

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 :-2788/2016

Under section 279/338 IPC

State of Assam

- *VERSUS* -

Md. Nazrul Islam Saikia

S/O- Md. Chahabul Islam Saikia

Vill- Gabharu Mandir

P.S.- Tezpur

Dist- Sonitpur

-Accused person

Appeared

Learned App for State..... Karabi Das

Learned Counsel for Defence..... Anukul Kalita

Date of Evidences..... 07.03.2019, 10.04.2019, 23.05.2019

Date of Argument 23.05.2019

Date of Judgment..... 23.05.2019

JUDGMENT

1. Accused persons viz. Md Nazrul Islam Saikia stood for trial for the allegations of committing offences u/s 279/338 IPC.
2. The prosecution case in brief is that on 24.08.2016 the informant viz. Rajendra Sahani lodged an "Ejahaar" before the Officer-in-charge Bihaguri Police Out Post stating inter alia as on 07.08.2016 at around 11:00 P.M. a motor bike bearing registration no. AS-12K-3500 driven by the accused person in a rash and negligent manner, hit the informant's son and sustained injuries.
3. On the basis of the 'Ejahaar' a case has been registered as Tezpur P.S. Case no. 1484/16 u/s 279/338 IPC and investigation was initiated and after completion of investigation charge sheet was submitted against accused person viz. Md Nazrul Islam Saikia 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 them substance of offences u/s 279/338 IPC on being stated to him by me and he pleaded not guilty and claimed trial.
5. The prosecution has examined 5 (five) no. of witnesses and exhibited 1 no. of document. The examination 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 07.08.2016 at about 11:00 PM on National Highway No- 15 at Rangamati bridge had accused Md Nazrul Islam Saikia driving vehicle bearing Registration No. AS-12K-3500 in a

manner so rash and negligent as to endanger human life, or to be likely to caused hurt on injury to any other person?

(II) Whether on 07.08.2016 at about 11:00 PM on National Highway No- 15 at Rangamati bridge had accused Md Nazrul Islam Saikia caused grievous hurt to the son of the informant by driving a vehicle bearing Registration No. AS-12K-3500 so rashly and negligently as to endanger human life, or the personal safety of others?

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. For better convenience all the points for determination are decided together.

Point for determination no. (I)

Whether on 07.08.2016 at about 11:00 PM on National Highway No-15 at Rangamati bridge had accused Md Nazrul Islam Saikia driving vehicle bearing Registration No. AS-12K-3500 in a manner so rash and negligent as to endanger human life, or to be likely to caused hurt on injury to any other person?

and

Point for determination no. (II)

Whether on 07.08.2016 at about 11:00 PM on National Highway No-15 at Rangamati bridge had accused Md Nazrul Islam Saikia caused grievous hurt to the son of the informant by driving a vehicle bearing

Registration No. AS-12K-3500 so rashly and negligently as to endanger human life, or the personal safety of others?

- 8.** Now to arrive at a definite point of conclusion that whether at the day of alleged occurrence the accused was involved with the offence as alleged let the testimonies as deposed by the witness of the prosecution are be evaluated carefully. If the testimony as deposed by P.W.- 1 Rajendra Sahani is taken into consideration it is clearly apparent that being the informant of this instant case he has just narrated the entire prosecution story but he also has not witnessed the occurrence of alleged accident. Moreover, the testimonies as deposed by P.W.- 3 Ankur Jyoti Das, P.W.- 4 Bharat Borah and P.W.- 5 Babu Das are not supporting the case of prosecution as none of them had witnessed the occurrence of alleged accident. Moreover, in this instant case P.W.- 2 Raj Kishore Sahani being the victim himself could not identify the offending vehicle by its number as well as its rider which was alleged to cause such accident to him. Therefore, on the basis of testimonies as deposed by these witnesses of prosecution no definite conclusion could be drawn that the accused was involved as alleged against him.

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

- 9.** In result accused person viz. Md Nazrul Islam Saikia 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 Judgment.

Given under the hand & seal of this Court on this 23rd day of May 2019.

Sabita Bharadwaj
Judicial Magistrate 1st Class
Sonitpur, Tezpur

Appendix

Names of the witnesses of Prosecution:-

1. P.W.1- Rajendra Sahani.
2. P.W.2- Raj Kishor Sahani.
3. P.W.3- Ankur Jyoti Das.
4. P.W.4- Bharat Borah
5. P.W.5- Babu Das.

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