

ASBR060004622025



IN THE COURT OF SUB DIVISIONAL JUDICIAL
MAGISTRATE (M), BAJALI

Present: Smt. Prarthana Neog, A.J.S.

(Date of judgment)

11.02.2026

(Case No. P.R.C No. 190/25)

U/S 281/125(b)/106(1) IPC

(Details of FIR/Crime and Police Station)

In connection with Pathsala PS Case No.73/24

COMPLAINANT :	STATE OF ASSAM
---------------	----------------

REPRESENTED BY	NAME OF THE ADVOCATE Smti. Dipanjali Devi, APP
ACCUSED	Ratan Talukdar
REPRESENTED BY	NAME OF THE ADVOCATE Dhanjit Das

Date of Offence	12-07-24
Date of FIR	01-08-24
Date of Charge Sheet	28-02-25
Date of Charge framed	08-10-25
Date of commencement of evidence	07-11-25

Date on which judgment is reserved	-----
Date of judgment	11-02-26
Date of the Sentencing Order, if any	-----

JUDGMENT

1. Ratan Talukdar (hereinafter referred to as accused person /A1) is before this court facing accusation for commission of offence punishable under sections 281/125(b)/106(1) of the Bharatiya Nyaya Sanhita (hereinafter referred to as BNS).
2. The instant case was initiated by the informant Rantu Sarma by lodging an ejahar on 01-08-24 stating *inter alia* that on 12-07-24 at about 2:30 pm, while his elder brothers Mantu Sarma and Kamal Sarma were proceeding towards Pathsala from Saderi side on a motor cycle by the National Highway No.127(A), a dumper bearing Registration No.AS-16-C-6848, coming from the same direction, hit their motor cycle from behind. As a result of the impact, both of them fell on the road and sustained injuries on their head and other parts of their body. Although the injured were immediately rushed to the Pathsala CHC, they were referred to GMCH from

there. Injured Kamal Sarma died while undergoing treatment. Hence, the case.

3. Upon receipt of the ejahar, the O.C. Pathsala PS registered a case being Pathsala P.S. Case No. 73/24, u/s 281/106(1) BNS and the same was taken up for investigation. After conclusion of the investigation, the accused person (A1), was charge-sheeted u/s 281/106(1) BNS.

:TRIAL:

4. Thereafter, cognizance was taken and summons was issued to the accused. On appearance of the accused, relevant documents were furnished, as referred to in section 230 of the BNSS. After hearing the learned counsels for the both sides and after perusing the case record, formal charges under section 281/125(b)/106(1) BNS were framed and the same were read over and explained to the accused to which he pleaded not guilty and claimed to be tried.
5. To bring home the charges, the prosecution examined six (6) witnesses on its behalf and exhibited the FIR. Statement of defence of the accused person u/s 351 BNSS is dispensed with having found no incriminating materials against him. I heard argument advanced by the learned Asst. P.P. and learned counsel for the accused person.

6. After hearing the learned counsel for the both sides, and after perusal of the case record, the following points for determination are formulated for proper adjudication of this case.

:POINTS FOR DETERMINATION:

- I. Whether the accused person on 12-07-24 at about 2:30 pm, drove a dumper bearing Registration No.AS-16-C-6848 on NH No.127(A) in a so rash and negligent manner as to endanger human life, and thereby committed an offence punishable u/s 281 BNS ?**
- II. Whether the accused person, at the same time and place, caused grievous hurt to the informant's elder brothers named Kamal Sarma and Mantu Sarma by driving the said dumper in a very rash and negligent manner, and thereby committed an offence punishable u/s 125(b) BNS ?**
- III. Whether the accused person, at the same time and place, caused serious injury to the informant's elder brother Kamal Sarma resulting his death by driving the said dumper in a very rash and negligent manner, and thereby committed an offence punishable u/s 106(1) BNS ?**

:DISCUSSION, DECISIONS AND REASONS

THEREOF:

7. Evidence on record was perused and submission made by the respective learned counsels was duly considered for arriving at a just decision to determine the aforesaid points. Now, in order to make a clear and convenient discussion, I deem it fit to reproduce the relevant testimonies of Prosecution witnesses.
8. In the instant case, informant **Rantu Sarma** was examined by the prosecution as PW1. He has stated that he filed this case in connection with the death of his brother Kamal Sarma and the injury received by his brother Mantu Sarma in a road mishap which took place about a year ago at around 2.30 p.m. on the National Highway no.127-A under the jurisdiction of village Kenduguri. He does not know the accused of this case. At the relevant time, both his brothers were going towards Pathsala from Kenduguri on a bike. Kamal Sarma was driving the bike and Mantu Sarma was the pillion rider. When they reached the place of occurrence, a dumper dashed the bike and as a result of the impact, both his brothers received serious injuries and were rushed to the Pathsala Hospital and on being referred from there they were admitted in the GMCH. Unfortunately, Kamal Sarma succumbed to the injuries after 10 days of the incident while

undergoing treatment in the GMCH. Mantu Sarma received fracture injuries on his hand and leg and also in other parts of his body. He did not see the incident taking place as he was in his house. He has proved Ext. P1/PW1 as the ejahar and Ext. P1(1)/PW1 as his signature.

9. In his cross-examination, PW-1 has deposed that the incident was an accident.

10. Next, **Dhrubajit Sarma** was brought to the stand by the Prosecution as P.W.2 and he has stated in his examination in chief that the informant is his cousin and has filed this case in connection with the death of his brother Kamal Sarma and the injury received by his brother Mantu Sarma in a road mishap which took place about a year ago at around 2.30 p.m. on the National Highway no.127-A under the jurisdiction of village Kenduguri. He does not know the accused of this case. He came to know about the incident from others. He went to Police Station along with Ashim Sarma and signed on the seizure list in proof of seizure of the bike which was ridden by the victims. He did not see the incident taking place as he was in his house. He has proved Ext. P2/PW2 as the seizure list and Ext. P2(1)/PW2 as his signature.

11. Next, **Mantu Sarma** was examined by the Prosecution as C.W.1 and he has stated in his

evidence-in-chief that informant Rantu Sarma is his brother. He does not know the name of the accused. The occurrence took place on 12-07-24 at around 2.30 p.m. at Kenduguri. At the relevant time, he along with his brother Kamal Sharma was proceeding towards Pathsala from home on a bike which was driven by Kamal Sharma. He was riding as pillion rider. When they reached the place of the occurrence, a Dumper which was coming in the same direction hit the bike from the behind. As a result of the impact, they fell on the road and received serious injuries. He became unconscious as a result of the injuries. His right hand and knee of right leg received fracture injuries. He also sustained injuries on his head. He regained his sense in the Pathsala Medical and from there he was referred to GMCH where he was admitted for 10 days. His brother Kamal Sharma received injuries on his chest as a result of the impact and succumbed to the injuries while undergoing treatment in the GMCH. In connection of the above incident, the informant lodged the ejahar

12. In his cross-examination, CW-1 has stated that as he became unconscious, he did not realize how the incident had taken place. The road on which the incident took place is a National Highway. There are shops near the place of the occurrence. The place of

occurrence remains busy most of the time. It was an accident.

13. Witness **Ashim Sarma** was examined by the prosecution as CW-2 and he has stated in his examination-in-chief that informant Rantu Sarma is his elder brother. He does not know the accused of this case. The occurrence took place in the year 2024, during daytime at Kenduguri. At the time of the incident, he was at Guwahati. At the relevant time, he received a phone call from an unknown person, who was present at the spot, about the incident. At the relevant time, his brothers Kamal Sharma and Mantu Sharma were going towards Pathsala from their house on a motor-cycle which was driven by Kamal Sharma. He came to know that when they reached the place of the occurrence, a dumper hit their motor-cycle from behind. Both his brothers received serious injuries as result of the impact. Kamal Sharma succumbed to the injuries while undergoing treatment in the GMCH. Mantu Sharma also had to undergone treatment in the GMCH. He put his signature on the seizure list in proof of seizure of the motor-cycle. He has proved Ext. P2/CW2 as the seizure list and Ext. P2(2)/CW2 as his signature.

14. In his cross-examination, CW-2 has stated that he does not have personal knowledge how the incident had taken place.

15. Witness, Sailen Talukdar, in his examination in chief, has made it clear that he does not have knowledge about the incident. He proved the seizure list as Ext. P2/PW3 and his signature as Ext. P2(1)/PW3.
16. It is in the testimony of witness Hasan Ali(PW4) that he owns the Dumper bearing registration no. AS-16/C-6848 and the accused was the driver of the same in the year 2024. PW4 has continued to state that the incident took place in the year 2024 during daytime at NH No. 127A at Kenduguri and he was informed about the incident by the accused. As told by the accused he was not driving the vehicle in rash and negligent manner and the incident took place due to the fault of the rider of the bike. PW4 has proved his signature on the seizure list as Ext. P2(2)/PW4.

JUDICIAL DETERMINATION

17. I have meticulously analyzed and scrutinized the entire evidence on record. In this case, none of the witnesses had seen the incident taking place. However, PW4 has confirmed that the accused was the driver of the dumper involved in this case. defence, too, has not disputed the fact of death of Kamal Sarma and injury received by Mantu Sarma. However, the death of the victim is not sufficient to prove the guilt of the accused. In order to hold the

accused culpable for the same, it has to be established that he was driving the offending vehicle in a rash and negligent manner and it was for his rash and negligent driving the victim had died.

18. In this case, not a single eye witness was examined by the Prosecution. There is nothing on record to infer that the accused was rash and negligent while driving the Dumper and it was for his rash and negligent driving one of the victim had died and the another received injury. Hence, I am of the considered opinion that the charges under section 281/125(b)/106(1), BNS not proved against the accused beyond reasonable doubt.

DECISION

19. Situated thus, I am of the considered opinion that the prosecution has failed to prove its case against the accused, Ratan Talukdar, due to dearth of evidence of eye witness. The points for determination are, hence, decided in the negative.

ORDER

20. Considering the discussion made above and in light of the aforesaid decision, the accused person, Ratan Talukdar is acquitted of the charges under section 281/125(b)/106(1), BNS and set at liberty forthwith.
21. The bail bonds of accused person, is extended u/s 437A Cr.P.C., for next six months.

22. Seized articles be disposed of as per procedure of law.

23. Judgment is pronounced in open court. Case is disposed on contest.

Given under the hand and seal of this Court on this 11th day of February, 2026 at Bajali.

(PRARTHANA NEOG)

**Sub Divisional Judicial Magistrate,(M)
Bajali.**

APPENDIX

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE
PW1	Rantu Sarma	informant
PW2	Dhrubajit Sarma	----
PW3	Sailen Talukdar	
PW4	Hasan Ali	

B. Defence Witnesses, if any: NONE

C. Court Witnesses, if any: **CW-1 Mantu Sarma**

CW-2 Ashim Sarma

LIST PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sl. No.	Exhibit Number	Description
1	Ext. P1/PW1	Ejhar
2	Ext.P2/PW2	Seizure List
3	Ext.P3/CW2	Seizure List

B. Defence : NONE

C. Court Exhibits : NONE

D. Material Objects : NONE

(Smt. Prarthana Neog)

Sub Divisional Judicial Magistrate(M)

Bajali.