

**IN THE COURT OF SUB-DIVISIONAL JUDICIAL
MAGISTRATE(M), GOHPUR**

PRESENT: SRI KAUSHIK KUMAR SHARMA

S.D.J.M(M), GOHPUR

GR: 466/10

U/S 279/338/427 of IPC

STATE OF ASSAM.....PROSECUTION

v.

Sri Narbir Tamang.....ACCUSED

**Ld. Advocates: For Prosecution.....Smti Bornali Chetia,
Ld.APP**

**For Defence.....Sri Hiranjyoti Hazarika
and Sri Dipak Sarma Ld. Advocates.**

Evidence Recorded on : 25.2.15, 13.3.15, 18.5.15.

Argument heard on: 18.5.15

Judgment delivered on: 18.5.15

J U D G M E N T

1. The prosecution's case is that on 25.08.10 at 6 AM, the accused Sri Narbir Tamang, was driving a truck, AS 14C 1439, in a rash and negligent manner, coming from Lakhimpur side towards Gohpur, and dashed the truck, AS12 B-0083, which was coming from the opposite direction on NH-52 at Kalabari. As a result, the vehicle, AS 14C 1439, belonging to the informant, got damaged and the driver of that vehicle was grievously injured.
2. The informant, Smti Minu Roy, had lodged the FIR on 31.08.10 at Hawajan police outpost. The police had

registered Gohpur P.S Case No. 156/10 u/s 279/338/427 of IPC. After investigation, the police had submitted charge sheet u/s 279/338/427 of IPC.

3. On appearance before Court, the particulars of offences u/s 279/338/427 of IPC were explained to the accused to which he pleaded not guilty and claimed to be tried.
4. The prosecution had examined 3 witnesses, including the informant and thereafter, closed its evidence. The accused was examined u/s 313 CrPC. The defence side did not adduce any evidence. Heard arguments.

POINTS FOR DETERMINATION:

- a) Whether the accused had driven the vehicle, on the NH-52, in such a rash or negligent manner, as to endanger human life or to be likely to cause hurt injury to any other person, as alleged?
- b) Whether the accused had caused grievous hurt to Sri Moni Bora, by hitting the truck driven by Moni Bora, while driving the vehicle, in a rash or negligent manner, as alleged?
- c) Whether the accused had caused mischief, causing damage to the truck of the informant, to an extent of Rs.50 or more, as alleged?

DISCUSSION AND DECISION BASED ON REASON:

5. PW1, Sri Dulal Bhuyan, in his examination in chief has stated that he does not know anything about the incident.
6. PW2, Smti Minu Roy, the informant in her examination in chief has stated that on the day of occurrence, a LP truck driven by the driver Moni Bora was being hit by a truck coming from the opposite side, i.e coming from the Lakhimpur side. As a result of the accident, the driver, Moni Bora and the handyman were injured. She stated that she does not know how the truck was being driven. Ext 1 is the FIR and Ext 1(1) is her

signature. She was being informed by the people near to the place of occurrence over phone. The driver and the handyman were being taken to the Gohpur hospital before her arrival.

7. In her cross examination, she has stated that she is the owner of the LP truck. Its number is "0083". She stated that she came to the place of occurrence after 4 hours of the incident. She stated that she does not know the driver of the truck causing the accident. She has denied the suggestion that the accident had occurred due to the fault of her truck driver. She stated that she does not know the number of the truck, causing the accident.
8. PW3, Sri Moni Bora, in his examination in chief has stated that on the day of occurrence, he was driving a truck from Tezpur side towards Lakhimpur. Suddenly, the steering got locked. That is why the vehicle had hit a LP truck. Thereafter, he had lost his consciousness. He was admitted at Gohpur Civil Hospital.
9. In his cross examination he has stated that the accident had occurred as the steering on the vehicle driven by him got locked. He stated that he cannot say whether the accused was at fault.
10. ***Appreciation of evidence:***
11. The evidence of the PW1 and PW2 lend no support to the prosecution's case, to prove that the accused had driven the vehicle in a rash or negligent manner. PW1 has stated that he does not know about the incident. PW2 also did not see the incident as she came to the place of occurrence after 4 hours of the incident.
12. Further, from the evidence of the injured driver of the informant's vehicle, it reveals that the accident had occurred due to steering lock of the vehicle driven by him. Thus, it appears that the accident was not the result of any rash or negligent driving of the accused.
13. Thus, the offences u/s 279 and 338 of IPC are not proved. Moreover, the prosecution could not prove that

the accused had the intention to cause damage to the truck of the informant. It appears to me that the requisite *mens rea* was not present.

14. Hence, in the light of the above evidence, I am of the considered view that prosecution has failed to prove the guilt of the accused u/s 279/338/427 of IPC. Hence, the accused is acquitted from all the charges of this case, and is set at liberty forthwith.
15. The judgment is pronounced in the open court on this 18th day of May, 2015. The judgment is prepared under my hand and seal of this Court
16. The bail bond shall remain operative till 6 months from the date of this order and shall stand cancelled after the expiry of 6 months.
17. The case is, accordingly, disposed of.

(K.K. Sharma)

S.D.J.M(M), Gohpur.

ANNEXURE

LIST OF DOCUMENTS EXHIBITED BY THE PROSECUTION:

EXT. 1: FIR

S.D.J.M(M), GOHPUR.