

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

**PRC No. 305/20**

Under Sections 279/304-A of IPC

**State of Assam**

**-Vs-**

**Sri Ranjit Deka .... Accused Person**

**Present** : Ms. Karabi Das, LL.M, A.J.S

Judicial Magistrate First Class, Udalguri,

BTR, Assam

**For The Prosecution :**

Sri A Paurel ..... Assistant Public Prosecutor For The State

**For The Defence**

Smt N Basumatary .....Advocate For The Accused

Evidence Recorded On: 20.2.21, 8.3.21

Argument Heard On : 16.12.21

Judgment Delivered On: 16.12.21

## **JUDGMENT**

### **BRIEF FACTS OF THE PROSECUTION CASE**

1. On 27.12.19 the informant **Smti Sarita Tanti** lodged an FIR at the Panery PS alleging that on 25.12.19 at around 5.00 pm while her husband was returning back from work he was hit by an Alto car bearing registration no. AS 01-R-9063 due to which her husband expired on the spot.

### **INVESTIGATION**

2. On receipt of the FIR Police registered a case being Panery PS Case No. 128/19. After completion of the investigation the Police submitted charge-sheet against the accused person namely **Ranjit Deka** under **Sections 279/ 427/ 304-A** of the IPC. Cognizance of the offences under Sections **279/304-A** IPC was taken against the accused Ranjit by the learned CJM, Udalguri and thereafter the case was transferred to this court.

### **APPEARANCE OF THE ACCUSED**

3. The accused person was called upon to enter trial and he was furnished with the copies of relevant documents in compliance with Section 207 of the Cr.PC.

### **SUBSTANCE OF THE ACCUSATION AGAINST THE ACCUSED PERSON**

4. Thereafter, particulars of the offences under Sections 279/304-A IPC were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

## **WITNESSES EXAMINED**

5. The prosecution examined 5(five) witness and exhibited two documents in order to prove its case.
6. At the conclusion of the prosecution evidence, the accused was examined under Section 313 CrPC and all the incriminating materials were put to him to which he denied. The accused refused to adduce evidence.
7. I have heard the arguments advanced by both the sides. The case record is also perused alongwith the depositions on record.
8. Upon perusal of the case record and after hearing both sides, the following Points for Determination are framed.

### **Point for determination no. (I)**

Whether the accused person namely Ranjit Deka on on 25.12.19 at around 5.00 pm drove an Alto car bearing registration no. AS 01-R-9063 near Paneri, Udalguri, in a rash and negligent manner so as to endanger human life or which caused injury to the informant's husband and thereby committed an offence punishable under Section 279 of the Indian Penal Code ?

### **Point for determination no. (II)**

Whether the accused named above at the same date, time and place as aforesaid caused death of the Informant's husband by driving the aforesaid vehicle in a rash or negligent manner and thereby committed an offence punishable under Section 304-A of the Indian Penal Code ?

EVIDENCE OF THE WITNESSES OF THE PROSECUTION

- i. PW-1 stated in her examination-in-chief that she is the informant and she does not know the accused. She stated that her husband was riding a cycle and one vehicle hit his cycle at Gitibari and her husband died on the spot. She proved the FIR as Ext-1.
- ii. PW-2 stated in his examination-in-chief that on 25.12.20 his brother-in-law was riding a cycle and he was hit by an Alto car at Gitibari. He further stated that due to the accident his brother-in-law had died on the spot.
- iii. PW-3 stated in his examination-in-chief that he reached the place of occurrence after the accident.
- iv. PW-4 stated in his examination-in-chief stated that he saw that the deceased was lying on the spot . He further stated that he saw one damaged cycle on the side of the road and the victim was profusely bleeding.
- v. PW-5 stated in his examination-in-chief that on 25.12.19 in the evening time one accident happened at Paneri Bagan. PW-5 stated that offending vehicle seized by the police along with the documents. He proved the seizure list (Ext2) and his signature Ext 2 (1).
- vi. In the cross-examination of PW-1, PW-2, PW-3, PW-4 and PW-5 deposed that they had not seen the accident.

**DISCUSSION ON POINTS FOR DETERMINATION Nos. (I) and (II)**

**IDENTITY OF THE ACCUSED AND THE OFFENDING VEHICLE**

9. Before discussing on the above Points for Determinations it is relevant to find out as to whether the Alto car bearing registration no. AS 01-R-9063 was involved in the accident and whether it was the accused Ranjit Deka who was driving the aforesaid vehicle.
10. Pw 5 (seizure witness) stated that the offending vehicle was Maruti 800, which was seized by the police. Seizure list (Ext 2) reflects that the vehicle seized was an Alto car. In his cross-examination he stated that he did not see the accident. Now from the deposition of Pw5 it appears that he could not identify the offending vehicle. Hence, the testimony of the Pw5 does not inspire confidence to hold that it was the vehicle bearing registration no. AS 01-R-9063 which caused the accident.
11. Next, it is pertinent to find out as to whether it was the accused Ranjit Deka, who caused the accident. Now, Pw5 deposed that he was with the accused when the accident happened. However, in his cross-examination he deposed that he did not see the accident. Apart from the Pw5 no other witness deposed seeing the accused driving the offending vehicle. Keeping in view the evidence of the Pw5 it is held that it was the accused who caused the accident in question.

12. Now, let me find out as to whether the accused drove the offending vehicle in a rash or negligent manner, as rashness or negligence is a common ingredient under both the Sections i.e Section 279 IPC as well as Section 304-A IPC.

13. Section 279 IPC provides as under :

**“S.279. Rash driving or riding on a public way.—**Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.”

14. Section 304-A is as under :

**“S.304-A. Causing death by negligence.—**Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

15. **Thus, Sections 279 and 304-A IPC may be invoked only if the act of the accused is a negligent or rash act.**

16. **In a case of rash or negligent driving, the test is whether the prosecution has proved that :-**

(i)The accused was driving the vehicle in such a manner so as to create an obvious and serious risk of causing physical injury to some other person who might happens to be using the road or of doing substantial damages to the property.

(ii) In driving the vehicle in that manner the accused did so without having given any thought to the possibility of there being such risk or, having recognized that there was some risk involved, had nonetheless gone on to take it.

(iii) The rash or negligent act must be the proximate cause of injury of the injured.

17. In the present case, none of the witnesses deposed as to how the vehicle was being driven by the accused. To establish either of Sections 279 and/or Section 304-A **rash and/or negligence** has to be established.

18. Keeping in view the totality of evidence, it is clear that the prosecution has been unable to establish that the accident in question had been caused due to the rash and negligent driving of the accused which resulted in the death of the victim.

19. **Decision : Situated thus, Points for Determination Nos. (I) and (II) are decided in negative.**

## ORDER

20. In view of the above discussions and decisions, it is held that the prosecution failed to prove the case against the accused person Ranjit Deka under Sections 279/ 304-A IPC beyond all reasonable doubt.
21. Hence, in view of the above discussion, the accused **Ranjit Deka** is acquitted of the charges under Sections 279/304-A IPC.
22. Bail bond is cancelled and the bailor is discharged.

(Ms. Karabi Das)

JMFC, Udalguri, BTR, Assam

## **APPENDIX**

### **PROSECUTION EXHIBITS:**

Ext-1 is the FIR.

Ext-2 is the seizure list.

Ext-2(1) is the signature of PW-5.

### **DEFENCE EXHIBITS:**

NIL

### **WITNESSES FOR THE PROSECUTION:**

P.W.1 .....Sarita Tanti @ Pradhan

P.W.2 .....Sumit Tanti

P.W.3.....Raju Rai

P.W.4.....Rajesh Tanti

P.W.5.....Utpal Barman

### **WITNESSES FOR THE DEFENCE:**

NIL

(Ms. Karabi Das)

JMFC, Udalguri, BTR, Assam