

In the court of Addl.Chief Judicial Magistrate :::::::::::Dhubri

Present : Smt.T. Hussain

Addl.C.J.M ,Dhubri

GR NO-463/11

U/S 279/337 I.P.C

State

Vs

Nur Hamidur Rahman

.....accused

Advocates appeared:

For the prosecution:Mr. K .A Seikh Asstt.P.P

For the Defence :Mr M K Ray

Evidence recorded on :08.07.15

:09.11.15

Argument heard on :09.11.15

Judgment delivered on :09.11.15

Judgment

1.The facts giving rise to the prosecution case in brief are that on 10.02.11 one Aniruddin of Bashbari village lodged an ejarah with the Officer - In-charge ,Gauripur Police Station stating therein that on 04.02.11 at about 5 PM while his son Nasir Hussain was proceeding towards his home ,on the way ,in front of the house one Abul Kalam of the same village, on public road, a speeding truck bearing registration no. AS-18-3230 coming from behind in rash and negligent manner knocked him down causing grievous injuries to him .

2. Upon receipt of the ejarah Gauripur PS case no.63/11 was registered, investigated in to and finally charge sheet was submitted against the accused u/s 279/337 IPC.

3. Copies was furnished to the accused u/s 207 Cr.P.C on his making appearance for facing the trial .Having gone through the relevant documents , the particulars of the accusation punishable U/s 279/337

I.P.C were explained to the accused to which he pleaded not guilty and claimed to be tried.

4. During the course of the trial the prosecution examined 4 witnesses. After closing the prosecution evidence, the accused was examined u/s 313 of Cr.P.C and his defence statement was recorded. The accused declined to adduce evidence.

5. Points for determination:

Whether the accused on 04.02.2011 by rash and negligent driving of a Truck bearing registration no AS-18- 3230 on Public road hit one Nazir Hussain causing hurt and thereby committed the offences punishable u/s 279/337 I.P.C?

6. Decision and reasons thereof:

I have heard the arguments advanced by the Id counsel for both the sides and carefully perused the materials available on record. Let us now scrutinize the evidence on record.

Pw3 Aniruddin Sk is the informant. Pw1 has stated in his deposition that the accused is his neighbour. He has further deposed to the effect that nearly two years back one evening his son Nazir Hussain went to the PWD road which is nearby his house. After some time hearing commotion, Pw4 came out of the house and saw his son Nazir lying on the road with injuries. He heard that one truck belonging to Abed Ali hit Nazir.

In his cross examination Pw4 has made it clear that he does not know how the accident took place

Pw4 Nazir Hussain is the injured. Pw3 –informant is his father and the accused is his neighbour. Narrating the occurrence, Pw4 has testified to the effect that nearly five years back one evening coming out of his house while he was about to proceed to the cultivation field through the PWD road a truck coming from behind knocked him down as a result of which he sustained injuries in his leg. He was shifted to Dhubri Civil Hospital for treatment. And at that relevant time the accused was driving the said truck.

It is there in his cross examination that as the truck was coming from behind ,Pw4 can not say how(the manner ) the truck was being driven at that relevant time .Pw4 has further said that he can not recall if he was in the wrong side of the road.He can not say why the accident took place .

Pw1 Insan Ali has stated in his deposition that the informant and the accused are known to him. In the year 2011 one evening at around 4 PM while he was returning home at Bashbari on National High way ,he saw a boy aged about 11 years lying on the road with injuries after a road accident .He saw the offending truck near that place The injured was shifted to Dhubri Civil Hospital.

It becomes clear from his cross examination that Pw1 arrived at the spot after the accident and hence he can not say for whose fault the accident occurred .

Pw2 Fartaz Ali has said that he does not know the accused but the informant is known to him. Like Pw1 ,Pw2 has testified to the effect that while returning home at Bashbari on National high way he saw a boy lying on the road with injuries .The boy met with an accident.He can not say how the occurrence took place.

Thus it is seen that evidence of Pw1 ,Pw2 can not help the prosecution in proving its case against the accused.

From the evidence on record it is found that there is no dispute that at the relevant time the accused was driving the offending truck.It is also an admitted fact that the said truck hit Pw3 from behind following which he sustained injury. But there is no evidence on record to show that at that relevant time the vehicle was being driven in rash and negligent manner since Pw4 has simply said that the truck coming from behind hit him and that much evidence is not sufficient for establishing the guilt of the accused . Evidence of Pw4 narrating the occurrence falls short of the necessary ingredients of rash and negligence to prove rash and negligent driving of the Truck driver –accused .

Thus it is found and held that the prosecution has not been able to bring home the charge levelled against the accused.

And therefore the accused is acquitted of the charges u/s 279/337 IPC and set at liberty forth with .

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

The seized D/L of the Driver & seized vehicle be returned ,released to the concerned owner in due course .

Given under my hand and seal of the court on this 9<sup>th</sup> day of November 2015.

Addl.C.J.M Dhubri

Appendix:

Witnesses examined by the prosecution

Pw1..... Insan Ali

Pw2.....Fartaz Ali

Pw3.... Aniruddin Sk,Informant

Pw4.....Nazir Hussain, victim

Documents Exhibited by the prosecution:

Ext-1.....Ejhar