

IN THE COURT OF JUDICIAL MAGISTRATE, 1ST CLASS, SONITPUR**GR Case No. 866/08**

State

Versus

Md. Mantu Ali.....Accused person

Present : **P. Shyam,**
Judicial Magistrate, 1st class,
Sonitpur

In appearance:

For Prosecution : Sri Joydeep Dey, APP
For Defence : Sri Pulin Biswas, Advocate

Date of recording evidence : 10-08-11, 29-02-12, 06-08-12, 26-11-13

Date of argument : 29-05-14

Date of judgment : 29-05-14

u/s 279/304(A)/427, IPC

JUDGMENT

1. The case of prosecution is that on 30-05-08, at around 03:20 pm, Jiten Puran, nephew of the informant Sri Devananda Puran was returning home in his cycle from school, when a Tata mobile vehicle bearing registration no. AS-01Z-4921, which came in high speed, knocked his nephew down near Nagshankar Centre. As a result Jiten Puran died on spot and cycle got damaged in the process. FIR was lodged on 30-05-08 and hence, the instant case.
2. After completing investigation, police submitted charge-sheet against accused Sri Md Mantu Ali u/s 279/304A/427, IPC. Copies were furnished to the accused person on his appearance as per provisions of Sec. 207, Cr.P.C Particulars of offence under the said sections of law were explained to him, to which he pleaded not guilty and claimed to stand trial.
3. In order to bring home the charges, prosecution examined six witnesses.
4. Statement of accused person u/s 313, Cr.P.C, is dispensed with as there is nothing incriminating against him.

POINT FOR DETERMINATION

5. I have heard arguments of learned counsel for complainant and of learned defence counsel. I have also carefully gone through the entire evidence available in case record. Upon such examination, I find, that to ascertain the guilt of the accused person, it is necessary to determine whether-
 - (i) The accused person drove his vehicle in a public way in a manner so rash or negligent as to endanger life and personal safety of others;
 - (ii) Whether the accused person drove his vehicle no. AS-01Z-4921 rashly or negligently and caused death of Jiten Puran.

DECISION, DISCUSSION AND REASONS THEREOF:

6. To arrive at a decision on the above points, the evidence adduced has been carefully gone through. PW1- Sri Debananda Puran is the informant. He stated to have heard about the accident. PW2 Babul Borah and PW5, Dadul Kalita stated to have reached the place of occurrence after the accident. He saw the dead body of Jiten Puran wrapped in a piece of cloth. PW3 Girish Baruah and PW4 Kazinur Hussain and stated to have heard about the accident. PW6, Gautam Mahanta is a seizure witness and has no idea about the accident.
7. From the testimonies of all prosecution witnesses, it is seen that they all have no personal knowledge about how the accident took place. That being the state, the accused person can in no way be held liable for the offences alleged against him.
8. Therefore, with witnesses having no knowledge about the accident the allegation remained as a mere allegation only and there is nothing left to delve with.
9. That apart, there is no other evidence in this case from which it can be ascertained that it was the fault of accused person which led to the mishap. Hence, without

sufficient proof of his rashness or negligence, the accused person cannot be held guilty. He is, therefore, entitled to acquittal.

10. In the result, I hold accused Sri Mantu Ali, not guilty u/s 279/304A/427, IPC, and acquit him accordingly.

11. This judgment is pronounced in open Court.

Given under my hand and seal of this Court on this, the 29th day of May, 2014,

Panchali Shyam,
Judicial Magistrate, 1st class
Sonitpur.