

DISTRICT: SONITPUR
IN THE COURT OF MR. A. HAZARIKA,S.D.J.M.(M) AT BISWANATH CHARIALI.

G.R. Case No.06/2013
U/S 279/338/427OF I.P.C.

STATE OF ASSAM
.....**PROSECUTOR**
-VERSUS-

SRI JITEN SAHU,
S/O.LATE LAL MOHAN SAHU,
R/O. VILLAGE- SARU PAKKHIYAJAR,
P.S. TEZPUR, DIST. TEZPUR, ASSAM.

.....ACCUSED PERSON

PRESENT: MR. A. HAZARIKA, S.D.J.M.(M) AT BISWANATH CHARIALI.

ADVOCATE FOR THE PROSECUTION: ADDL.P.P., MS. S. BORAH,
ADVOCATES FOR THE ACCUSED PERSONS: MR.A. DAS.

OFFENCE EXPLAINED ON: 10.04.2018,
EVIDENCE RECORDED ON: 10.05.2018,
ARGUMENT HEARD ON: 06.02.2021 AND
JUDGMENT DELIVERED ON: 06.02.2021.

JUDGMENT

- 1.** The prosecution case in brief is that one Md. Habibur Rahman lodged an F.I.R. before O.C. BiswanathChariali P.S. stating inter alia that on 01.01.2013 at about 6.00 P.M. while he was coming from work in a bicycle towards his home via Collage Road (SukanPukhuri), one Bolero vehicle bearing Registration No. AS 12J 2799 knocked him down. As a result of the incident the informant sustained multiple injuries in his hand, feet and different parts of his body. Hence this case.
- 2.** On receipt of the F.I.R.O/CBiswanathCharialiP.S.registered the same as BiswanathCharialiP.S. Case No.02/13, U/S 279/338/427of I.P.C. and conducted

investigation into the matter. On completion of the investigation, the police submitted charge-sheet against the accused person U/S 279/338/427 of I.P.C.

- 3.** The accused person entered his appearance in response to the process issued. Copies of the relevant documents were furnished to the accused person in accordance with Section-207 Criminal Procedure Code. Particulars of offences U/S 279/338/427 of I.P.C. are read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
- 4.** During trial, the prosecution examined only 2 (two) witnesses and exhibited 1 (one) document after which the prosecution evidence is closed. The statement of defence of the accused person as mandated by Section-313 Criminal Procedure Code is dispensed with due to lack of sufficient materials. Defence declined to adduce any evidence.
- 5.** Upon hearing both the parties and on perusal of the case record, the following points for determination have been formulated by this court:
 - i) *Whether the accused person on 01.01.13 at about 6.00 p.m. drove a Bolero vehicle bearing Registration No. AS-12-J-2799 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?*
 - ii) *Whether the accused person on 05.11.13 01.01.13 at about 6.00 p.m. caused hurt to victim Md. Sahibur Rahman doing a negligent act?*
 - iii) *Whether the accused person on 05.11.13 01.01.13 at Guwahati committed mischief by causing wrongful loss or damage to bicycle belong to Md. Sahibur Rahman and committed mischief by causing wrongful loss or damage?*
- 6.** I have heard the learned counsel on both sides and have gone through the evidence on record which have been outlined below.

EVIDENCE

- 7. P.W.1**Md. Habibur Rahman, the informant deposed that he do not know the accused. In the year of 2013 his brother Sahibur Rahman met with an accident. At that time he was at BiswanathChariali. He received information that while his brother was riding a bicycle, one vehicle knocked him down near SukanPukhuri. He went to the place of occurrence but did not find his brother as he was already taken to hospital. His brother sustained injuries at feet and different parts of his body. He exhibited the F.I.R. as Exhibit-1 and his signature over the same as Exhibit-1(1). During cross-examination he deposed that he does not know how the incident took place or due to whose fault the incident took place. He did not see as to who conducted the incident.

- 8. P.W.2**Md. Matleb Ali, the father of the informant deposed that Sahibur Rahman is his elder son. He heard that Sahibur met with an accident and sustained injuries at this hands and feet. During cross-examination he deposed that he did not seen the incident.

DICISSION, DISCUSION AND REASON FOR DICISSION:

- 9.** For the sake of convenience both the points for determinations are taken together:

POINT FOR DETERMINATION No.(i), (ii)AND (ii):

- 10.** The evidence of P.W.1 and P.W.2are of such a nature that it could be easily understood that these witnesses have not seen the incident.Further they also does not know as to how the incident was occurred. The contents of F.I.R. and the available evidence does not matched with each other.As per F.I.R. the injured is the informant himself but during evidence the informant in the capacity of P.W.1 has deposed that injured is his elder brother. Therefore, consideringthevidence of P.W.s it reveals that the prosecution has measurably failed to prove any offences U/s 279/338/427 of I.P.C. against the accused person. Accordingly, the accused person is found to be not guilty for committing offences U/s 279/338/427 of I.P.C. and thus he is acquitted.

ORDER

Accused person is hereby acquitted from the charges and set at liberty forthwith.

The bail bonds of the accused person and his surety shall remain in force for six months from today as per section 437A Cr.P.C.

Both the vehicle and bicycles are found to be in zimma of their lawful owners.

Given under my hand & seal of this Court on this 6th day of February, 2021.

Dictated & Corrected by me
Sub-Divisional Judicial Magistrate (M)
Biswanath Chari Ali

(Amarendra Hazarika)

APPENDIX

PROSECUTION EXHIBIT:

EXHIBIT-1: FIR DATED 02.01.2013.

DEFENCE EXHIBIT:

NONE.

PROSECUTION WITNESS:

PW1- Md. Habibur Rahman, the informant and
PW2- Md. Matleb Ali, the father of the informant.

DEFENCE WITNESS:

NONE.

(Amarendra Hazarika)
Sub-Divisional Judicial Magistrate (M)
Biswanath Chari Ali