

ASBR060006272025



IN THE COURT OF SUB DIVISIONAL JUDICIAL

MAGISTRATE (M), BAJALI

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

(Date of judgment)

29-07-2026

(Case No. P.R.C No. 258/25)

U/S 281/125(b) BNS

(Details of FIR/Crime and Police Station)

In connection with Patacharkuchi PS Case No.143/25

COMPLAINANT :

STATE OF ASSAM

REPRESENTED BY	NAME OF THE ADVOCATE Smti. Dipanjali Devi, APP
ACCUSED	Akhtar Hussain
REPRESENTED BY	NAME OF THE ADVOCATE Mukul Medhi

Date of Offence	25-05-25
Date of FIR	18-07-26
Date of Charge Sheet	29-08-25
Date of Charge framed	10-02-26
Date of commencement of evidence	20-03-26

Date on which judgment is reserved	
Date of judgment	29-07-26
Date of the Sentencing Order, if any	-----

JUDGMENT

1. Akhtar Hussain (hereinafter referred to as accused person/A1) is before this court facing accusation for commission of offence punishable under sections 125(b)/281 of the Bharatiya Nyay Sanhita (hereinafter referred to as BNS).
2. The instant case was initiated by informant Jutika Kalita Deka by lodging an ejahar on 18-07-25 stating *inter alia* that on 25-05-25 at about 8:00 pm, while her husband was coming home on a motor cycle by the National Highway, another motor cycle bearing Registration No.AS-15-T-4098 coming from the same direction hit her husband's motor cycle from behind and as a result of the impact, her husband received serious injuries. Though he was initially admitted to Pathsala Govt. Hospital, he was referred to FAAMCH for better treatment. Hence, the case.

3. Upon receipt of the ejahar, the O.C. Patacharkuchi PS registered a case being Patacharkuchi P.S. Case No. 143/25, u/s 281/125 BNS and the same was taken up for investigation. After conclusion of the investigation, the accused person/A1 was charge-sheeted u/s 281/125(b) 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 BNSS. After hearing the learned counsels for the both sides and after perusing the case record, formal charges u/s 281/125(b) 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 four (4) witnesses on its behalf and exhibited the FIR. Statement of defence of the accused person u/s 351 BNSS was recorded on a separate sheet. 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 25-05-25 at about 8:00 pm, rode a motor cycle bearing Registration No.AS-15-T-4098 on the National Highway under the jurisdiction of Patacharkuchi PS 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, on the same time and place, caused grievous hurt to the informant's husband by riding a bike bearing Registration No.AS-15-T-4098 in a very rash and negligent manner, and thereby committed an offence punishable u/s 125(b) BNS ?

DISCUSSION, DECISIONS AND REASONS THEREOF:

7. Evidence on record was perused and submissions made by the respective learned counsels 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, the informant **Jutika Kalita Deka** was examined by the prosecution as **PW1**. She has stated that in her examination-in-chief that she filed this case in connection with the injury

received by her husband in a road mishap which took place on 25-05-26 at around 8:00 pm at Morka Chowk. Her husband has a mobile shop at Pathsala. At the relevant time, while her husband was returning home on his scooty after closing his shop, he was hit by a motor cycle from the behind when her husband reached at Morka Chowk. As a result of the impact, her husband fell on the road and received serious injuries. His right leg got fractured and became unconscious due to the injuries received by him. At that time, the police vehicle of Patacharkuchi PS was also present there. Her husband was taken to Pathsala Govt. Hospital by the police and by-passers, who had seen the incident. As the police were present at the time of the incident, police caught the person, who was riding the offending vehicle at the relevant time. She has seen him at the Pathsala Civil Hospital on being identified by the police. The accused also accompanied her husband to the Pathsala Civil Hospital. At the time of the incident, she was at home and after coming to know about the incident from police, she went to Pathsala Civil Hospital. Her husband was taken to FAAMCH, Barpeta on being referred from Pathsala. Surgery of the leg of her husband was done in the said hospital and he had to be admitted there for about 10 days. She has proved Ext. P1/PW1 as the ejahar and Ext. P1(1)/PW1 as his signature.

9. In her cross-examination, PW-1 has stated that the ejahar was written by her. Till the time of filling the ejahar she did not know the name of the accused. She did not state before the police as to the fact that the accused was caught by the police at the place of the occurrence and that she saw the accused in the Pathsala Hospital on being identified by the police. PW-1 has denied the suggestion put forward by the defence counsel.
10. Next, victim **Pradeep Kr. Das** was brought into the stand as P.W.2 and he has stated in his examination-in-chief that he knows the informant and she is his wife. She has filed this case in connection with injury received by him in a road mishap which took place on 25-05-25 at around 8/9 p.m. on the National Highway under the jurisdiction of Morka Chowk. He knows the accused. At the relevant time, he was returning home by riding his scooty after closing his shop. When he reached the place of the occurrence, the accused by riding the motor-cycle in a high speed hit his scooty from the behind. As a result of the impact, both of them fell on the road and received serious injuries. There was a girl riding on the motor-cycle of the accused as pillion rider. She also fell on the road. The by-passers and Police immediately arrived at the spot and took all of them to Pathsala Medical. He was referred to Barpeta Medical considering the seriousness of his injury and there

his right leg was operated as his knee and lower part of knee received fracture injury. He was admitted there for about 10 days. In connection with the above incident, his wife lodged the ejahar almost after two months of the incident as she was busy taking care of him. Police recorded his statement.

11. In his cross-examination, PW-2 has stated that there was no speed breaker at the spot and there was no sign of speed limit near the place of the occurrence. Immediately before the incident, he was not aware how the accused was driving the motor-cycle. He guessed that the accused was riding the offending motor-cycle in high speed because had he been riding in normal speed, he could have averted the incident.

12. Witness, **Baban Ch. Deka** as P.W.3 in his chief has deposed to the effect that the informant, Jutika Kalita Deka filed this case in connection with injury received by Pradeep Deka in a road mishap which took place someday in the month of May, 2025 at around 8 p.m. at Morka Chowk. He does not know the accused of this case. At the relevant time, he was going towards Patacharkuchi from Pathsala by carrying passenger on his E-Rickshaw. When he reached the place of the occurrence, he saw a motor-bike dashing a scooty from the behind. The rider of the scooty fell on the road and seeing the incident, he went near the scooty and found Pradeep Deka

lying on the road. Immediately after the incident, by-passers and nearby people started to gather at the spot. In the mean-time, Police arrived at the spot and ambulance also arrived after which the injured Pradeep Deka was taken to the Hospital. He did not notice what happened to the offending bike. Police recovered the scooty of the injured and he put his signature on the seizure list. He has proved Ext. Ext. P2/PW3 as the seizure list and Ext. P2(1)/PW3 as his signature.

13. In his cross-examination, PW-3 has deposed that the incident took place on the National Highway and at the time of the incident, the road was busy. There are shops near the place of the occurrence. Police did not record his statement. On being asked, PW3 has admitted that he did not state before the Police about witnessing the incident while going to Patacharkuchi by carrying passengers. He put his signature on the seizure list in respect of seizure of key of the scooty. Police did not read over to him the contents of the seizure list before taking his signature.

14. Thereafter, the prosecution examined **Pradeep Kalita** as PW-4 and he has testified to the effect that the informant, Jutika Kalita Deka's husband received in injury in a road mishap which took place someday in the month of May, 2025 at Morka Chowk. He does not know the accused of this case. He did not see the

incident taking place. The Police seized the scooter of informant's husband in connection with the incident and he put his signature in proof of seizure. He has proved Ext. P2/PW4 is the seizure list and Ext. P2(2)/PW4 as his signature.

JUDICIAL DETERMINATION

15. I have meticulously analyzed and scrutinized the entire evidence on record. It is evident from the evidence on the record that defence has not disputed injury received by the informant's husband as a result of the impact on being hit by the motor-cycle which was driven by the accused at the time of the incident. But, that is not sufficient to prove rash and negligent driving by the accused.
16. It is pertinent to mention here that in order to hold the accused culpable for the offence under sections 125(b)/281, BNS, it has to be established that accused was driving the offending vehicle in a rash or negligent manner and it was for his rashness or negligence that led to injury of the victim. Rashness and/or negligence are the sine qua non for an offence under sections 281/125(b) BNS. And it is the burden of the prosecution to establish the same.
17. Reverting to the case in hand, it is evident from the evidence on record none of the witnesses had seen the incident taking place. Though, PW3 claimed that he is eye witness of the incident but, defence during

his cross examination could shake his testimony adduced in chief. Defence while cross examining PW3 established that deposition of PW3 adduced in chief is not reliable and as such cannot be read in evidence.

18. PW2 who is the victim in his cross examination has stated that he was not aware about the manner in which the accused was driving the offending vehicle. From the circumstances of this case, it is obvious for the victim not to know the manner in which the accused was driving the offending vehicle. The Prosecution could not bring into the stand a witness who had seen how the incident had taken place. In the absence of any eye witness, it cannot be ascertained with certainty that the incident took place due to rash and negligent driving of the accused

DECISION

19. Situated thus, I am of the considered opinion that the prosecution has failed to prove its case against the accused, Akhtar Hussain. 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, Akhtar Hussain is acquitted of the charges under section 281/125(b) BNS and set at liberty forthwith.

- 21.The bail bond of the accused person is extended u/s 481 BNSS for next six months.
22. Seized articles, if any, 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 29th day of July, 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	Jutika Kalita Deka	informant
PW2	Pradeep Kr. Das	victim
PW3	Baban Ch. Das	Independent witness
PW4	Pradeep Kalita	Independent witness

B. Defence Witnesses, if any: NONE

C. Court Witnesses, if any: NONE

LIST PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sl. No.	Exhibit Number	Description
1	Ext. P1/PW1	Ejaha
2	Ext.P2/PW3	Seizure List
3	Ext.P3/PW4	Seizure List

B. Defence : NONE

C. Court Exhibits : NONE

D. Material Objects : NONE

(Smt. Prarthana Neog)

Sub Divisional Judicial Magistrate(M)

Bajali.