

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, AT
DIBRUGARH.

G.R. Case No. 141/08
U/S 279/338/427 OF IPC.

State of Assam

-Vs-

Shri Raju Mahato..... Accused

PRESENT : A.K. BARUAH, LL.M. AJS.
Chief Judicial Magistrate,
Dibrugarh.

APPEARANCE :

Advocate for the Prosecution : Miss D. Gogoi, Asst. P.P
Advocate for the Defence : Mr. M.K. Singh.
Date of evidence : 08.07.2009, 07.04.2010,
16.06.2010.
Date of argument : 26-04-2019.
Date of judgement : 08-05-2019.

J U D G M E N T

- 1.** The case of the prosecution in brief, is that on 18.01.2008, at about 10.20 A.M, when the complainant was proceeding from Dibrugarh University to Dibrugarh Town, in his vehicle bearing registration No. AS-06-E-8164, one truck bearing registration No. AS-23-4569, coming from the same direction, in a rash and negligent manner, hit his vehicle from backside as a result of which, he sustained injury to his person and his vehicle was also got damaged. The complainant namely Shri Bikash Gogoi, filed one FIR before the Traffic In-charge, Dibrugarh regarding the incident.
- 2.** On the basis of the FIR lodged by the complainant , a case, being Dibrugarh P.S Case No 31/2008, was registered u/s

279/338/427 IPC. Police conducted investigation into the case and filed charge sheet against the accused person namely Shri Raju Mahato u/s 279/338/427 IPC.

3. The accused named above appeared in this case. Copies were furnished to him u/s 207 Cr PC. Particulars of offences u/s 279/338/427 IPC were explained to the accused to which, the accused pleaded not guilty and claimed to be tried.
4. During the trial of the case, the prosecution side examined 4(Four) P.Ws in this case. The defence plea is of total denial. The defence side did not adduce any evidence. Accused was examined u/s 313 Cr.P.C.
5. I have heard the learned counsel for the accused and learned Asst. P.P for the State. Having heard both sides and after perusing the materials on record, the following points for determination are framed for the just decision of the case :-

6. **POINTS FOR DETERMINATION :-**

- i. Whether on 18/01/2008, at about 10.20 A.M, the accused was driving the vehicle(truck) bearing Registration No. AS-23-4569, in a rash or negligent manner on the road so as to endanger human life or to be likely to cause hurt or injury to any other person ?
- ii. Whether on the same date, time and place, the accused caused grievous hurt to Shri Bikash Gogoi by hitting his car by the above mentioned truck by driving the same in a rash and negligent manner ?
- iii. Whether on the same date, time and place, the accused person committed mischief by causing wrongful loss to the vehicle of the informant namely Shri Bikash Gogoi, which was valued at more than Rs 50/- ?

DECISION AND REASON FOR THE DECISION :-

7. PW1 (Shri Bikash Gogoi) deposed in his evidence that on the day of the incident, one vehicle hit his vehicle from the backside. The driver of the truck was taken to the police station. The vehicle of PW1 was damaged in the back side. PW1 identified the FIR as Ext1 and his signature as Ext1(1).

In his cross examination, PW1 denied the suggestion that what he deposed in the court, was not deposed by him before the I/O.

8. PW2 (Diganta Chutia) stated in his evidence that on one day when he went to his shop, he came to know that on the previous night, one accident happened near his shop.

9. PW3 (Mahendra Kakoti) deposed in his evidence that he did not know about the occurrence of the incident.

10. PW4 (Jitu Das) deposed in his evidence that he did not know about the occurrence of the incident.

11. From the above discussion, it appears that from the evidence of the PWs, it is not established that the accused was driving the offending truck in a rash and negligent manner at the time of occurrence and injured the victim/complainant and damaged the car of the victim. Thus, from the evidence of PWs , it is not proved that the incident of the case took place for rash and negligent driving of the accused.

Hence, I have no other alternative, but to hold the points for determination in the negative.

12. In the result, I have not found the accused guilty in this case. Hence, I acquit him from the charges of the case and set him at liberty forthwith.

13. The bail bond will be in force for 6 (six) months from today.

- 14.** Considering the nature of the offence and as compensation can be claimed in MAC case for the victim of the accident, hence the case is not referred for victim compensation.

Given under my hand and seal of this court on this 8th day of May, 2019.

(A K Baruah)
Chief Judicial Magistrate,
Dibrugarh.

Appendix

Prosecution Witness :-

PW1 :- Bikash Gogoi

PW2 :- Diganta Chutia

PW3 :- Mahendra Kakoti

PW4:- Jitu Das

Defence witness :-

None

Exhibits :-

Prosecution exhibits :-

Exhibit 1 : FIR.

Defence exhibits :-

None

Court witness :- None.

Court exhibits :- None.

CJM, Dibrugarh