

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, AT  
DIBRUGARH.**

G.R. Case No. 1530/2015

U/S 279/338 OF IPC.

State of Assam

**-Vs-**

Dhrubajyoti Rajkonwar..... 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. Jayata Kr. Sharma  
Date of evidence : 07-02-2018, 05-04-18,  
09-10-18.  
Date of argument : 22-04-2019.  
Date of judgement : 03-05-2019.

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

1. The case of the prosecution in brief, is that on 02.06.2015, at about 3.30 PM, when the complainant's brother namely Shri. Khirod Dehingia, was coming from Tiloi, Moran on his motorcycle bearing registration No. AS 06 N 3314, towards his home, another motorcycle bearing registration No. AS 06 L 7479, coming from opposite direction which the accused(Dhrubajyoti Rajkonwar) was riding in a rash and negligent manner hit the motorcycle of the brother of the complainant, as result of which he (brother of the complainant) sustained grievous injury to his person. The complainant namely Pranob Dehingia filed one FIR in the Moran PS regarding the incident.

2. On the basis of the FIR lodged by the complainant , a case, being Moran P.S Case No 184/15, was registered u/s 279/338 IPC. Police conducted investigation into the case and filed charge sheet against the accused person namely Shri Dhrubajyoti Rajkonwar u/s 279/338 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 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 PC.
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 02-06-15, at about 03:30 P.M the accused was riding the vehicle( motor bike) bearing Registration No. AS-06-L-7479, 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. Khirod Dehingia by hitting his motorbike while riding the above mentioned vehicle/ bike in a rash and negligent manner?

**DECISION AND REASON FOR THE DECISION :-**

7. PW1 (Pranab Dehingia) stated in his evidence that he knows the complainant as well as the accused Dhrubajyoti Rajkonwar. On 02.06.2015, he was on his duty in Lakuwa O.P., District-Sivsagar. On that day, his cousin brother

Indrajeet Konwar informed him over phone that his brother Khirod Dehingia met with an accident. On the next morning, he came to his house and found his brother being admitted in Brahmaputra Hospital, Dibrugarh. He was there for nineteen days on ventilation, he was admitted in Brahmaputra Hospital for 1 month. PW1 lodged FIR after 9 days of the incident. From police he could know that on the day of the incident, while his brother was returning home from his working place Barbaruah Junior College, he was hit by a motor cycle that was driven by the accused. PW1 identified the FIR as Ext1 and he identified the seizure list as Ext2.

In his cross examination, PW1 has stated that he does not know for whose fault the accident took place as he was not present at that time. He does not know if the accused sustained injury in that accident. He had not seen the occurrence.

- 8.** PW2 (Khirud Dehingia) stated in his evidence that he knows the complainant who is his brother. He knows the accused person also. On the day of the incident, he was on his motorcycle. Near Tiloi (Baishnab Namgarh), the accused, who was coming on his motor cycle, hit him from front side. In the result, he sustained injury seriously. He lost his consciousness, he was admitted in the hospital. He was in Brahmaputra Hospital, Dibrugarh for 1 month and in AMCH, Dibrugarh for 21 days. His brother informed police about the incident.

In cross examination, PW2 has stated that the road on which the incident took place was not in a good condition. There were many Path holes, but he cannot say at what speed the accused was coming. He/PW2 denied the suggestion that it was he who was riding his motorcycle rashly and hit the accused. PW2 further stated that later he could know that the accused also sustained injury in that accident. PW2 does not have his driving license. He denied

the suggestion that he has eyesight problem and also denied that the accident occurred due to his mistake.

- 9.** PW3 (Nakul Dutta) deposed in his evidence that he knows the complainant as well as the accused of this case. PW3 failed to remember about the facts of this case. He does not know what happened with the accused person.
- 10.** PW4 (Anil Kr. Baruah) deposed in his evidence that he does not know the complainant as well as the accused person of this case. The incident took place in the year 2016. On the day of the incident while he was coming from Tiloil to his house on his bicycle, on the way near Khowang Grant, he saw a gathering of people. Immediately, he went to the spot and could know from the people that an accident took place between two motorcycles. Thereafter, he informed to the police about the matter over phone. Accordingly, police appeared on the spot and took his signature on a paper by which the accident motorcycle were seized. Ext.3 is the seizure list as identified by PW4 and Ext.3(1) is his signature as identified by him.
- 11.** From the above discussion, it appears that although PW1 and PW2 deposed that the accused was riding the motorbike which hit the motorbike of the victim/PW2, but from the evidence of PW1 and PW2, it is not established that the accused was riding the offending motor bike in a rash and negligent manner. PW1 did not see the occurrence as admitted by him. Again, PW2 being the victim of the case admitted in his cross-examination that the road on which the incident took place was not in a good condition. There were many Path holes, PW2 cannot say at what speed the accused was coming. PW2 does not have his driving license. Thus, from the evidence of PW2 , it is not proved that the incident of the case took place for rash and negligent riding of the accused.

Other prosecution witnesses have not implicated the accused. They( PW3 and PW4) do not know how the accident had taken place. 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 03<sup>rd</sup> May, 2019.

(A K Baruah)  
Chief Judicial Magistrate,  
Dibrugarh.

**Appendix**

Prosecution Witness :-

PW1 :- Pranab Dehingia

PW2 :- Khirud Dehingia

PW3 :- Nakul Dutta

PW4:- Anil Kumar Baruah

Defence witness :-

None

Exhibits :-

Prosecution exhibits :-

Exhibit 1 : FIR.

Exhibit 2 : Siezure list

Exhibit 3 : Seizure list

Defence exhibits :-

None

Court witness :- None.

Court exhibits :- None.

**CJM, Dibrugarh**