

P.R.C no. 1006/2019

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,
NALBARI**

P.R.C no. 1006/2019

u/s 279/304(A) I.P.C

State of Assam

-Vs-

Pranab DasAccused person

PRESENT: K.C Boro, A.J.S.

ADVOCATES APPEARED:

For the state : Mr. D. Talukdar, Ld. A.P.P,

For the accused : Mr. Rajdeep Patgiri, Ld. Advocate,

Dates of evidence : 23/12/19, 03/02/20 & 05/01/22.

Date of argument : 12/01/2022.

Date of judgment : 12/01/2022.

J U D G M E N T

PROSECUTION CASE:

1.The prosecution case in brief as unfolded from the 'ejahar' dated 15/04/2019 filed by the informant Marami Rajbongshi is that on 23/01/2019 at about 2:25 pm, her husband Ritu Rajbongshi was returning home from Nalbari Ganesh Mandir on his bicycle through NH31 and at that time the offending vehicle bearing registration no. AS-01-BK-6547 (Honda Eon) which was coming from Guwahati towards Barpeta side and which was driven by its driver rashly and negligently knocked down her husband from behind causing severe injuries to her husband. Her husband was immediately rushed to SMK Civil Hospital, Nalbari but her husband succumbed to his injuries and lost his life. As she was busy with the rituals there was delay in filing the ejahar. Hence the case.

2.The said 'ejahar' was received and registered as Nalbari P.S case no. 236/19 u/s 279/304(A) I.P.C. After completion of investigation charge-sheet no. 143/19 dated 30/05/2019 was submitted against accused Pranab Das u/s 279/304(A) I.P.C. Copy was furnished to the accused person. Particulars of offence and substance of accusation were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

3.POINTS FOR DETERMINATION:

(i) Whether on 23/01/2019 at about 2:25 pm at Colony chowk under Nalbari P.S, the accused drove Honda Eon vehicle bearing registration no. AS-01-BK-6547 in a public way in a rash/negligent manner so as to endanger human life or to be likely to cause hurt or injury to any other person and thereby committed an offence u/s 279 I.P.C?

(ii) Whether on 23/01/2019 at about 2:25 pm at Colony chowk under Nalbari P.S, the accused drove Honda Eon vehicle bearing registration no. AS-01-BK-6547 in a public way in a rash/negligent manner and caused death of the victim Ritu Rajbongshi by his rash and negligent driving of the vehicle at the time of occurrence and thereby committed the offence punishable u/S 304(A) IPC?

4.DECISION AND REASONS THEREOF:

The prosecution examined six (6) witnesses. The defence declined to adduce any evidence. Finding no incriminating materials the statement in defence of the accused person u/s 313 Cr.P.C was dispensed with. I have heard the argument advanced by learned counsel of both the sides and also perused the evidence available on record, my findings with reasons are as follows -

5.PW1 Marami Rajbongshi deposed that her husband met with an accident at NH31 about 1 year ago. Her husband was coming on his bicycle and he was hit by a four wheeler vehicle after which her husband succumbed to his injuries. She was informed about the incident by local public. PW1 during cross-examination deposed that she does not know the driver or registration number of the offending vehicle. She does not know due to whose fault the accident took place.

6.PW2 deposed that Ritu Rajbongshi was hit by a vehicle after which he was taken to medical and later Ritu Rajbongshi lost his life. PW2 during cross-examination deposed that he does not know the driver or about the offending vehicle.

7.PW3 Baikuntha Barman deposed that the incident took place on 23/01/2019 at about 2:25 pm at NH31. At that time he saw Ritu Rajbongshi was hit by a black vehicle after which the injured was sent to SMK Civil Hospital, Nalbari where he was declared dead. Ritu Rajbongshi was hit from behind. PW3 during cross-examination deposed that he does not know the registration number of the vehicle. The offending vehicle was black in colour. He does not know how the accident took place.

8.PW4 deposed that Ritu Rajbongshi was hit by a vehicle after which he succumbed to his injuries. PW4 deposed that he has not seen the accident by himself.

9.PW5 is the M.O who deposed that death of the victim was due to haemorrhage and shock as a result of injuries sustained in the body. All injuries were antimortem and caused by blunt force impact.

10.PW6 is the I.O and his evidence is of routine nature depicting the various stages of investigation.

11.In order to constitute an offence u/s 279 IPC it must be established that the accused was driving the vehicle in a rash & negligent manner so as to endanger human life or likely to cause hurt or injury to other persons. Negligence connotes want of proper care and caution while rashness conveys idea of reckless doing of an act without consideration of any consequences. Rashness or negligence to be established must be more than mere error of judgment.

12.It appears that PW 1 was not able to identify the accused and deposed that she does not know the driver or registration number of the offending vehicle and that she does not know due to whose fault the accident took place. PW2 also could not identify the accused and stated that he does not know the driver or about the offending vehicle. PW3 stated that victim Ritu Rajbongshi was hit by a black vehicle from behind after which the injured was sent to SMK Civil Hospital, Nalbari where he was declared dead. PW3 during cross-examination deposed that he does not know the registration number of the vehicle and that he does not

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know how the accident took place. PW4 deposed that he has not seen the accident.

13.On appreciation of the testimony of witness and the materials available on record, I find that the prosecution has failed to establish the essential ingredients so required to constitute the charged offence beyond reasonable doubt by leading clear, cogent & convincing evidence.

14.The accused person namely Pranab Das is found not guilty u/s 279/304(A) I.P.C and hence, acquitted and set at liberty forthwith.

15.Bail bond shall remain in force for a further period of six months. The articles seized (if any) be delivered to the person entitled to possession thereof as per provision of section 452 CrP.C.

16.Given under my hand and seal of this court on this 12th day of January, 2022.

Chief Judicial

Magistrate

Nalbari

APPENDIX

Prosecution witness:

PW 1- Marami Rajbongshi (Informant),

PW 2- Joyram Das,

PW 3- Baikuntha Barman,

PW 4- Ramani Das,

PW 5- Dr. Khanindra Mohan Saud (M.O),

PW 6- Rabindra Talukdar (I.O),

Prosecution Exhibits:

Exhibit 1 – Ejahar,

Exhibit 1(1) – Signature of informant,

Exhibit 2 – Post mortem report,

Exhibit 2(1), 2(2), 2(3), 2(4) & 2(5) – Signatures of M.O,

Exhibit 3 – Sketch map,

Exhibit 3(1) – Signature of I.O,

Exhibit 4 – Seizure memo,

Exhibit 4(1) – Signature of I.O,

Exhibit 5 – Charge-sheet,

Exhibit 5(1) – Signature of I.O,

Defence witnesses :

Nil

Defence Exhibits :

Nil

Magistrate,
Nalbari

Chief Judicial