

**IN THE COURT OF  
THE CHIEF JUDICIAL MAGISTRATE::BAKSA  
Case No. : PRC-743/19  
Under Section 279/337/427 IPC**

**Present :- Smti. D. Boro, AJS,  
Chief Judicial Magistrate, Baksa.**

**The State of Assam.....Prosecution.  
-Vs-  
Nipal Das.....Accused Person.**

Evidence recorded on :- 04-01-2021, 15-02-2022,  
07-06-2022.

Argument heard on :- 25-07-2022

Judgment delivered on :- 25-07-2022

**Advocate Appeared :-**

**Mr. Ranjit Basumatary.....APP for the State of Assam.**

**Mr. Nur Alom.....Advocate for the accused person.**

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

1. The gist of the case is that on 09-02-2019 informant Mohim Baro lodged an FIR at Barama PS to the effect that on 08-02-2019, the informant's father Sri Baneswar Baro, age 70 years was returning home on cycle from market. At Murmela chowk, at around 10.30 AM on NH 31, a star bus bearing no. AS-15C-

7489 came from Barpeta Road side heading towards Guwahati at very high speed dashed his father. As a result, his father was badly injured on face, hands, legs, backside of head and back bone.

2. Police registered a case against the accused person u/s 279/338 IPC and after completion of investigation submitted charge-sheet against accused Nipal Das u/s 279/337/427 IPC.
3. Particulars of offence u/s 279/337/427 IPC are read over and explained to the accused person to which the accused person has pleaded not guilty and claimed to be tried.
4. The prosecution had examined 3 (three) nos. of witnesses. The defence had examined none.
5. The accused person is examined u/s 313 Cr.P.C. The accused had declined to adduce evidence.
6. I have heard argument of the learned A.P.P. as well as the learned defence counsel and perused all the relevant documents available on record.

**7. POINTS FOR DETERMINATION:-**

1. Whether the accused person had driven star bus bearing Regn. No. AS-15C-7489 on the public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person?
2. Whether Baneswar Baro had sustained hurt?

3. Whether the accused person had caused hurt to Baneswar Baro by doing any act so rashly or negligently as to endanger human life or personal safety of others?
4. Whether the accused person had committed mischief causing damage amounting to Rs. 50 or upwards?

**8. DISCUSSION, REASONS AND DECISION:**

**9. POINT NO. 1, 2, 3 & 4:**

10. PW1 Mohim Baro (informant) said that the incident took place on 08-02-2019 within 10 to 11 AM at Murmela Chowk. His father Baneswar Baro, 70 years was on his way to home on bicycle. One bus came at speed from Barpeta Road side and knocked his father from back side at Murmela Chowk on NH-31. His father's head was swollen due to the accident. He received injury on hand, leg, back bone and chest. His father was at first taken to Barama Medical and therefrom to GNRC, Guwahati. His father was checked-up twice at GNRC, Guwahati. He lodged the FIR after about two days of the incident. The delay in lodging the FIR is caused due to doing medical treatment of his father. Ext.1 is FIR.
11. In cross-examination, PW1 said that he was at home at the time of the accident. He had not seen the accident. He cannot say for whose fault the accident took place.

12. PW2 Baneswar Baro said that the incident took place on 08-02-2019 at about 10/10.30 AM at Murmela Chowk on highway. He was going towards Mushalpur from Kadamtala on his own side on bi-cycle. A bus knocked him from back side. He fell down and became senseless. Ex-serviceman Kamindra Goyary was ploughing nearby who took him to Barama PHC. Therefrom he was taken to Mushalpur Civil Hospital. Thereafter he took treatment at GNRC, Guwahati. He sustained injury on face, forehead, back of head, left side of back and leg. Six of his rib bones were fractured. He took treatment for 3/4 months. He is not yet fully recovered.
13. PW3 Kamindra Goyary said that the incident took place in 2019 at about 10.30 AM at Murmela on National Highway. Baneswar Baro was riding bi-cycle and a bus knocked him from back side. The bus was going from Barpeta side towards Nalbari. Baneswar Baro was also going on the same direction. He saw gathering of people while going out for Tihu Chowk. He went to see and found his friend Baneswar Baro laying there. Baneswar Baro did not have sense. He had abrasion and was laying unconscious. PW3 took him to Barama Govt. Medical. He asked Baneswar Baro when he came to senses. Then Baneswar Baro said that bus had knocked him from back side while he was returning from Kadamtala.

14. There is no evidence as to who was driving the offending bus at the relevant time. There is no implicating evidence against the accused person.
15. Although the prosecution has not examined the Medical Officer, there is nothing to disbelieve about the injuries sustained by PW2 Baneswar Baro. It has come out in the evidence that a bus had knocked Baneswar Baro on the NH-31 at Murmela Chowk. As a result of the accident, Baneswar Baro had sustained injuries. But evidence is silent regarding the driver of the offending bus. None of the PWs have said that the accused had any role in the entire incident. Under such circumstance, I find that the ingredients of section 279/337 IPC are not proved.
16. There is no evidence that any damage has been caused to the injured as a result of the incident. Hence, I find that section 427 IPC is also not proved in our present case.
17. In view of the above discussions, I find that it is proved that Baneswar Baro had sustained hurt. But I find that it is not proved that the accused person had driven star bus bearing Regn. No. AS15C-7489 on the public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person **AND** the accused person had caused hurt to Baneswar Baro by doing any act so rashly or negligently as to endanger human life or personal safety of

others **AND** the accused person had committed mischief causing damage amounting to Rs. 50 or upwards. So, the accused person cannot be held guilty u/s. 279/337/427 IPC.

18. From the above discussions, I am of the considered opinion that the prosecution has failed to prove the guilt of the accused person beyond reasonable doubt u/s 279/337/427 IPC. So, I acquit accused Nipal Das of the charges u/s 279/337/427 IPC and is set at liberty.

19. The custody of the seized article vide MR No. 11/19 (Z/No.4/15) and MR No. 12/19 (Z/No.5/19) are made absolute.

20. Bail-bond furnished u/s 437(A) Cr.P.C. shall remain in force up to six months from today.

21. Given under my hand and seal of this Court this 25<sup>th</sup> day of July, 2022.

Typed by me—

**D. Boro**  
**CJM, Baksa**

**D. Boro**  
**CJM, Baksa**

**APENDIX**

**PROSECUTION EXHIBITS:**

Ext.1- FIR

**DEFENCE EXHIBITS: NIL.**

**EXHIBITS PRODUCED BY WITNESSES: NIL.**

**COURT EXHIBITS: NIL.**

**PROSECUTION WITNESSES :**

PW1- Mahim Boro.

PW2- Baneswar Boro.

PW3- Kamindra Goyary

**DEFENCE WITNESSES :**

**COURT WITNESSES: NIL.**