

**APPENDIX-12**

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, SONITPUR  
TEZPUR

Present:- Sri Nabajit Bhatta. AJS. MA, LL.B.  
Chief Judicial Magistrate,  
Sonitpur, Tezpur

[Date of the Judgment]  
**28.10.2022**

**[GR Case No-1617 of 2014]**

(FIR NO-57/2014 DATED-11.07.2014/ACCIDENT CASE AND THELAMARA POLICE  
STATION)

COMPLAINANT :	STATE OF ASSAM OR Sri Suneswar @ Sumeswar Kurmi, S/O:- Late Samra Kurmi, R/O:- Naharbari, P/S:- Thelamara, Dist:- Sonitpur, Assam
REPRESENTED BY	Smt. Karabi Das, Asst. P.P.
ACCUSED PERSON	Md. Giasuddin Ahmed, S/O:- Md. Bajaruddin Ahmed, R/O:- Khatanipara, P/S:- Dhola, Dist:- Darrang, Assam
REPRESENTED BY	Mr. Firoz Jaman, Ld. Counsel

**APPENDIX-13**

Date of Offence	05.07.2014
Date of FIR	11.07.2014
Date of Charge Sheet	31.07.2014
Date of Offence Explanation	10.02.2016
Date of commencement of evidence	28.04.2016
Date on which judgment is reserved	28.10.2022
Date of Judgment	28.10.2022
Date of the Sentencing Order, if any	NIL

**ACCUSED DETAILS :**

Rank of the Accused	Name of the accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentenced Imposed	Period of Detention undergone during Trial for purpose of Sec. 428 Cr.P.C.
A-1	Md. Giasuddin Ahmed	NIL	NIL	Section-279/304(A) of IPC	Acquitted	NIL	NIL

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, SONITPUR:: TEZPUR**

**G. R. Case No-1617 of 2014**

State of Assam

–Vs–

Md. Giasuddin Ahmed

.....Accused Person

Under section-279/304(A) of I.P.C

*Present:*

*Sri Nabajit Bhatta AJS. MA, LL.B.*

*Chief Judicial Magistrate, Sonitpur at Tezpur*

28<sup>th</sup> day of October, 2022

Mrs. K. Das, Asst. P.P

..... Advocate for the State

Mr. F. Jaman, Ld. Counsel

..... Advocate for the Accused

Date of Hearing : 28.04.2016, 08.09.2016, 02.06.2017  
29.02.2020 & 18.12.2020

Date of Argument : 28.10.2022

Date of Judgment : 28.10.2022

**J U D G M E N T**

1. Prosecution story in brief is as follows that on 12.07.2014 informant, namely, Sri Someswar Kurmi lodged an FIR before the O/C of Thelamara Police Station to the effect that on 05.07.2014 at about 12:30 PM, his wife namely, Smt. Golapi Kurmi (Since deceased) was going towards Thelamara PS to attend a VDP meeting and when she reached near Water Supply situated at Thelamara, one vehicle bearing Regd. No-AS-13/C-1808 (Tata Mobile) coming in a rash and negligent manner knocked his wife from backside and due to that his wife sustained grievous injuries. Thereafter, the injured person was immediately taken to TMCH, Tezpur for treatment wherein the doctor declared his wife namely, Smt. Golapi Kurmi to be brought death. As he was busy in funeral of his wife, there was delay in lodging the ejahar. Hence, the prosecution case.
2. The instant case was registered under section-279/304(A) of Indian Penal Code and police investigated the same. After completion of the investigation police submitted the charge-sheet against the accused

person, namely, Md. Giasuddin Ahmed under section-279/304(A) of I.P.C.

3. That my Ld. Predecessor in Office took cognizance of offence against the accused person. On appearance of the accused, copies of relevant documents were furnished to the accused person and particulars of offences under section-279/304(A) of I.P.C. were read over and explained to the accused person by my Ld. Predecessor in Office to which he pleaded not guilty and claimed to be tried.
4. Prosecution in order to prove the case has examined as many as five (05) numbers of witnesses including informant and medical officer in support of this case. Defence plea was total denial. Defence has adduced no evidence. Statement of accused person has been recorded U/S-313 of Cr. P.C.

5. **POINTS FOR DETERMINATION:-**

- (i.) Whether on 05.07.2014 at about 12:30 PM at Thelamara Water Supply over National Highway under Thelamara PS, the accused drove the vehicle bearing Regd. No-AS-13/C-1808 (Tata Mobile) so rash and negligent manner which is endanger to the life of informant's wife, namely, Smt. Golapi Kurmi and thereby committed an offence punishable under section-279 of I.P.C.?
- (ii.) Whether on the same date, time and place, accused drove the vehicle bearing Regd. No-AS-13/C-1808 (Tata Mobile), in a rash and negligent manner had knocked the informant's wife Smt. Golapi Kurmi and due to such negligent driving of the accused resulted the death of the informant's wife and thereby committed an offence punishable under section-304(A) of I.P.C.?

6. Heard argument from both sides. On perusal of the evidences on record and case diary the very findings are as follows.

**DISCUSSION, DECISION AND REASONS THEREOF**

7. The prosecution opening the account of examining the witnesses first brought the witness, namely, Md. Ramjan Ali as PW-1. The PW-1 in his evidence-in-chief has stated that he does not know the informant but he knows the accused of this case. He further stated that the incident took place in the year 2014 in between 12 P.M. to 12:30 PM during summer season. He stated that on that day he was going towards Thelamara PS and there was a turning in the eastern side of Thelamara PS wherein the incident occurred. He also stated that at the said turning one Mini Truck had knocked one lady who was going on foot in her own side. He further stated that said truck coming in speed manner and had knocked the said lady and thereafter, police arrived at the place of occurrence and took the lady for medical treatment. Later, he heard that the said lady succumbed to her injuries. He also stated that after the incident the said truck was overturned and the driver of the said vehicle fled away from the place of occurrence and one person who was in the truck was also taken to hospital for his treatment. Police seized the Mini Truck wherein he put his signature as seizure witness. He identified the seizure list as Ext-1 wherein he put his signature as Ext-1(1).
8. PW-1 in his cross-examination has stated that he does not know who drove the offending vehicle at the time of alleged incident. He further stated that there were two persons inside the vehicle and out of them one is the driver of vehicle. He also stated that the incident took place due to the fault of driver of the said offending vehicle. He stated that police interrogated him in connection with this case. He further stated that Ext-1 was written in English while he put his signature on Ext-1 and he was only asked to put his signature on the seizure list.

9. PW-2, Sri Suneswar Kurmi being the informant of this case has stated in his evidence-in-chief that he does not know the accused of this case. He further stated that the incident took place in the year 2014. He stated that he was at home at the time of accident. He further stated that his wife Golapi Kurmi was going to Thelamara Centre to Police Station to attend a meeting and when she reached near Public Health Office one vehicle hit her from behind when she was walking on the road side. He was informed and he went to the place of occurrence but in the mean time she was shifted to Tezpur Medical. He found her dead in the medical. He also stated that he does not know who was driving the alleged vehicle and how it was driven. He identified his ejahar as Ext-2 wherein he put his signature as Ext-2(1).
10. PW-2 in his cross-examination stated that the distance of place of occurrence is 4 KM away from his house. He also stated that he has no personal knowledge about the incident as he was at home at that time.
11. PW-3, Sri Pradip Biswas in his evidence-in-chief has stated that he does not know the informant and the accused of this case. He has a shop at Thelamara Centre. He further stated that around two years back he heard that near Thelamara Water Supply one Mini vehicle had knocked one lady and due to that the said lady succumbed to her injuries. He also stated that he does not know who drove the said vehicle.
12. In cross-examination, PW-3 has stated that he was not present at the place of occurrence at the time of incident. He also stated that he has no personal knowledge about the alleged incident. He further stated that he could not say for whose the alleged accident had happened.
13. PW-4, SI Debananda Mahanta being the Investigating Officer of this case in his evidence-in-chief has stated that on 05.07.2014 he was posted as ASI at Thelamara PS and on that day at about 12:20 PM an oral information was received at their PS that an accident had taken place at National Highway near Katonigaon Tiniali wherein a Tata Mobile had

dashed against a woman. Accordingly, information was entered in the general diary vide GDE No-90 dated-05.07.2014 and he was asked to conduct the pre-step investigation of the case. Accordingly, he reached the place of occurrence and found a Tata DI AS-13/C-1808 parked on the side on the road and a woman was lying injured at the place of occurrence tinali near the said Tata DI vehicle. He stated that the injured was identified as Golapi Kurmi and she was thereafter immediately sent for treatment to TMCH. He prepared a rough sketch map of the place of occurrence, examined witnesses of the case and recorded their statement and the offending vehicle was seized. On the said day at about 3 PM the injured succumbed to her injuries. The inquest of the dead body was conducted and later post mortem examination was done. He also stated that on 07.07.2014 the son of the owner of the seized vehicle namely Amirul Haque handed over the documents of the said vehicle and accordingly the same was seized. The driver of the said vehicle also produced at the PS and after questioning him he found his involvement in the case and accordingly, he arrested the accused and later released him on bail. On the next day the seized vehicle was sent for examination through an MVI and on the next day the MVI report was also collected by him. He further stated on 11.07.2014 a formal ejahar was lodged by one Soneswar Kurmi and accordingly, Thelamara PS Case No-57/2014 u/s-279/304(A) of IPC was registered and he was entrusted to continue with the investigation of the case. The informant was examined and his statement was recorded. He also collected the Post Mortem report of the deceased. He also stated that after completion of investigation he submitting charge sheet against the accused u/s-279/304(A) of IPC. He identified the sketch map as Ext-3 wherein he put his signature as Ext-3(1). Ext-1(2) is his signature in the seizure list. He further identified another seizure list of documents of seized vehicle as Ext-4 wherein he put his signature as Ext-4(1). He

identified the MVI Report as Ext-5 wherein he put his signature as Ext-5(1). He also identified the post mortem examination report as Ext-6. He identified the charge sheet as Ext-7 wherein he put his signature as Ext-7(1).

14. PW-4 in his cross-examination has stated that he has not submitted the extract copy of GDE along with the charge sheet.

15. PW-5, Dr. Dipta Kantha Borah being the medical Officer of this case stated in his evidence that on 05.07.2014, he was posted at Kanaklata Civil Hospital as SDMO and on that day, he conducted post mortem examination of deceased Gulapi Kurmi, in reference to Thelamara GDE No- 90 dated 07.07.2014. The cause of the death of deceased due to shock and haemorrhage due to Road Traffic Accident. Thereafter, he submitted the post mortem report. He identified the post mortem examination report as Ext-6 wherein he put his signature as Ext-6(1). The cross-examination of PW-5 was declined by defence side.

16. I have minutely perused the evidences on record including the cross examination of the witnesses. In this case prosecution side has examined five numbers of witnesses including the informant, investigating officer and the medical officer in support of this case. In this case, PW-1 is the eye witness; PW-2 is the informant of this case. PW-3 is the independent witness. PW-4 and PW-5 are official witnesses i.e. Medical Officer and Investigating Officer.

17. PW-1 in his evidence has stated that on the date of alleged incident in between 12 Noon to 12:30 PM, he was going towards Thelamara PS and there was a turning in the eastern side of Thelamara and at the said turning one Mini Truck had knocked one lady who was going on foot in her own side. He further stated that said truck coming in speed manner and had knocked the said lady and thereafter, police arrived at the place of occurrence and took the lady for medical treatment. Later, he heard that the said lady succumbed to her injuries. But in the same time, PW-1



in his cross-examination clearly stated that he does not know who drove the said truck at the time of incident. Hence, from the evidence of PW-1, it appears that he had not seen the accident and he went to the place of occurrence after the incident had occurred. From the evidence of PW-1, it also appears that although PW-1 claimed that the accident caused by a Mini Truck that was coming in speedy manner and knocked the victim but he failed to say the registration number of the offending vehicle. PW-1 nowhere stated in his evidence that the offending vehicle was driven by accused. He simply stated that the offending vehicle was coming in speed and hit the victim and as such, rashness or negligent cannot be imputed strongly upon the accused as the criminal jurisprudence requires that the guilt on the part of the accused person had to be proved beyond all reasonable doubt.

18. PW-2 (Informant) has stated in his evidence-in-chief that the incident took place in the year 2014 and at the time of incident he was at home. He also stated that his wife Golapi Kurmi was going to Thelamara Centre to Police Station to attend a meeting and when she reached near Public Health Office one vehicle hit her from behind when she was walking on the road side. He was informed and he went to the place of occurrence but in the mean time she was shifted to Tezpur Medical. He also stated that he does not know who was driving the alleged vehicle and how it was driven. PW-2 in his cross-examination clearly admitted that he has no personal knowledge about the incident as he was at home at that time. From the evidence of PW-2, it appears that the informant has stated nothing incriminatory materials against the accused as he was not present at the place of occurrence on the date of incident. Hence, it is seen that the evidence of PW-2 appears to be hearsay in nature since he was at home at time of incident, so he had not seen the same.

19. PW-3 appears to be a hearsay witness as he heard about the alleged incident. He further admitted in his cross-examination that since he was

not present at the place of occurrence so he could not say for whose fault the incident had occurred. From the evidence of PW-3, nothing incriminating found against the accused regarding his involvement in the alleged accident.

20. PW-4 is the Investigating Officer who investigated the case, prepared sketch map, seized the offending vehicle, collected MVI report and post mortem report of victim and submitted charge sheet vide Ext-3, Ext-4, Ext-5, Ext-6 and Ext-7. PW-5 is Medical Officer who conducted the post mortem examination of the victim and submitted his report as Ext-6.

21. It appears from the prosecution witnesses that none of the witnesses have stated that the alleged vehicle was driving by the accused at the time of incident in a rash and negligent manner which is the main ingredient of Sec.279 I.P.C. So, there was nothing incriminatory materials against the accused person. All the witnesses have also failed to say the manner of driving of the alleged vehicle by the driver and the registration number of offending vehicle. Apart from the rash and negligent driving of the driver has been not proved by any witnesses. From the evidences of PWs, nothing implicating found against the accused person. Hence, section-304(A) of IPC will also not come in application since rash and negligent act is the basic ingredient which must have resulted into the death of the deceased. The prosecution has to prove beyond reasonable doubt that the death of the deceased was the proximate and immediate result of the negligence or rashness without the intervention of another's negligence. Thus, the failure on the part of the prosecution side to bring forward any vital eye witnesses of this case had devastated the prosecution hope to bring home the charge levelled against the accused person.

22. Hence, considering all above discussions it appears that the prosecution has not proved the case against the accused person beyond reasonable doubt. Thus keeping view of what has been discussed above this court

has no least hesitation that the prosecution has failed miserably to establish the guilt of the accused U/S: 279/304(A) of Indian Penal Code. Hence, the accused person, namely, Md. Giasuddin Ahmed is not found guilty.

**ORDER**

Accused person, namely, Md. Giasuddin Ahmed is acquitted from the Charges under section-279/304(A) of I.P.C. and set at liberty forthwith.

Bail-bond of the accused person is extended for six months in view of section-437A of Cr.P.C.

Judgment is prepared and pronounced in open court. Given under my hand & seal of this court on this 28<sup>th</sup> day of October, 2022 at Tezpur.

**(Sri Nabajit Bhatta)**  
**Chief Judicial Magistrate,**  
**Sonitpur: Tezpur**

Dictated and Corrected by me

Chief Judicial Magistrate,  
Sonitpur: Tezpur

**APPENDIX -14**  
**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES**

**A. Prosecution:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Md. Ranjan Ali	OTHER WITNESS
PW-2	Sri Suneswar Kurmi	INFORMANT
PW-3	Sri Pradip Biswas	OTHER WITNESS
PW-4	SI Debananda Mahanta	POLICE WITNESS
PW-5	Dr. Dipta Kantha Borah	MEDICAL WITNESS

**B. Defence Witnesses, if any:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

**C. Court Witnesses, if any:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**

**A. Prosecution:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1	Ext-1/PW-2, PW-4	Seizure List
2	Ext-1(1)	Signature of PW-2
3	Ext-1(2)	Signature of PW-4
4	Ext-2/PW-2	FIR
5	Ext-2(1)	Signature of PW-2
6	Ext-3/PW-4	Sketch Map
7	Ext-3(1)	Signature of PW-4
8	Ext-4/PW-4	Seizure List
9	Ext-4(1)	Signature of PW-4
10	Ext-5/PW-4	MVI Report
11	Ext-5(1)	Signature of PW-4

12	Ext-6/PW-4, PW-5	Post Mortem Report
13	Ext-6(1)	Signature of PW-5
14	Ext-7/PW-4	Charge Sheet
15	Ext-7(1)	Signature of PW-4

**B. Defence:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

**C. Court Exhibits:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

**D. Material Objects:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

Chief Judicial Magistrate,  
Sonitpur: Tezpur