313 Cr.P.C. is dispensed with finding no incriminating material against him. The accused declined to adduce any evidence in support of his defence.

POINTS FOR DETERMINATION:-

- (I) Whether on 17-05-2015 at about 12.30 PM at near Murhateteli accused person Mukesh Nath had ridden a motor cycle bearing registration no. AS-12G-2678 in a manner so rash and negligence as to endanger human life, or likely to cause hurt or injury to the husband of the informant ?
- (II) Whether on 17-05-2015 at around 12.30 PM at near Murhateteli had accused Mukesh Nath caused grievous hurt to the husband of the

informant by riding a motorcycle so rashly and negligently as to endanger human life, or the personal safety of the husband of the informant ?

6. I have carefully perused the entire materials available on case record and heard the arguments advanced by the Learned Counsels of both the sides and proceeded to decide as follows:

DISCUSSION , DECISIONS & REASONS THEREOF:-

7. Now to decide the fact that whether the prosecution side has successfully able to prove the guilt of accused person beyond all reasonable doubt or not let the evidences as led by the prosecution side be evaluated. If the testimony of informant / PW 1 Minakhi Mahanta is taking into consideration then it is clearly apparent that being the informant of this instant case she has only narrated the entire prosecution story although she had not witnessed the alleged incident. Further, the testimony as deposed by PW 3 Ashwin Mahanta is not supported to the case of prosecution as he also had not witnessed the alleged accident. Moreover, in this instant case the victim / PW 2 Ranjan Mahanta himself admitted the fact that the alleged accident did not take place due to any fault on the part of the accused person rather he deposed that the accused had ridden the motor bike in a lower speed and due to passing of a goat through front of the motor bike ridden by the accused he fell down. Therefore, only on the basis of testimonies as deposed by these witnesses of the prosecution nowhere it appears that the alleged accident took place on the day of alleged occurrence due to rash and negligent riding on the part of the accused person.

8. Therefore, after going through the above noted observations I am of the considered opinion that the prosecution side has failed to prove the guilt of the accused person beyond all reasonable doubt.

Hence, all the points for determination are decided in negative.

9. In result accused Mukesh Nath is acquitted from the charges u/s 279/338 IPC and set at liberty.

Bail Bonds (if any) shall be valid up to expiry of 6 (six) months from the date of this order and Judgement.

Given under the hand & seal of this Court on this 30th day of May 2019.

Sabita Bharadwaj
Judicial Magistrate 1st Class
Sonitpur, Tezpur

APPENDIX

Names of the witnesses of Prosecution:-

1. P.W.1- Minakhi Mahanta.
2. P.W.2 – Ranjan Mahanta.
3. P.W.3 – Ashwin Mahanta.

Documents exhibited by Prosecution :-

1. Ext. 1- Ejahar
2. Ext. 1(1)- Signature of the informant

Names of the witnesses of Defence:- Nil

Documents exhibited by Defence :- Nil

Sabita Bharadwaj
Judicial Magistrate 1st Class
Sonitpur, Tezpur