



ASCA030001222024



THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE
CHARAIDEO, SONARI

Present : Sri Iqbal Alam Fanaji, AJS

Date of Judgment:-07.07.2026

(Case No. PRC 95 of 2024)

FIR No. 04 Dated 27.02.2024

Under Section:- 279/304A/27 IPC

P.S:-Sapekhati

COMPLAINANT:	STATE OF ASSAM
REPRESENTED BY:	NAME OF ADVOCATE Adity Gogoi, Ld. A.P.P
ACCUSED:	1. SRI RAKESH HEMRAM (A1) S/O:- LT. DHIRU HEMRAM R/O:- BORASALI TEA ESTATE PS:- BORHAT DIST:- CHARAIDEO, ASSAM
REPRESENTED BY:	NAME OF THE ADVOCATE Ankuron Chetia

7.7.26
Addl. Chief Judicial Magistrate
Charaideo, Sonari

Date of Offence	27.02.2024
Date of FIR	27.02.2024
Date of Charge Sheet	31.03.2024
Date of offence explanation	11.06.2025
Date of commencement of evidence	01.08.2025
Date on which judgment is reserved	NA
Date of Judgment	07.07.2026
Date of the Sentencing order, if any	NA

Accused Details:

Rank of the accused	Name of Accused	Date Of Arrest	Date 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.
A1	Sri Rakesh Hemram	NA	NA	Under Section 279/304A/427 IPC	Acquitted	NA	NA

[Signature]
4.7.26

Addl. Chief Judicial Magistrate
Charaideo, Sonari



JUDGMENT

PROSECUTION CASE

1. The prosecution case, as disclosed in the ejahar lodged by the informant, Sri Jin Gogoi is that on 27.02.2024 at about 5.40 PM, while his elder brother Robin Gogoi was going on his Platina bike bearing registration no. AS23G-4384 from Sapekhati side to his home then at Dodhar Ali Bihubor, one ambulance bearing registration no. AS01CC-5207 knocked him from the opposite side which was coming in rash and negligence manner for which the bike rider sustained grievous injury and shifted to Sapekhati hospital and later referred him to Sonari hospital but doctor declared him brought dead.
2. On the basis of the said ejahar, Sapekhati Police Station Case No. 04/2024 was registered under Sections 279/304A/427 IPC. Upon completion of investigation, the Investigating Officer submitted charge-sheet against the accused under section 279/304A/427 IPC.


2.7.26

FRAMING OF CHARGE

Addl. Chief Judicial Magistrate
Charaideo, Sonari



3. After furnishing copies of the relevant documents to the accused in compliance with Section 207 of the Code of Criminal Procedure, and upon hearing both sides, this Court found that a prima facie case existed against the accused under Section 279/304A/427 IPC. Accordingly, a formal charge was framed. The substance of the accusation was read over and explained to the accused in open Court in a language understood by him, to which he pleaded not guilty and claimed to be tried.

POINTS FOR DETERMINATION

4. Upon consideration of the materials available on record, the following point arises for determination:
- i. Whether the accused, on 27.02.2024 at about 5.40 pm, at Dudhorali Bihubor by driving his vehicle bearing Registration no. AS01CC-5207 in a rash or negligent manner, endangered human life or caused hurt/injury to victim Robin Gogoi, thereby committing an offence punishable under Section 279 IPC?
 - ii. Whether the accused on the same date, time and place caused damage or destruction to the property of the informant with the intention of causing loss or damage and thereby committed an offence punishable under Section 427 IPC?



- iii. Whether the accused, on the same date and place, caused the death of Robin Gogoi by driving the said vehicle rashly or negligently, thereby committing an offence punishable under Section 304-A IPC?

EVIDENCE ON RECORD

5. In order to establish the charge, the prosecution examined eight witnesses, including the informant and Investigating Officer.

PW-1: Sri Biplob Sharma

6. PW-1 deposed that I do not know the informant but knows the accused person. He stated that during the relevant time of incident, one accident occurred near Lakhimibam on Dhodoral path. He reached the place of incident after the accident. He heard that an ambulance collided with a motor bike. He stated that the person who was riding the motorcycle was taken to the hospital. Later on he came to know that person succumbed to his injuries on hospital. When the police seized the motorcycle he signed the seizure list as seizure witness on the spot.


7.7.22

7. In cross examination, PW-1 deposed that he could



not recall the registration no. of motorcycle seized by the police on the place of incident. He was not present at time of the incident. He do not know who was riding the motorcycle or the ambulance. He further stated that he do not know due to whose negligence the incident occurred.

PW-2: Sri Jin Gogoi (Informant)

8. PW-2 deposed that the incident occurred in the year 2024 but he could not recall the exact date of incident. He deposed that an accident took place at Sapekhati Lakhimpam. He was not present at the place of incident. Police called him and informed him that his elder brother Rabin Gogoi met with an accident and he was taken to Sapekhati govt. hospital. He went to the Sapekhati govt. hospital and found that his elder brother Rabin Gogoi succumbed to his injuries. He heard that his brother was going towards Sapekhati side when an ambulance which was coming from Baruah Chariali collided with the motorcycle of his elder brother and the incident occurred. He later lodged a FIR.

7.7.24

9. In cross examination PW-2 deposed that he has not written the FIR. He could not recall the registration



numbers of the motorcycle of his brother and the ambulance involved in the accident. He was not present at the place of incident when the accident occurred. He do not know due to whose negligence the incident took place. Police have not recorded His statement in this case.

PW-3: Sri Partha Pratim Borthakur

10. PW-3 deposed that he do not knows the informant and the accused person. He stated that the incident took place in the year 2024. He heard that an accident took place about 200 meters away from his house. He stated that during the time of accident he was present in his shop situated at Sapekhati Chariali. When he heard about the incident he came to the place of occurrence. He heard that an accident took place between an ambulance and a motorcycle. When he reached the place of incident the motorcycle rider was already taken to the hospital on the same ambulance. He stated that only a motorcycle was present there which was lying on the ground. Police seized that motorcycle and he has signed the seizure list as witness.


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11. In cross examination PW-3 deposed that he



could not recall the exact date and time of the incident. He stated that he reached the place of incident after some time of the incident. He has not seen the accident and he is not aware who was negligent for the accident.

PW-4: Sri Ricky Rajkonwar (MVI)

12. PW-4 deposed that during the relevant time of incident he was posted as MVI, Charaideo. He received a requisition from Sapekhati PS to inspect a vehicle. He visited Sapekhati police station campus and inspected two vehicles bearing registration no. AS23G-4384 and AS01CC-5207. AS23G-4384 was a Bajaj Platina motorcycle. He stated that the headlight, both indicators, speedometer, gear lever tail light right side seat cowl, hand break lever, rear mudguards, both side covers were found damaged. He further stated that AS01CC-5207 was a Tata Sumo ambulance and one inspection, he has not found any damage on that vehicle. He prepared report and submitted the same on 18.03.2024.

13. In cross examination, PW-4 deposed that he has not found any damage on AS01CC-5207. He has not found any mechanical defects in both the vehicles.

7.7.26



PW-5: Sri Biju Kr. Borah

14. PW-5 deposed that he knows the informant and he has seen the accused person before but don't know his name. He stated that the incident took place in the year 2024 but he could not recall the exact date of incident. An accident took place between an ambulance and a motorcycle in between Bihubor Tea estate and Sapekhati. He stated that somebody told him about the incident. He along with Manager of Salkathani Tea Estate Utpal Sharma went to the place of incident. He came to know there that the injured bike rider was taken to hospital on the same ambulance which was involved in the accident. Later on he came to know that the bike rider succumbed to his injuries in the hospital. He has signed the seizure list of the documents of the vehicle at Sapekhati police station.

15. In cross examination, PW-5 deposed that he has not witnessed the accident. He reached place of incident after the accident and somebody told him about the incident and as a member of the Village Defence Party, he went to the place of incident. He


7.7.26



stated that he is not aware with the content of the seizure list. He was told to sign the seizure list by the police personnel and accordingly he signed it.

PW-6: Dr. Ritick Chetia (Medical Officer)

16. PW-6 deposed that he conducted post mortem examination of Rabin Gogoi. He stated that on examination he found the external appearance a thin built male of about 42 years, fresh presence of rigomortis all over the body and there were multiple cuts and abrasion over the right side of the abdomen forehead , left elbow both forearms and both legs. The cranium and spinal cord were all intact. Thorax- multiple abrasion and cut injuries whit multiple rapture of the rib cage on both sides were present. Pleurae is stained with blood. Larynx and trachea were intact. Both lungs, right and left sides were stained with blood. Pericardium and heart vessels were intact. Abdomen- Walls had multiple and abrasion in cut injuries. A collection of 3000 ml of blood found in pericardial cavity. There were multiple rapture on both sides of the liver and multiple raptures of spleens. Muscles and bones- Injuries were all described in external appearance. In his opinion the death is due to shock as a result


7.7.26
Addl. Chief Judicial Magistrate
Charaideo, Sonari



of severe hemorrhage due to rupture of liver and spleen. The time of death within 24 hours of post mortem examination. He declined in his cross examination.

PW-7: Ujjal Lahkar

17. PW-7 deposed that he knows the informant of this case. He met him at the police station after the incident. He also knows the accused of this case Rakesh Hemrom as an ambulance driver of Barasali Tea Estate. He cannot exactly recall the date of incident but the incident took place about a year ago. He stated that on the day of incident he received a call from accused who was at Sapekhati police station and he told him that one person came in front of his ambulance and an accident occurred and police apprehended him and took him to Sapekhati police station along with the ambulance of tea estate. He went to Sapekhati police station. He saw accused in lock up and our ambulance was parked in the premises of Sapekhati police station. I signed the seizure list.


7.7.26

18. In cross examination PW-7 deposed that he has not seen the incident. He do not know who was negligent for the incident. He was told that license



and the documents of the ambulance was seized and he signed the seizure list as witness.

PW-8: Nekibuddin Ahmed (Investigating Officer)

19. PW-8 deposed that on 27.02.2024 he was posted as OC Sapekhati police station. On that day at about 5.40 pm, someone called Sapekhati police station and informed that a motor vehicle met with an accident. He made a GD entry no. 531 dated 27.02.2024. He went to the place of occurrence and when he reached there he saw one Bajaj Platina bike bearing registration no. AS23G-4384 and one Tata Sumo ambulance bearing registration no. AS01CC-5207 at the place of occurrence. The bike was lying at the side of the road in damaged condition and the ambulance was parked nearby. The bike rider Robin Gogoi was already taken to the Sapekhati block PHC by the local people. Ambulance driver namely Rakesh Hemrom was found at the place of occurrence and he was taken to the custody. He seized the motor bike and the ambulance and prepare seizure list in presence of witnesses. Thereafter, he recorded the statements of the seizure witnesses and transported the seized vehicle to Sapekhati police station. He stated that

7.7.26



the injured bike rider namely Robin Gogoi was referred to district Civil hospital, Sonari but he was declared dead on arrival by the doctors of Sonari Civil hospital. He stated that on the same day, informant Jin Gogoi filed a FIR regarding the case. On the basis of the FIR Sapekhati PS case no. 04/2024 was registered u/s 279/304A IPC. He himself investigated the case. He recorded the statements of informant as well as other witnesses. He recorded the statement of the accused person. He was arrested and he was enlarged on police bail. He further stated that next day the post mortem of victim Robin Gogoi was conducted. The documents of ambulance were produced before him and he seized those documents. He filed a requisition for examination of seized vehicle by the MVI. Both vehicles were inspected by the MVI Charaideo and he submitted the report. He collected the post mortem report of the victim from the Sonari Civil hospital. He completed his investigation as he has found sufficient materials against the accused Rakesh Hemrom. He filed charge sheet against him u/s 279/304A IPC.

20. In cross examination, PW-8 deposed that when the incident took place, there were four or five people in the ambulance. He has not made

7.8.26



any of them as a witness of this case as he could not trace out their whereabouts. The motor bike was going towards Salkathani from Sapekhati side and the ambulance was coming from Salkathani side and going towards Sapekhati side. He stated that in the sketch map he has shown the ambulance on its side and the bike was shown towards the wrong side. He stated that near the place of occurrence house of Ishan Karmakar was shown as D. He has not made Ishan Karmakar as the witness of this case as he was not aware about the incident.

APPRECIATION OF EVIDENCE

21. I have carefully gone through the entire oral and documentary evidence adduced by the prosecution. The prosecution is required to prove beyond reasonable doubt that (i) the accused was driving the ambulance in a rash or negligent manner, (ii) such rash or negligent driving caused the accident, and (iii) the accident resulted in the death of Robin Gogoi. It is well settled that in a criminal trial, the burden always lies upon the prosecution and never shifts upon the accused. Mere occurrence of an accident or the fact that a person has lost his life is not by itself sufficient to hold the accused guilty


7.7.26



under Sections 279 or 304-A IPC. The prosecution must establish not only the identity of the driver but also the manner of driving constituting criminal rashness or negligence. The Hon'ble Supreme Court in **State of Karnataka v. Satish, (1998) 8 SCC 493** has held that merely because a vehicle was being driven at a "high speed" does not necessarily mean that it was being driven rashly or negligently, and criminal rashness cannot be presumed without cogent evidence.

22. In the present case, the prosecution examined eight witnesses. A careful scrutiny of their evidence shows that none of the witnesses is an eyewitness to the actual occurrence. PW-1, PW-2, PW-3, PW-5 and PW-7 have categorically admitted in their cross-examination that they did not witness the accident. Their knowledge regarding the occurrence is based entirely on what they heard from others after the incident. Such evidence is purely hearsay and cannot be treated as substantive evidence for proving the manner in which the accident occurred. At best, these witnesses prove that an accident had taken place and that the victim later succumbed to his injuries. They do not throw any light on whether the accused was driving the ambulance rashly or negligently.

[Signature]
4.7.24
Addl. Chief Judicial Magistrate
Charaideo, Sonari



23. The evidence of PW-2, the informant, also does not advance the prosecution case. He admittedly reached the hospital only after receiving information from the police. He admitted that he was not present at the place of occurrence and does not know due to whose negligence the accident occurred. His evidence is therefore confined only to lodging the FIR and identifying the deceased. The FIR itself was lodged on the basis of information received from others and not on his personal knowledge. Consequently, the FIR cannot be treated as substantive evidence regarding the manner of the accident.

24. PW-1 and PW-3 are seizure witnesses of the motorcycle, while PW-5 and PW-7 are seizure witnesses relating to the documents of the ambulance. All of them have stated that they reached the place only after the accident had already taken place. None of them has identified the accused as driving the ambulance in a rash or negligent manner. PW-7 merely stated that the accused telephoned him from the police station informing him that one person suddenly came in front of the ambulance and an accident occurred. Such statement made by the accused to PW-7 cannot by itself


7.7.26



establish criminal negligence. Rather, it only indicates that an accident had taken place, the circumstances of which remain unproved by any independent eyewitness.

25. The medical evidence of PW-6 proves that Robin Gogoi died due to shock resulting from severe haemorrhage, caused by rupture of the liver and spleen consequent upon multiple injuries sustained in the accident. The post-mortem report fully establishes the factum of death and that the injuries were ante-mortem in nature. However, it is equally well settled that medical evidence can establish the cause of death but cannot establish who was responsible for causing the accident or whether the accident occurred due to rash or negligent driving. Thus, while the medical evidence corroborates the fact that the deceased died in a road traffic accident, it does not establish the culpability of the accused.

26. The Motor Vehicle Inspector, PW-4, inspected both vehicles. His report shows extensive damage to the motorcycle whereas no damage whatsoever was found on the ambulance. He further stated that there was no mechanical defect in either vehicle. The report, therefore, only rules out mechanical failure as the cause of the accident. It neither indicates the

7.7.26



27. The prosecution principally relies upon the testimony of PW-8, the Investigating Officer. PW-8 stated that upon reaching the place of occurrence he found the damaged motorcycle lying on the side of the road and the ambulance parked nearby. Significantly, he himself did not witness the occurrence. His evidence is confined to the steps taken during investigation. The most important admission made by PW-8 during cross-examination is that, according to his own sketch map, the ambulance was on its correct side of the road whereas the motorcycle was shown on the wrong side. This admission assumes considerable importance because the sketch map is a document prepared by the Investigating Officer himself during investigation.

27. The prosecution principally relies upon the testimony of PW-8, the Investigating Officer. PW-8 stated that upon reaching the place of occurrence he found the damaged motorcycle lying on the side of the road and the ambulance parked nearby. Significantly, he himself did not witness the occurrence. His evidence is confined to the steps taken during investigation. The most important admission made by PW-8 during cross-examination is that, according to his own sketch map, the ambulance was on its correct side of the road whereas the motorcycle was shown on the wrong side. This admission assumes considerable importance because the sketch map is a document prepared by the Investigating Officer himself during investigation.

28. Another significant aspect is that PW-8 admitted that at the time of the accident there were four or five persons travelling inside the ambulance. Those occupants were natural witnesses to the occurrence and were the best persons to explain how the



accident took place. Surprisingly, none of them was examined during investigation or produced before the Court. The explanation offered by PW-8 that their whereabouts could not be traced is wholly unsatisfactory, particularly when the ambulance belonged to a tea estate and the accused driver was immediately apprehended at the spot. Their identities could have been easily ascertained from the employer or the driver. Likewise, although the Investigating Officer admitted that there was a nearby house belonging to one Ishan Karmakar, no attempt was made to examine him either. Failure to examine such material witnesses creates a serious gap in the prosecution case and entitles the Court to draw an adverse inference regarding the completeness of the investigation.

29. The sketch map prepared by PW-8 assumes considerable evidentiary significance. According to the Investigating Officer himself, the ambulance was shown on its proper side of the road while the motorcycle was depicted on the wrong side. This circumstance is inconsistent with the allegation made in the FIR that the ambulance came from the opposite direction in a rash and negligent manner and hit the motorcycle. If the investigating officer's own sketch indicates that the motorcycle was on the



30. It is equally important to note that no scientific evidence regarding the point of impact, tyre marks, skid marks, measurements of the road, or photographs of the accident scene has been produced. No eyewitness has described the speed of the ambulance, the manner in which it was being driven, or any overt act showing criminal rashness or negligence. The prosecution seeks to infer negligence merely from the fact that an accident occurred resulting in death. Such inference is legally impermissible. Criminal negligence cannot be presumed solely because the consequences were serious.

31. The prosecution has also failed to prove the ingredients of Section 427 IPC. There is no evidence whatsoever to show that the accused intentionally or knowingly caused damage to the motorcycle with the intention of causing wrongful loss or damage. The damage to the motorcycle appears to be a consequence of the collision itself. In the absence of

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26.7.26



any evidence regarding the requisite mens rea, the offence under Section 427 IPC is not attracted.

32. Thus, upon an overall appreciation of the evidence, this Court finds that the prosecution has undoubtedly proved that

(i) an accident occurred between the motorcycle and the ambulance,

(ii) Robin Gogoi sustained fatal injuries in the accident,

and (iii) the accused was the driver of the ambulance.

33. However, these facts alone are insufficient to sustain a conviction under Sections 279 and 304-A IPC. The essential ingredient of rash or negligent driving has remained unproved. There is no direct evidence of the manner of driving; the material witnesses were not examined; the sketch map prepared by the Investigating Officer himself indicates that the motorcycle was on the wrong side of the road; and the evidence on record leaves open more than one possible inference regarding the cause of the accident. In such circumstances, the benefit of reasonable doubt must necessarily go to the accused.

7.7.26

Addl. Chief Judicial Magistrate
Charaideo, Sonari



34. Criminal jurisprudence mandates that suspicion, however strong, cannot substitute proof beyond reasonable doubt. The evidence led by the prosecution raises suspicion that the accused's ambulance was involved in the accident, but it falls short of proving beyond reasonable doubt that the accident was the direct result of rash or negligent driving by the accused. Consequently, this Court is unable to record a finding of guilt against the

accused under Sections 279, 304-A and 427 IPC.


Addl. Chief Judicial Magistrate
Charaideo, Sonari

**ORDER**

The accused, Sri Rakesh Hemram, is hereby acquitted of the charges under Section 279/304A/427 of the Indian Penal Code and is set at liberty forthwith. His bail bond shall be remaining in force for next 6 months.

Judgment is pronounced in open Court and delivered on this 7th July, 2026.

Given under my hand and seal of this Court.


Sri Iqbal Alam Fahaji
Addl. Chief Judicial Magistrate
Charaideo, Sonari
Addl. Chief Judicial Magistrate
Charaideo, Sonari



LIST OF PROSECUTION WITNESSES

A. Prosecution witness:

RANK	NAME	NATURE OF EVIDENCE
PW-1	Sri Biplob Sharma	Witness
PW-2	Sri Jin Gogoi	Informant
PW-3	Sri Partha Pratim Borthakur	Witness
PW-4	Sri Ricky Rajkonwar	MVI
PW-5	Sri Biju Kr. Borah	Witness
PW-6	Dr. Ritik Chetia	M/O
PW-7	Ujwal Lahkar	Witness
PW-8	Nekibuddin Ahmed	I/O

LIST OF PROSECUTION EXHIBITS

A. Prosecution Exhibits:

Sr. No.	Exhibit Number	Description
1.	Exhibit P1/PW-1	Seizure list
2.	Exhibit P2/PW-2	FIR
3.	Exhibit P2/PW-4	MVI report
4.	Exhibit P3/PW-4	MVI report
5.	Exhibit P4/PW-5	Seizure list
6.	Exhibit P5/PW-6	Post mortem report
7.	Exhibit P6/PW-8	Charge sheet


 Sri Iqbal Alam Fanaji
 Addl. Chief Judicial Magistrate
 Charaideo, Sonari
 Addl. Chief Judicial Magistrate
 Charaideo, Sonari