

IN THE COURT OF SUB-DIVISIONAL JUDICIAL MAGISTRATE(S),  
MUSHALPUR, BAKSA.

PRESENT: ARUNIMA SONOWAL

Sub- Divisional Judicial Magistrate,(S) Mushalpur, Baksa

PRC no. 73/2019

U/s 279/304(A)/427 of Indian Penal Code (IPC)

State

-vs

Sri. Montu Talukdar

S/o. Girish Talukdar

Village- Barimakha

P.S- Barbari, Baksa (Assam).....accused person

Dates of evidence:- 02/01/2021

Date of Argument:- 12/01/2021

Date of judgment:- 12/01/2021

Advocates:

For the prosecution:- Smti. Richa Swargiary, A.P.P

For the accused person:- Advocate Smti. Romaiti Goyary

**JUDGMENT**

- 1.** The case of the prosecution in brief as mentioned in the FIR lodged by the informant Sri. Basanta Das is that on 09/09/2017 at about 11:00 a.m. his father-in-law Kasta Rabha was going to bring fire-woods in a 'thela'. On the way in front of Neheru Anchalik High School a motocyclist (motor cycle registration no. AS-01D-7770) hit his father-in-law from back side causing severe injuries. Immediately the injured was taken to hospital for

treatment. Consequently, the informant lodged the ejahar in the Dolbari police out post under Barama police station to this effect.

2. After receiving the Ejahar police registered a case and started investigation of the case. During investigation accused person was served notice to appear. After completion of the investigation the I/O has submitted charge sheet u/s. 279/304(A)/427 of I.P.C. The accused person obtained bail and is remaining on bail.
3. At the time of his appearance, the accused person was supplied with the copies u/s 207 of I.P.C. Substance of offences u/s. 279/304(A)/427 of I.P.C. was explained him to which he pleaded not guilty and claimed to be tried.
4. The prosecution side has examined as many as one (1) witness. Thereafter evidence of prosecution was closed by Id. A.P.P.
5. Examination of accused person u/s 313 Cr.P.C was dispensed with as no incriminating material was found against the accused person from the evidence of the witness.
6. I have heard the arguments advanced by the learned counsel for the accused person as well as the A.P.P for the State and also perused the case record carefully.
7. **POINTS FOR DETERMINATION IN THIS CASE:**
  - i. Whether the accused person on that day rode the motor cycle in a rash and negligent manner on a public way and thereby committed an offence u/s 279 of IPC or not?
  - ii. Whether the accused person caused death of Kasta Rabha by negligence and thereby committed an offence u/s 304(A) of IPC or not?
  - iii. Whether the accused person committed mischief causing damaged to the amount of fifty rupees or upwards to the informant and thereby committed an offence u/s 427 of IPC or not?

**REASONS FOR THE DECISION:**

- 8.** PW1, the informant of the case deposed that he does not identify the accused person. On the alleged day of occurrence his father-in-law Kasta Rabha went out with a thela to bring fire-woods. On the way someone hit him due to which he sustained severe injuries. The injured finally succumbed to his injuries. Informant stated that he does not know who hit his deceased father-in-law and also how the alleged accident took place. Exhibit-1 is his FIR and Exhibit-1(1) is his signature on it.
- 9.** From all these, it is seen that there is nothing on record which proves that accused person committed any of the alleged offences as charges levelled against him in the instant case. It is clear from the evidence of PW1 (informant) that he is unaware about the actual happening of the instant case.
- 10.** Considering all these, I have found prosecution could not prove their case against the accused person u/s 279/304(A)/427 of I.P.C. Therefore the accused person is not found guilty of the alleged offences u/s 279/304(A)/427 of I.P.C. and he is entitled to acquittal.

**ORDER**

- 11.** I have found the accused person not guilty of the offences u/s 279/304(A)/427 of IPC as charges leveled against him and hence I acquit him from this case. He is released and set at liberty forthwith. Bail bond of the said accused person shall stand cancelled automatically after expiry of period of six months.
- 12.** The case is disposed of on contest.
- 13.** Given under my hand and seal of the court on this 12<sup>th</sup> day of January/2021.

ARUNIMA SONOWAL

SUB- DIVISIONAL JUDICIAL MAGISTRATE(S)

MUSHALPUR, BAKSA

**APPENDIX**Prosecution Witnesses

1. PW-1: Sri. Basanta Das
2. Exhibit-1: Ejahar
3. Exhibit-1(1): Signature of Sri. Basanta Das

Defence Witnesses

Nil.

ARUNIMA SONOWAL

SUB- DIVISIONAL JUDICIAL MAGISTRATE(S)

MUSHALPUR, BAKSA