



ASSN060013572023



IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE
(M) :::: BISWANATH, ASSAM

Present: Ms Pranjita Konwar
SDJM (M), Biswanath

Dated: 12-08-26

PRC Case No. 1021/23

Biswanath Chariali P. S. Case No. 127/23
(FIR registered under section 279/304 A of The Indian Penal
Code)

COMPLAINANT	State of Assam
REPRESENTED BY	Smti B. Upadhyay Learned Assistant P. P.
ACCUSED PERSONS	1. Sri Narayan Bhumij Son of Sri Budhu Bhumij Pertabghur Tea Estate Khelmati Line P. S. Biswanath Chariali District Biswanath Assam 2. Sri Bhupen Orang Son of Late Briju Orang Shakomota Tea Estate P. S. Biswanath Chariali District Biswanath Assam
REPRESENTED BY	1. Smti R. Bhujel, Learned Defence Counsel for accused person no. 1 2. Sri P. Hazarika, Smti B. Gupta and Sri S. Das, Learned Defence Counsels for accused person no. 2



Date of Offence	05-06-23
Date of FIR	29-09-23
Date of Charge sheet	30-09-23
Date of Offence explanation	11-12-24
Date of commencement of evidence	26-06-25
Date on which judgment is reserved	31-07-26
Date of Judgment	12-08-26
Date of the Sentencing Order, if any	

Accused Details:

Rank of the Accused	A1
Name of Accused	Sri Narayan Bhumij
Date of Arrest	
Date of Released on Bail	03-09-24
Offences charged with	279/304 A of the Indian Penal Code
Whether Acquitted or convicted	Acquitted
Sentence Imposed	
Period of Detention Undergone during Trial	

Rank of the Accused	A2
Name of Accused	Sri Bhupen Orang
Date of Arrest	



Date of Released on Bail	03-09-24
Offences charged with	279/304 A of the Indian Penal Code
Whether Acquitted or convicted	Acquitted
Sentence Imposed	
Period of Detention Undergone during Trial	

JUDGMENT

1. The case of the prosecution was initiated on a written ejahar being filed by one Sri Biki Gowala stating that on 05-06-23 at around 6.30 PM while the father of the informant was at his workplace at the Shakomota Tea Estate, one tractor had dashed the father of the informant when the tractor had moved towards the father of the informant at a high speed upon Sri Bhupen Orang starting the tractor which had been kept there along with its key by Sri Narayan Bhumij and as a result of that the father of the informant had sustained grievous injuries and had succumbed to his injuries.

2. The said ejahar was received and a case being Biswanath Chariali P. S. case no. 127/23 was registered under section 279/304 A of The Indian Penal Code (herein after referred to as IPC) and the case was investigated. The investigation on being



concluded by the police resulted in the Investigating Officer (herein after referred to as IO) concerned to submit the charge sheet against the accused persons Sri Narayan Bhumij and Sri Bhupen Orang under sections 279/304 A IPC.

Trial

3. In due course cognizance was taken of the alleged offence and summons was issued to the accused persons. The accused persons appeared before the Court and the copies of relevant documents were furnished to the accused persons under section 207 of the Code of Criminal Procedure (herein after referred to as CrPC). Particulars of offence under section 279/304 A IPC was explained to the accused persons to which the accused persons pleaded not guilty and claimed to be tried.

4. In order to bring home the charge against the accused persons, the prosecution examined 5 (five) witnesses. After closure of prosecution evidence, the accused persons were examined under section 313 CrPC; the defence plea of the accused persons was total denial and the accused persons also declined to adduce any evidence to adduce any evidence in their defence.

5. I have heard argument of the learned counsels of both the sides.



POINTS FOR DETERMINATION

6. Whether the accused persons Sri Narayan Bhumij and Sri Bhupen Orang on or about the 5th day of June 2023 at the Shakomota Tea Estate under Biswanath Chariati police station drove a vehicle, in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to the father of the informant and thereby committed an offence under section 279 IPC?
7. Whether the accused persons Sri Narayan Bhumij and Sri Bhupen Orang on or about the same time and place, caused the death of the father of the informant by driving a vehicle in a rash and negligent manner not amounting to culpable homicide and thereby committed an offence under section 304 A IPC?

DISCUSSION, DECISION AND REASONS **THERE OF**

8. In the light of definition of the law let me now appreciate the evidence to see whether the accused persons committed the offence punishable under sections 279/304 A IPC.
9. PW 1, the informant, knew the accused persons and deposed that the incident had taken place in 2023 at about 5.00 PM at the campus of the Sakumatha Tea Estate when he was at home and Pritam Choudhury of the Sakumatha Tea Estate had



called him over telephone and informed him that his father had met with an accident inside the campus of the said Tea Estate and when he had reached the place of occurrence his father was already taken to the Biswanath civil hospital and there he had come to know that the condition of his father was critical and his father had passed away at the hospital the following day. PW 1 deposed that he had come to know from Pritam Choudhury that his father was unloading tea leaves from one tractor at the factory of the Sakumatha tea estate and Narayan Bhumij had parked his tractor near the place where his father was working and Narayan Bhumij had left the key on the tractor, and Bhupen Orang had gone there and started the tractor by turning its key and the tractor moved and had hit his father from behind and had pushed his father against one trailer. PW 1 also deposed that Bhupen Orang is not a driver and he used to work as a helper with Narayan Bhumij, who used to work as the driver of that tractor. During cross examination PW 1 deposed that one MACT case was also filed in connection with the incident and that he did not remember when the FIR was filed. PW 1 denied the suggestion that he had filed the FIR after about 3 months of the incident. PW 1 also deposed that he did not have any personal knowledge as to how the incident had taken place or on account of whose



fault the incident had taken place because he was at home at that time and that 40 – 50 persons of the Tea Estate were present when he had reached the place of occurrence but he cannot say their names and whether Biki Orang and Bhupen Orang are the same and one person. PW 1 deposed that his statement was recorded at the police station and denied the suggestions that he had stated before the IO that Biki Orang had turned the key of the tractor and that Pritam Choudhury had not told him about the incident and that he had filed this false case in order to file one MACT case. PW 1 deposed that Jagannth Koyan and other factory workers were present with his father at the the time of the incident and those persons had not told him anything about the incident.

10. PW 2 knew the informant and the accused persons and deposed that the incident had taken place about 1 year from then at 4.00 –5.00 PM at the factory campus of the Sakumatha Tea Estate. PW 2 deposed that he had left the factory campus after parking his tractor and he had heard hue and cry coming from the factory and he had rushed to that place and saw that Naresh Gowala, who was unloading tea leaves there, was squeezed between one tractor and one trailer and that he had come to know that one handyman Orang had turned the key of the tractor of Narayan Bhumij and the tractor had

A handwritten signature in black ink, appearing to be "Biswanath Chariati".



moved and had hit Naresh Gowala. PW 2 also deposed that Narayan Bhumij had left the key on the tractor after parking his tractor and Orang had tried to flee but he was caught. PW 2 further deposed that Naresh Gowala was sent to the hospital but he had succumbed to his injuries. During cross examination PW 2 deposed that he was at a distance of about 100 metres when he had heard hue and cry coming from the factory campus and that he cannot say on account of whose fault the incident had taken place or how the incident had taken place. PW 2 also deposed that he had not seen anyone turn the key of the tractor as he was away from the place of occurrence and about 20 – 25 people were working at the place of occurrence when the incident had taken place but he cannot say their names. PW 2 deposed that Biki Orang and Bhupen Orang are two different persons and that he had stated before the IO that one Biki Orang had turned the key of the tractor.

11. PW 3 did not know the informant but knew the deceased victim and the accused persons because they used to work together in the same tea garden. PW 3 deposed that the incident had taken place about 2 – 3 years from then at around 5.00 – 5.30 PM at the Sakumatha Tea Garden Factory when he had gone to drink water and on hearing hulla coming from the area of the factory where tea



leaves were unloaded, he had come to know that Naresh Gowala had met with an accident with the vehicle of Narayan Bhumij when the handyman Bhupen Orang had dashed Naresh Gowala with the tractor from which tea leaves were being unloaded when Naresh Gowala was unloading tea leaves from another vehicle. PW 3 deposed that he had not gone to the place of place of occurrence to see what had happened and had left shortly afterwards after coming to know about the incident. During cross examination PW 3 deposed that he had not seen the incident to say how or under what circumstances or on account of whose fault the incident had taken place and that around 10 – 12 people were there when he had gone to drink water. PW 3 deposed that he had heard from others that Bhupen Orang had dashed Naresh Gowala with the tractor and that he cannot say from whom he had come to know about it. PW 3 deposed that he did not know any person by the name of Biki Orang.

12. PW 4 knew the informant as the son of the deceased victim and the deceased victim and the accused persons because they used to work together in the same tea garden factory. PW 4 deposed that accused Narayan Bhumij was a driver and accused Bhupen Orang was the handyman of Narayan Bhumij and that the incident had taken place about 2 years at around 5.00 PM at an area



within the Sakumatha Tea Garden Factory where tea leaves are unloaded and that when he had gone to drink water, he had heard hulla coming from inside the factory where tea leaves are unloaded and when he had gone to that place, he had come to know that Naresh Gowala, who was unloading tea leaves, had been dashed by one tractor when accused Bhupen Orang had started the said tractor by inserting a wire in the keyhole of the tractor. PW 4 deposed that Naresh Gowala was taken for his medical treatment but he had succumbed to his injuries. During cross examination PW 4 deposed that he had not seen the incident to say how or under what circumstances or on account of whose fault the incident had taken place and that he had heard from others that Bhupen Orang had started the said tractor by inserting a wire in the keyhole of the tractor and that he cannot say from whom he had come to know about it. PW 4 also deposed that around 10 – 12 persons were present at the place of occurrence but he cannot say their names.

13. PW 5 knew the informant as the son of Naresh Gowala, the deceased victim, who was also permanent worker of their tea garden and the accused persons as employees of Sakumatha Division and deposed that the incident had taken place in June 2023 at around 6.00 – 6.30 PM at the premises of the tea factory where tea leaves are



unloaded when he was at the administrative office of their tea garden and on hearing hue and cry, he along with other colleagues had gone out to see what was going on and he had come to know that an accident had taken place when Naresh Gowala had sustained injury when a tractor had dashed Naresh Gowala. PW 5 deposed that he had come to know that Naresh Gowala was standing near the tractor and that the handyman Bhupen Orang had turned the key of the tractor and the tractor which was not in the neutral gear had moved with a jerk and had dashed Naresh Gowala and that the other accused Narayan Bhumij was also near the tractor at the time of the incident. PW 5 deposed that by the time he had reached there, Naresh Gowala was already taken to the hospital by their tea garden ambulance and Naresh Gowala had succumbed to his injuries in that incident. PW 5 deposed that police had seized the tractor in connection with the incident and he could identify his signature in the seizure list seen in Court on that day. During cross examination PW 5 deposed that he had not seen the incident to say how exactly the incident had taken place or on account of whose fault the incident had taken place and that he had only heard about the incident from others. PW 5 deposed that 50 – 60 persons were present at the place of occurrence and he did not remember from whom exactly he had



come to know how the incident had taken place and that he cannot say the names of the persons present at the place of occurrence when he had reached there. PW 5 deposed that Tapan Deb, Nihar Ranjan Roy and Kalyan Dutta had come out of the administrative office along with him when they had heard hue and cry. PW 5 deposed that he had read the seizure list before putting his signature on it.

14. So from the evidence of the PWs it is seen that PW 1, PW 3, PW 4 and PW 5 had deposed that the tractor, which had dashed the father of the informant, had moved because of A2. Also although PW 2 had also deposed in a similar way, PW 2 had not deposed that A2 was involved in the incident in spite of being able to identify A2 in Court. None of the PWs examined on behalf of the prosecution side were present at the place of occurrence at the time of the incident and had only come to know about the incident from others, and evidence brought on record being hearsay in nature cannot be considered admissible because it lacks certainty and reliability in absence of testimony of any person who had first-hand witnessed the incident.

15. In view of the above, this Court finds and holds that the prosecution has failed to bring home the guilt of the accused persons beyond all reasonable doubts. The ingredients of the offence under section 279/304 A IPC have not been proved



against the accused persons and hence, the accused persons are found to be not guilty.

DECISION

16. The points for determination are decided in negative and in favour of the accused persons.

ORDER

17. Accused persons Sri Narayan Bhumij and Sri Bhupen Orang are acquitted from the charge under section 279/304 A IPC and set at liberty.

18. The bail bonds furnished by the accused persons shall remain in force for a period of 6 (six) months from today in view of the provision of section 437 A CrPC.

19. Judgment is pronounced in open Court by reading out the operative part of the same.

20. Materials seized during investigation, if any, to be disposed of in due course of law and time.

21. Case is disposed on contest.

Given under my hand and seal of this Court on the 12th day of August, 2026.

[Handwritten signature]
12/8/26

(PRANJITA KONWAR)

Sub Divisional Judicial Magistrate (M)

Biswanath
Sub Divisional Judicial Magistrate (M)
Biswanath, Biswanath Chariali

APPENDIX

Prosecution Witnesses:

Rank	Name	Nature of Evidence
PW 1	Sri Biki Gowala	Informant
PW 2	Sri Manik Munda	Other witness
PW 3	Sri Rajesh Orang	Other witness
PW 4	Sri Bijay Orang	Other witness
PW 5	Sri Pritam Roy Choudhury	Seizure witness

Prosecution Exhibits:

Sr. No.	Exhibit number	Description
1	Exhibit P1/PW 1	FIR
2	Exhibit P2/PW 5	Seizure list

Defence Witnesses:

None

Defence Exhibits:

None

Court Witnesses:

None

Court Exhibits:

None

Material Exhibits:

None

12/8/26

(PRANJITA KONWAR)

Sub Divisional Judicial Magistrate (M)

Biswanath
Sub Divisional Judicial Magistrate (M)
Biswanath, Biswanath Chariati

