

DISTRICT: SONITPUR

IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS,
SONITPUR, TEZPUR

G.R. Case No. 2272/2009

U/Ss. 279/337 IPC

SH. KAMAL SHARMA

S/O LATE DHARAM NATH SHARMA

VILL: USHANAGAR

P.S. TEZPUR

DISTRICT: SONITPUR

ASSAM

- ACCUSED

VERSUS

STATE OF ASSAM

- PROSECUTOR

PRESENT: JAYASHREE BORA, JUDICIAL MAGISTRATE FIRST
CLASS, SONITPUR, TEZPUR

ADVOCATE FOR THE PROSECUTION: Sh. Ashok Sharma, APP

ADVOCATE FOR THE ACCUSED: Sh. Paramjeet Singh Sethi,

Smt. Tulika Devi

OFFENCE EXPLAINED ON: 18/02/15

EVIDENCE RECORDED ON: 04/03/15

ARGUMENT HEARD ON: 30/04/15

JUDGMENT DELIVERED ON: 11/05/15

JUDGMENT

1. The prosecution in this case was launched by the lodging of the ejarah by the informant Sh. Amarjit Bora at Kocharigaon O.P. on 08/12/09 to the effect that on 03/12/09 at around 8.40 AM, his father Sh. Kumud Bora, aged 80 years, was walking from Tribeni on the left side of the road. At that time, the vehicle bearing registration number AS-12 A- 6334, being driven in a negligent manner and at a high speed by Dipu Sharma, hit his father from behind as a result of which his father sustained serious injuries. It is further alleged that the accident took place in front of Assam Engineering garage.

2. On receipt of the FIR, the police registered Tezpur P.S. case No. 1183/09 under sections 279/338 IPC and conducted investigation into the matter. On completion of investigation, the police laid charge sheet under sections 279/337 IPC against two accused persons- the F.I.R named accused Sh. Dipu Sharma and Sh. Kamal Sharma. It is clarified that the term accused hereinafter refers only to accused Kamal Sharma.

3. In due course the accused entered his appearance. In spite of adopting coercive measures the attendance of the co-accused could not be compelled and eventually the case was split up against him. Copies of relevant documents were furnished to the accused in accordance with Sec. 207 CrPC. Substance of the accusations u/ss. 279/337 IPC were explained to the accused to which he pleaded not guilty and claimed to be tried.

4. During trial, the prosecution examined two witnesses, exhibited one document and closed its evidence. Recording the statement of the accused u/s. 313 CrPC was dispensed with for want of incriminating materials against him. Defence did not adduce any evidence.

5. Upon hearing both the parties and perusal of the records, the point for determination has been formulated as follows-

(i) Whether the accused on 03/12/09 at around 8:40 AM, drove a vehicle bearing registration number AS-12 A- 6334, on a 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 an offence punishable under Sec. 279 IPC?

(ii) Whether the accused on the aforesaid day and time, caused hurt to the victim Sh. Kumud Bora, by driving the vehicle bearing registration number AS-12 A- 6334, so rashly or negligently so as to endanger human life or the personal safety of others, and thereby committed an offence punishable under Sec. 337 IPC?

6. I have heard the learned counsels on both sides and have gone through the evidence on record which is outlined below.

APPRECIATION OF EVIDENCE

7. Entering in the witness box as PW1, the informant deposed, *inter alia*, that the accident was caused by one person who was employed at the garage of the accused. He also stated that the accused is not connected with the instant case and that no allegations are levelled against the accused in the ejahar. In tandem with PW1, PW2 also testified to the effect that the accused in the dock did not commit the accident and that he is not Dipu Sharma.

8. Scanning the evidence on record including the averments in the ejahar identified by PW1 as Exhibit 1, it becomes abundantly clear that the accused is in no way connected with the alleged offences. None of the PWs have implicated the accused of the commission of any offence. Situated thus, I am inclined to pronounce the accused clear of all imputations. Accordingly it is held that the prosecution has miserably failed to bring home the charges under sections 279/337 IPC against the accused. I find no ground for holding the accused guilty of committing the

alleged offences. As such both the points for determination are answered in the negative in favour of the accused.

ORDER

9. In view of the discussion made above and the decisions reached in the foregoing points for determination, it is held that the prosecution has failed to prove beyond reasonable doubt that the accused Sh. Kamal Sharma has committed the offences punishable under sections 279/337 IPC. As such the accused is acquitted of the charges under sections 279/337 IPC and he is set at liberty forth with.

The bail bond of the accused and his surety shall remain in force for six months from today in compliance with Sec. 437-A, CrPC.

Case is disposed of on contest.

The judgment is typed and prepared by me.

Given under my hand and the seal of this court on this 11th day of May, 2015 at Tezpur.

Jayashree Bora
Judicial Magistrate First Class
Sonitpur, Tezpur

APPENDIX

PROSECUTION EXHIBITS:

Exhibit 1- *Ejahaar*

DEFENCE EXHIBITS:

NONE

PROSECUTION WITNESSES:

PW1- Sh. Amarjit Bora

PW2- Sh. Debojit Bora

DEFENCE WITNESS:

NONE

Jayashree Bora
Judicial Magistrate First Class
Sonitpur, Tezpur