

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, BAKSA**

**P.R.C. Case No. 690 of 2019**

.....

Under Sections 278 and 338 of Indian Penal Code

State

Vs.

Rahul Boro ..... Accused person

.....

Present: Pragyashree Chetia, AJS.

Judicial Magistrate First Class, Baksa, Mushalpur

Evidence recorded on : 28.01.2021

Arguments heard on : 28.01.2021

Judgment delivered on : 28.01.2021

Appearing for the Prosecution: Kishor Basnet

Appearing for the Defence : Tridip Sarma

## **JUDGMENT**

1. The case of the prosecution in brief is that on 12.07.2018 the informant Ratan Bezbaruah lodged an FIR in Barbari Police Station wherein he alleged that on 30.12.2017 at about 8:30 P.M. when the informant's father was coming back home from Aagsiya Gaon, a bike - Hero J Smart bearing registration number AS-14B-1446 came from the backside and dashed him from behind as a result of which he sustained major injuries. After going to Barimakha for first aid he was taken to Barama after which he was referred to Nalbari and then finally he was admitted in GMCH, Guwahati for treatment.
2. On the basis of the FIR a case was registered as Barbari P.S. Case Number- 04/18 under Sections 279 and 338 IPC. SI Pranab Baishya, Barbari Police Station was entrusted with the investigation of the case and after the completion of the investigation a charge sheet was submitted by him against the accused person Rahul Boro under Sections 279 and 338 IPC.
3. The accused persons appeared before this court and copies of relevant documents were furnished to him in accordance with Section 207 Cr.P.C. Upon consideration of relevant materials and hearing both parties, particulars of offences u/S 279 and 338 IPC were read over and explained to the accused person Rahul Boro to which he pleaded not guilty and claimed to be tried.
4. During trial, the prosecution examined 2(two) witnesses after which the prosecution evidence was closed. The statement of the accused person u/S 313 Cr.P.C was not recorded due to the lack of incriminating materials against the accused persons. Defence did not adduce any evidence.
5. Heard the arguments advanced by learned Assistant Public Prosecutor and learned defence counsel and perused the evidence on record.

### **POINTS FOR DETERMINATION**

6. Whether accused person Rahul Boro drove the vehicle Hero J Smart bearing registration number AS-14B-1446 on the public road in a manner so rash and negligent as to endanger human life or to be likely to cause hurt or injury to the victim Homeswar Bezbaruah?
7. Whether accused person caused grievous hurt to victim Homeswar Bezbaruah by driving the said vehicle so rashly and negligently as to endanger his life or the personal safety of others?

### **EVIDENCE ON RECORD**

8. The prosecution examined the informant Ratan Bezbaruah as P.W.1. In his examination in chief, he deposed that he was the informant of the case. He had lodged the case as his father had met with an accident about 2 years ago. He was not present at the place of occurrence. He further stated that he had reached a compromise with the accused. He identified the FIR as Exhibit 1 and his signature as Exhibit 1(1). In his cross examination he stated that he had no problem if the accused is acquitted of the offences he is charged with.
9. The next prosecution witness to be examined was P.W.2 Homeswar Bezbaruah, the father of the informant who was the victim. He deposed that the informant is his son and he was the victim of the case. Further, he stated that he met with the accident about 3 years ago. He had reached a compromise with the accused person. In his cross examination he reiterated the contents of his examination in chief and stated that he did not want to proceed with the case.

### **DISCUSSION DECISION AND REASONS THEREOF**

10. I have carefully perused the evidence on record. It is seen that the testimonies of both the witnesses do not reveal any incriminating material against the accused person Rahul Boro. Instead, what they show is that the informant and the victim have reached a compromise with the accused person. Moreover, they do not want to proceed with the case and have no objection if the accused is acquitted of the charges alleged against him.

11. Thus, upon consideration of the evidence on record, it is found that the accused had not driven the vehicle Hero J Smart bearing registration number AS-14B-1446 on the public road in a manner so rash and negligent as to endanger human life or to be likely to cause hurt or injury to the victim Homeswar Bezbaruah. Moreover, it is found that the accused person had not caused grievous hurt to victim Homeswar Bezbaruah by driving the said vehicle so rashly and negligently as to endanger his life or the personal safety of others. Hence, the prosecution has failed to establish the guilt of the accused person under Section 279 and 338 IPC beyond reasonable doubt.

#### **ORDER**

12. In view of the above discussion it is held the prosecution has failed to prove the allegations against the accused person Rahul Boro under Sections 279 and 338 IPC beyond all reasonable doubt. As such, the accused person is acquitted of the offences under the above-mentioned Sections and is set at liberty forthwith.

13. His bail bond is extended for a period of six months as per Section 437A Cr.P.C.

14. Seized articles, if any, are to be disposed of as per law.

15. The judgment delivered and pronounced by me today in the open Court given under my hand and seal of this Court on this 28<sup>th</sup> day of January, 2021.

Accordingly, the case is disposed of on contest.  
The entire judgment is typed by me.

Ms. Pragyashree Chetia  
JMFC, Baksa, Mushalpu

## **APPENDIX**

### **PROSECUTION WITNESSES:**

1. P.W-1: Ratan Bezbaruah
2. P.W-2: Homeswar Bezbaruah

### **DEFENCE WITNESSES:**

None

### **PROSECUTION EXHIBITS:**

1. Ext-1: FIR
2. Ext-1(1): Signature of P.W-1

### **DEFENCE EXHIBITS:**

None

### **MATERIAL EXHIBITS:**

None

Ms. Pragyashree Chetia

JMFC, Baksa, Mushalpur