

APPENDIX-12

IN THE COURT OF <u>CIVIL JUDGE (JR. DIV.)cum JMFC, TITABAR,</u> Present: <u>Sharmina Khatun Barbhuiya</u> (Date of judgment:-27/05/2024) (Case No. <u>PRC 38/2023</u>) (FIR No. 171/22 of Titabar Police Station, Jorhat)	
COMPLAINANT:	<u>STATE OF ASSAM.</u> OR NAME OF THE COMPLAINANT Sri Cheniram Saikia
REPRESENTED BY:	NAME OF THE ADVOCATE: M. Baruah. APP
ACCUSED	NAME WITH ALL PARTICULARS A.1, Jaganath Das S/o Sri Bangshidhar Das R/o Lahong Bebejia Gaon P.S.- Borholla Dist.- Jorhat
REPRESENTED BY:	NAME OF THE ADVOCATES: Sri. Diganta Chutia

APPENDIX-13

PRC CASE NO. 38/2023

Date of Offence	03/12/2022
Date of FIR	23/12/2022
Date of Charge Sheet	30/01/2023
Date of framing of Charges	31/08/2023.(O.E)
Date of commencement of evidence	10/11/2023, 18/12/2023, 06/04/2024 and 15/05/2024
Date of which judgment is reserved	27/05/24
Date of Judgment	27/05/24
Date of the sentencing Order, if any	

Accused Details:

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec 428 Cr. P.C
1.	A.1, Jaganath Das			U/S. 279, 304(A) of Indian Penal Code	Acquitted.		

J U D G M E N T

A. PROSECUTION CASE IN BRIEF:-

- 1.** This case arose out of information stated in the F.I.R filed by the informant, namely, **Sri Cheniram Saikia**. The prosecution's story of the case as stated in the FIR is that on 03/12/2022 at around 8 PM when informant's son kamal Saikia was walking towards his home after his at Dhekiajuli near Tuwakanta Natya Manch a Motor Cycle bearing Regd. No. AS 03W-0308 came at a very high speed and hit him from back due to which victim fall down and sustained grievous injuries on the head and various parts of his body. Thereafter with the help of local people the victim was taken to JMCH but at night at around 1 AM the doctors declared him dead. And hence the informant filed the case.

B. INVESTIGATION AND TRIAL:-

- 2.** On receipt of the information Titabar P.S. Case No. 171/2022 was registered and S.I. Prakash Kopohua conducted investigation into the matter and submitted Charge Sheet under section 279/304(A), of I.P.C., against the accused person.
- 3.** Cognizance of the offences was taken on the police report against the accused and securing his presence he is allowed to go on bail. In due course copies of the relevant documents were furnished in accordance with Section 313 of Criminal Procedure Code and thereafter finding prima facie materials particular of offences under Section 279, 304(A), of Indian Penal Code was read over and explained to him to whom he pleaded not guilty and claimed to be tried.

4. During trial, the prosecution examined 4 numbers of witnesses including the informant and exhibited 1 document, and thereafter the prosecution evidence was closed on verbal prayer of the learned APP. Accused was examined under section 313 of the Criminal Procedure Code but he refused to adduce any evidence.

5. I have heard Id. Defense counsel on his part of argument. Ld. APP did not turn up for her version.

I. *Whether the accused person on 03/12/2022 at around 8 PM in the morning at Dhekiajuli near Tuwakanta Natya Manch under the jurisdiction of Titabar Police Station had driven his vehicle bearing registration no. AS 03W-0308 (motor cycle) rashly and negligently as to endanger the human life on the public road and thereby committed an offence punishable under section **279** of Indian Penal Code?*

II. *Whether the aforesaid accused on aforesaid date, time and place due to his rash and negligent act of driving caused grievous injury to victim **Kamal Saikia** which leads to his death and thereby committed an offence punishable under section **304 (A)** of Indian Penal Code?*

C. DECISION AND REASONS THEREOF:

6. In this case based upon the allegation put forth, this Court formulated two points for determination. In Point for determination no. I, it is taken for consideration whether the accused had driven his vehicle rashly and negligently

as to endanger the human life on the public road and in Points for determination no. II, it is required to determine whether the accused's due to his rash and negligent act of driving caused grievous injury to victim Kamal Saikia which leads to his death and thereby attracts the provision of section 279 and 304A of Indian Penal Code.

- 7.** The bare perusal of the provision of both these sections transpires that emphasis should be given to determine whether accused drove the offended vehicle as claimed by the prosecution 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. And such an act i.e the rash and negligent driving leads to the death of the victim. In this case the prosecution has adduced 4 no. of independent witnesses.
- 8.** PW-1 i.e the informant duly proved his FIR but during his cross-examination firmly admitted that at the time of incident he was at home and he is not aware due to whose fault the incident took place. It is apparent from the evidence on record that almost all the PWs have admitted that they were unaware of the fact "how the incident took place". Therefore evidence on record does not transpire any fact which can be considered for establishing the existence of any rash or negligent act of driving of the accused.
- 9.** Clubbing up all the evidence on record it can be firmly held that despite of all the attempts the prosecution failed to

establish the core ingredients of alleged sections and thus failed to prove its case beyond all reasonable doubt.

D. ORDER

- 10.**In view of the above discussion, situated thus, the accused person, **A-1,Jaganath Das** found not guilty and accordingly he is **acquitted** of the offence under Section 279, and 304(A) of the Indian Penal Code and is set at liberty forthwith.
- 11.**His bail Bond is extended for a period of 6 months as per Section 437-A of Code of Criminal Procedure.
- 12.**Given under my hand and the seal of this Court on this the **27th day of May, 2024.**
- 13.**The case is **disposed of on contest** accordingly.

Typed and corrected by me

Smt. Sharmina Khatun Barbhuiya,
Civil Judge (Jr. Div.) cum J.M.F.C.
Titabar, Jorhat.

LIST OF PROSECUTION DEFENCE/COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE
PW.1	Cheniram Saikia	Hearsay witness
PW.2	Dulu Saikia	Hearsay Witness
PW.3	Dhruba Jyoti Bordoloi	Irrelevant witness.
PW.4	Ankuman Hazarika	Hearsay Witness.

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
DW1		

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
CW1		

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Exhibit P.1/PW.1. Exhibit P.1(1)/PW.1	FIR. Signature of the informant/PW-1.

B. Defence:

Sr. No.	Exhibit Number	Description
1		
2		

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
1		
2		

D. Material Objects:

Sr. No.	Exhibit Number	Description
1		

Smt. Sharmina Khatun Barbhuiya,A.J.S
Civil Judge (Jr. Div.) cum JMFC.
Titabar, Jorhat.