

**In the court of the Chief Judicial Magistrate ::::::::::: Dhubri**

Present: Smt.T. Hussain

Chief Judicial Magistrate, Dhubri

GR No. 609 of 2010

U/S 279/304(A) IPC

State

-Vs-

Intaz Alom

.....Accused person

Advocates appeared:

for the prosecution : Mr. S. Mollah, Addl. PP

for the defence : Mr. I. Azad & Mr. M. Islam.

Evidence recorded on : 21.10.14, 17.03.15, 02.05.15 & 29.08.15.

Argument heard : 05.06.2017

Judgment delivered on : 05.06.2017

**J U D G M E N T**

1. The prosecution case in brief is that on 29.07.2015 one Daulat Ali lodged an ejahar stating to the effect that on 23.07.2010 at about 3.00 P.M while his seven year old daughter Nilima Khatun was proceeding towards the Belguri market, on the way, on NH-31 in Belguri village, a speeding Maruti vehicle bearing registration No. AS-01G-0059 coming from opposite direction in rash and negligent manner knocked her down causing grievous injuries to her. The nearby people immediately shifted her to Dhubri Civil Hospital for treatment and while undergoing treatment in Dhubri Civil Hospital, on 24.07.2010 she succumbed to her injuries.

2. Upon receipt of the ejahar, Golakganj Police Station case No. 424/2010 was registered, investigated into and finally charge-sheet was submitted against the accused person u/s 279/304(A) IPC.

3. On his making appearance for facing the trial, copies were furnished to the accused. Thereafter vide order dated 07.08.13, my Ld. predecessor explained the

particular of offences punishable u/s 279/304(A) IPC to the accused to which he pleaded not guilty and claimed to be tried.

4. During the course of the trial, the prosecution examined 6(six) witnesses. As there was no incriminating evidence against the accused person his examination u/s 313 of Cr.P.C was dispensed with.

5. Points for determination:

Whether the accused on 23.07.10 by driving vehicle No. AS-01G-0059 in rash and negligent manner on National Highway-31 in Belguri Village knocked down the informant's daughter Nilima Khatun causing her death and thereby committed offences punishable u/s 279/304(A) IPC?

**6. Decision and reasons thereof:**

I have heard the arguments advanced by the Id counsel for both the sides and perused the materials available in the CR. Let us now scrutinize the evidence on record for arriving at just decision.

PW-1 Daulat Ali is the informant. He has said in his evidence that nearly 3-4 years back( from the date of his evidence) at about 4.00 P.M. his daughter Nilima Khatun went towards the market . Later hee heard that a white Maruti vehicle hit her. He immediately rushed to the spot and shifted Nilima to the hospital and subsequently she died in the hospital.

In his cross examination he made it clear that he was not present at the time of the occurrence and hence he could not say how the occurrence took place. He has also does not know for whose fault the incident occurred.

PW-2 Samsul Hoque has said in his evidence that nearly four years back at about 3.30 P.M he was in his house. Hearing commotion he came out of the house and saw that a white colour Maruti Van left that place in high speed after knocking down the informant's daughter. Next day he came to know that the daughter of the informant died.

It is brought out by cross examining PW-2 that he does not know the registration number of the offending vehicle and he did not see the driver of the offending vehicle. He also could not say for whose fault the incident occurred.

PW-3 Aleya Bibi is the wife of the informant. She has said in her evidence that the nearly three years ago at about 3.00 P.M she along with her daughter Nilima Khatun was walking along the road towards the house of her father located in Belguri, on the way a white Maruti van coming from the opposite direction hit her daughter and left that place. Her daughter sustained injuries on her head and legs. She took her daughter to Agomani PHC and later she was shifted to Dhubri Civil Hospital and next day morning she died in the hospital.

Like PW-2, PW-3 has also not been able to say the registration number of the offending vehicle.

PW-4 Hafizur Rahman, has said that he does not know the accused person. Nearly 3 ½ years ago one evening at about 5.00 P.M while he was near Belguri High School, suddenly hearing a sound coming from behind, he went there and saw a little girl lying on the National Highway-31 with injuries. Before his reaching the spot the offending vehicle left that place. He brought the injured girl to the Dhubri Civil Hospital.

PW-4 also could not say about the registration number of the offending vehicle nor he has implicated the accused person.

PW-5 Dil Baksh has said in his evidence that he heard that a vehicle hit the informant's daughter and arriving the spot he saw blood stains there.

PW-6 Abbas Ali could say nothing about the prosecution case.

Now from the aforesaid evidence on record, it is found that there is no dispute that a white colour Maruti van hit the daughter of the informant namely Nilima Khatun causing injuries and in Dhubri Civil Hospital while undergoing treatment she died. At the time of the said accident her mother i.e PW-3 was present there with her. Thus, PW-3 was an eye witness to the occurrence but PW-3 has not implicated the accused person in any manner by saying that she did not see the driver of the offending vehicle nor she could say about the registration number of the vehicle. Similarly, another eye witness Samsul Hoque(Pw2) has also said nothing incriminating against the accused person and he has also not been able to say the registration number of the offending vehicle nor about the driver of the vehicle. Thus, it is seen that there is no incriminating evidence against the accused

person. There is absolutely no evidence on record against the accused person to demonstrate his involvement in the said accident.

In the result, accused Intaz Alom is acquitted of the offences u/s 279/304(A) IPC and set him at liberty forth with

The bail bond shall remain in force for next six months.

The seized document/vehicle be returned to the owner/driver of the vehicle in due course.

Given under my hand and seal of the court on this 5<sup>st</sup> day of June, 2017.

Chief Judicial Magistrate,  
Dhubri

Dictated and corrected by me

Appendix:

Witnesses examined by the prosecution

Pw-1..... Daulat Ali

Pw-2..... Samsul Hoque

pw-3..... Aleya Bibi

Pw-4..... Hafizur Rahman

Pw-5.... .Dil Baksh

Pw-6..... Abbas Ali

Documents exhibited by the prosecution

Exhibit-1..... ejahar.