

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

**G.R. CASE NO. 353/2016**  
**U/S-279/337/338/427 IPC**

**State**

**Vs.**

**Sri Uttam Sarmah**

**Present before** : **Kumari Arti, AJS**  
For Prosecution : Sri. A. Paurel.  
For Defence : Sri J. K. Bramha  
Date of Evidence : 18.01.17, 23.02.17, 30.05.17, 08.11.17,  
12.03.19, 29.04.19, 17.06.19,  
Date of argument : 09.08.2019  
Date of Judgment : 09.08.2019

**JUDGMENT**

1. Prosecution case in brief is that on the relevant day brother of the informant was in Kalaigaon Bazaar on his bicycle and when he was returning back, he stopped to pay sale tax to Moholdar and at that time one Scorpio came in high speed and knocked him down and caused hurt. Hence this case.

**Compliance of Sec- 207 Cr.P.C.**

2. Copies of relevant documents were furnished to the accused person in accordance with Sec-207 Cr.P.C.

**Offence explanation**

3. During trial particulars of offence u/s-279/337/338/427 Indian Penal Code read over and explained to the accused person to which he pleaded not guilty and claimed to face trial.

**Evidence Adduced**

4. Prosecution has examined eight witnesses. Examination u/s-313 Criminal Procedure Code of accused person is dispensed with as found not necessary.

**Points for determination**

5. (i) Whether the accused person could be hold accountable for the offences levelled against him?  
(ii) Whether the prosecution established its case beyond all reasonable doubt?

**Discussion, Decision and Reasons thereof**

6. **PW1** namely, Sri Tarun Rabha deposed that he is the informant and on the relevant day his brother Tankeswar Rabha had been going to Kalaigaon Bazaar by riding his bicycle along with a bag of betel nuts on the carrier. On the way at Cintagaon his brother stopped in order to pay sales tax to the Moholdar then one Scorpio hit him. Ext-1 is ejahar and Ext-1(1) is his signature. Ext-2 is seizure list and Ext-2(1) is his signature.

In the cross examination he stated that he did not see the accident.

7. **PW2** namely, Sri Tankeswar Rabha deposed that informant is his brother. On the relevant day he had been going to Kalaigaon Bazaar by riding his bicycle along with a bag of betel nuts to sell. When he reached at Cintagaon he stopped by Moholder in order to pay revenue then the vehicle which was coming in high speed hit him from back side. He sustained injury on the back side of his waist and head.

In the cross examination he stated that the road is narrow where occurrence took place and on Sunday it becomes crowded. On the day of occurrence the area was crowded. He does not know the number of the vehicle. It is not a fact that the accident did not take place due to fault of the accused driver.

8. **PW3** namely, Sri Chandiram Hazarika deposed that he does not know both parties. He saw the damaged bicycle and a bag of betel nut at the place of occurrence and the injured was already taken to the hospital.

In the cross examination he stated that he did not see how the accident took place.

9. **PW4** namely, Sri Pradip Saikia deposed that he cannot recognize both parties. He did not see the accident in fact he heard from others. The

damaged cycle was kept in his house by the police. Ext-2 is seizure list. Ext-2(2) is his signature.

Cross examination of PW-4 is declined.

10. **PW5** namely, Abhijit Hazarika deposed that he can recognize the informant but cannot recognize the accused. The occurrence took place 2/3 years ago. On the relevant day in front of shop of his father one accident took place between one Scorpio and one bicycle as Scorpio which came in high speed and hit the person on bicycle and injured was taken to the hospital.

In the cross examination he stated that it was weekly market on the day of accident and it was very crowded when the accident had taken place then the driver of the Scorpio took the injured to the hospital.

11. **PW6** namely, Munindra Mohan Basumatary deposed that he cannot recognize both the parties. On the relevant day when he was passing through the place of occurrence and saw one accident had occurred.

In the cross examination he stated that he does not know how the accident had taken place.

12. **PW7** namely, Dr. Gopi Nath Bora deposed that on 27.03.16 he examined one Tankeswar Rabha in relation to Kalaigaon PS case no. 40/17 and at the time of examination he was not escorted by any police personnel. On examination he found following recent injuries. 1. Tenderness over back of skull 2. Tenderness on lower back. The nature of injury was simple and caused by blunt object. Ext-3 is injury report. Ext-3(1) is his signature.

In the cross examination he stated that injuries found would have been sustained by other means no necessarily by accident.

13. **PW8** namely, ASI Turan Ch. Nath deposed that on 01.04.16 he was posted at Kalaigaon PS. On the relevant day this case was registered at the police station. Thereafter he was given the case for investigation. He recorded the statement of informant at the police station and went to the place of occurrence and recorded the statement of other witnesses. He prepared the sketch map of the place of occurrence, arrested the accused and released him on bail. He collected the injury report of the victim who was forwarded for medical examination. He seized one vehicle bearing no. AS 27/2733 along with documents and one cycle was also seized by him. After completion of investigation he submitted charge sheet under section 279/337/338/427 IPC against accused Uttam Sarmah. Ext-2 is seizure list.

Ext-2(3) is his signature. Ext-4 is another seizure list. Ext-4(1) is his signature. Ext-5 is sketch map. Ext-5(1) is his signature. Ext-6 is charge sheet. Ext-6(1) is his signature.

In the cross examination he stated that the occurrence took place on 27.03.16 and formal FIR was registered on 01.04.16 and he investigated the case on the basis of FIR.

14. On discussion of eight witnesses examined by the prosecution it becomes clear that accused could not be held guilty for the commission of offence as evidence on record was found to be insufficient. Therefore prosecution failed to establish its case beyond reasonable doubt.
15. My discussion above propels me to decide both the points for determination in negative. Accordingly the accused held not guilty for commission of the offences punishable u/s-279/337/338/427 Indian Penal Code.

### **ORDER**

16. Accused **Sri Uttam Sarmah** is acquitted of the offence punishable **u/s-279/337/338/427** Indian Penal Code and he is set at liberty.
17. Seizure if any be disposed of in accordance with law.
18. His bail bond shall be in force for six months from the date of judgment delivered.
19. Given under my hand and seal of this court on 09<sup>th</sup> day of August, 2019.

KUMARI ARTI  
JMFC, Udalguri BTAD, Assam

**APPENDIX**

**PROSECUTION EXHIBITS:**

Ext-1 is ejahar. Ext-1(1) is signature of PW-1.

Ext-2 is seizure list. Ext-2(1) is signature of PW-1.

Ext-3 is injury report. Ext-3(1) is signature of PW-7.

Ext-2(3) is signature of PW-8.

Ext-4 is another seizure list. Ext-4(1) is signature of PW-8.

Ext-5 is sketch map. Ext-5(1) is signature of PW-8.

Ext-6 is charge sheet. Ext-6(1) is signature of PW-8.

**DEFENCE EXHIBITS:**

**NIL**

**WITNESSES FOR THE PROSECUTION:**

P.W.1 .....Sri Tarun Rabha

P.W.2.....Sri Tankeswar Rabha

P.W.3.....Sri Chandiram Hazarika

P.W.4.....Sri Pradip Saikia

P.W.5.....Sri Abhijit Hazarika

P.W.6.....Sri Munindra Mohan Basumatary

P.W.7.....Dr. Gopi Nath Bora

P.W.8.....ASI Turan Ch. Nath

**WITNESSES FOR THE DEFENCE:**

**NIL**

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