

**G.R CASE NO – 429/2020**

**Order No. 19 dt. 13/12/2023**

Today is fixed for hearing of argument and if possible delivery of Judgment.

Sole accused person is present and files hazira.

Ld. App and Ld. Advocate on behalf of the accused person are present.

Heard argument both sides.

Judgment shall be pronounced at 1.30 P.M.

**Later**

It is now 1.30 P.M.

Judgment made ready in 2 sheets of paper containing pages 1 to 4, signed and sealed is pronounced in open court in presence of all concerned.

The operative part of the judgment is as under.

In the result, it is accordingly,

**ORDERED**

That the accused person named **Rafikul Miya** is found not guilty for the offence punishable u/s 279/304-A of the I.P.C. 1860 and acquitted under section 255(1) of Cr.P.C, 1973.

The accused person as well as his surety is hereby discharged from his respective bail bond liabilities.

Note in T/R and CIS.

D/L be returned as per procedure.

Judicial Magistrate,  
Tufanganj, Cooch Behar

Judicial Magistrate,  
Tufanganj, Cooch Behar

IN THE COURT OF JUDICIAL MAGISTRATE, FIRST CLASS,  
TUFANGANJ, COOCHBEHAR

*Present: Mr. Ashok Halder*

*Judicial Magistrate,*

*Tufanganj, Coochbehar*

*J.O.Code No - WB01269*

G.R Case No. 429/2020

Regt. No. 423/2022

T.R No. 211/2022 dated 17/10/2022

*State*

*Vs*

• *Rafikul Miya.....accused persons*

UNDER SECTION : 279/304-A of IPC

Date of Delivery of Judgment :- The 13<sup>th</sup> day of December, 2023

J U D G M E N T

The prosecution case, in short, is that on 11/08/2020 at about 10.30 A.M, when the wife of the defacto-complainant namely Puti Dakua was going to Bandhan Office at that time one bike was coming very rashly and negligently and dashed her from behind. Thereafter, the local people took her to Tufanganj Hospital for treatment but the doctor of said hospital declared that she was dead for which the present case filed by defacto-complainant.

On the basis of the written complaint of the said Taranikanta Dakua, Officer-in Charge, Boxirhat P.S, Coochbehar started a case being No. 130/2020 dated 17/08/2020 against the above named accused person for the offence punishable u/s 279/304-A of the I.P.C, 1860. The O/C of the Boxirhat P.S, entrusted the case to S.I Lalit Rai to investigate the case.

After completion of investigation, I.O submitted chargesheet being C.S No. 166/220 dated 31/10/2020 against the accused person u/s 279/304-A of I.P.C, 1860. **Contd....(2)**

Upon hearing both prosecution and defence and considering the police report and the materials sent along with it u/s 173(5) of Cr.P.C charge for offence u/s 279/304-A of IPC has been framed against the accused person to which he pleaded not guilty and claimed to tried.

**Prosecution to prove its case has examined following witness:-**

- PW1 – Taranikanta Dakua,

The accused person has been examined u/s 313 of Cr.P.C. 1973 and on being asked he has denied to adduce any evidence on his behalf.

The case of the accused person as revealed from the trend of cross-examination of prosecution witness and the answers given by him during his examination u/s 313 of the Cr.P.C, in short, is that he is innocent and has been falsely implicated in this case.

#### **POINTS FOR CONSIDERATION**

Considering the materials on record and evidence adduced by the side of prosecution following points are formulated for the proper adjudication of this case:-

1) Whether the accused person has committed the alleged offences or not?

2) Has the prosecution been able to prove the allegation against the accused person beyond all reasonable doubt ?

#### **DECISION WITH REASON**

All the points formulated herein above are taken up together for the sake of convenience and brevity of discussion. It is well settled that the accused person shall be deemed to be innocent until guilt of the accused person is proved beyond all reasonable doubt. Let me consider whether the prosecution has been able to prove the guilt of the accused person beyond all reasonable doubt or not.

**Contd.....(3)**

(3)

PW1 named Tarani Kanta Dakua is the defacto-complainant in this case. In his examination-in-chief he stated that at about 2 years ago, his wife was made by accident for which he filed this case. He further stated that he can't recollect the contains of his complaint and he has no allegation against the accused person. He deposed that he did not know the name of the rider and he did not know the number of the offending vehicle.

The cross-examination of PW1 by the defense was declined.

On perusal on record it appears that the defacto-complainant stated that he can't recollect the contains of the written complaint. PW1 also stated that he did not know the number of the offending vehicle and he did not know the name of the rider. PW1 showed his ignorance about the allegation and stated that he has no allegation against the accused persons. No eye witness was examined by the prosecution side.

On careful scrutiny of it is clear that the either of the witness is miser about the truth or the matter has settled between them. In fact it is a case of no evidence to substantiate any head of charge. In view of evidence brought on record by the prosecution I find no need of spinning it anymore. It goes without saying that the worst has come to the worst and it is tragic that lot of time has been wasted and lot of public money has been spent in this wild goose chase. Accordingly, he shows his prudence and closes the prosecution evidence a little bit earlier and tried to save unnecessary expenditure of public money. I think I do conclude here. So this far and no further.

In fine the prosecution case fails.

Contd.....(4)

(4)

In the result, it is accordingly,

**ORDERED**

That the accused person named **Rafikul Miya** is found not guilty for the **offence punishable u/s 279/304-A of the I.P.C. 1860** and acquitted **under section 255(1) of Cr.P.C, 1973.**

The accused person as well as his surety is hereby discharged from his respective bail bond liabilities.

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