

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, BONGAIGAON



GR Case No. 940/17

U/S- 279/337 I.P.C.

State of Assam

- vs-

Kishor Kumar Deka.....Accused.

Present:- ***Shri Kaushik Hazarika, A.J.S.,***
Chief Judicial Magistrate,
Bongaigaon, Assam.

Advocates present:-

Mr. Tapan Bhowmick, Ld. Addl. P.P.....For the State.

Mr. Tapan Kumar Das, Ld. AdvocateFor the Accused.

Evidence recorded on : 06-06-18

Argument heard on : 06-06-18

Judgment delivered on : 06-06-18

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JUDGMENT

1. The prosecution case in brief is that on 14-08-17, one Pallab Mahapatra lodged an ejahar in the Bongaigaon Police Station stating inter alia that on 13-08-17 at about 10:00 AM when his father, Pradyut Mahapatra was coming from his house from Bijni towards Bongaigaon on his motorcycle bearing registration no. AS-26/5985, the driver of the Alto car driving rashly and negligently in wrong direction knocked down his father at Bongaigaon Bagheswari Mandir Chariali causing grievous injuries to his father and damaged the motorcycle.
2. On receipt of the ejahar, police registered a case and investigated into the matter. After investigation police submitted charge-sheet against the accused person u/s 279/337/427 IPC. When the accused person appeared before the Court, necessary copies were furnished to him and particulars of offence u/s 279/337 IPC were explained to him to which he pleaded not guilty.

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POINTS FOR DETERMINATION

- (i) Whether the accused person on 13-08-17 at about 10:00 AM at Bongaigaon Bagheswari Mandir Chariali drove the Alto car rashly and negligently endangering human life and thereby committed an offence punishable under Section 279 IPC?
- (ii) Whether the accused person on the aforesaid date, time and place caused hurt to Pradyut Mahapatra by knocking him down with his Alto car by driving it rashly and negligently endangering human life and personal safety of others and thereby committed an offence punishable under Section 337 IPC?

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DISCUSSION, DECISION AND REASONS THEREOF

3. The prosecution examined the following witnesses in this case :-

- | | | | |
|-------|----------------------------------|---|-----|
| (i) | Sri Pallab Mahapatra (informant) | _ | PW1 |
| (ii) | Sri Pradyut Mahapatra (victim) | _ | PW2 |
| (iii) | Sri Sashi Mazumdar | _ | PW3 |
| (iv) | Sri Kamakhya Banik | _ | PW4 |
| (v) | Sri Haran Chandra Ray | _ | PW5 |

4. The defence plea is of total denial. The defence did not adduce any evidence in this case. The accused person was not examined u/s 313 Cr.P.C. as there was no incriminating evidence against him.

5. I have heard the arguments advanced by the Ld. Counsels for both the sides.

6. PW1 (informant) stated in his examination-in-chief that on 13-08-17 at about 10:00 AM, when his father, Pradyut Mahapatra was coming on a bike from Bijni to Bongaigaon, an Alto car knocked him down from the front side near Bongaigaon Bagheswari Mandir as a result of which his father sustained grievous injuries and his bike got damaged. During cross-examination, PW1 stated that he had not seen the occurrence and only heard about it.

7. PW2 (victim) stated in his examination-in-chief that on 13-08-17 at about 10:00 AM, when he was coming on bike from Bijni to Bongaigaon, an

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Alto car knocked him down from the front side near Bongaigaon Bagheswari Mandir as a result of which he sustained grievous injuries and his bike got damaged. During cross-examination, PW2 stated that he had not seen the driver of the Alto car.

8. PW3, PW4 and PW5 stated in their examination-in-chief that they did not know anything about the occurrence.
9. From the aforesaid evidence on record, it transpires that none of the witnesses including the informant (PW1) and victim (PW2) have implicated the accused person with the alleged occurrence as stated in the ejahar. Both PW1 and PW2 stated about an Alto car knocking down PW2 from the front side near Bongaigaon Bagheswari Mandir and sustaining of injury by PW2 and the bike of PW2 having got damaged. Both PW1 and PW2 did not take the name of the accused in their evidence so as to connect him to the alleged occurrence in this case. PW2, in fact, clearly stated in his cross-examination that he had not seen the driver of the Alto car. Even PW1 testified in his cross-examination that he had not seen the occurrence and that he had heard about it only. Besides that, the other independent witnesses, namely, PW3, PW4 and PW5 expressed their complete ignorance about the alleged occurrence. Thus, it is seen that the accused was not referred to by any of the witnesses in their evidence. In the opinion of this Court the offences u/s 279/337 IPC therefore, have not been proved against the accused.
10. In view of the aforesaid discussions and reasons, I find and hold that the prosecution miserably failed to prove the case. Hence, accused Kishor Kumar Deka is acquitted and set at liberty. The bail bond shall remain in force for a period of six months from today.

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Given under my hand and seal of this Court on this 6th day of June,
2018 at Bongaigaon.


(Shri Kaushik Hazarika)
Chief Judicial Magistrate,
Bongaigaon.
CHIEF JUDICIAL MAGISTRATE
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