

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE

Baksa, Mushalpur

GR Case No. : 786/18

Under Section: 279/337/304(A) IPC

**Present: Smt. Dimple Boro, AJS,
Chief Judicial Magistrate, Baksa**

The State of Assam,.....Prosecution

-Vs-

Uddhab Das,.....Accused person.

Evidence recorded on : 02-05-2019, 02-07-2019,
04-09-2019, 01-11-2019,
29-09-2021.

Argument heard on : 21-05-2022.

Judgment delivered on : 21-05-2022.

Advocate appeared:-

Mr. Ranjit Basumatary.....APP for the state of Assam.

Mr. Mrityunjoy Mazumdar.....Advocate for the accused person.

J U D G M E N T

1. The gist of the case is that on 17-06-2015 at about 10.10 AM Deben Das, who is the father of informant Dadhiram Das was going from Barama Thana chowk to Tihu in bus bearing No. AS-

01-EC-9026 with name "Mama Bhagin". At NH No. 31 near Madhapur chowk the said bus collided the divider of the road losing control while trying to overtake another vehicle with high speed. As a result the bus blew and capsized in a ditch filled with water near the road. The accident took place due to rash driving and high speed driving by the bus driver. Deben Das and many others were seriously injured by this accident who were sent to Barama PHC by the local people. As his father sustained grievous injury, he was sent to Nalbari by the Doctor for better treatment and therefore to Guwahati. His father was though admitted in GMCH, Guwahati but he succumbed to his injuries on the same day at about 2.30 PM. The FIR is lodged delayed due to remaining busy in treatment and cremation ceremony of his father.

2. Police registered a case against the accused person u/s 279/338/304(A) IPC and after completion of investigation submitted charge-sheet only against the accused u/s 279/337/304(A) IPC.
3. Particulars of offence u/s 279/337/304(A) IPC was read over and explained to the accused person to which the accused person pleaded not guilty and claimed to be tried.
4. The prosecution examined 6 (six) nos. of witnesses and the defence examined none.

5. The accused person is examined u/s 313 Cr.P.C. The accused person has 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 bus bearing Regn. No. AS-01EC-9026 naming "Mama Bhagin" 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 Deben Das and others had sustained injury?
- (3) Whether the accused person had caused injury to Deben Das and others by doing any rash or negligent act as to endanger human life or personal safety of others?
- (4) Whether Deben Das has died?
- (5) Whether the accused person had caused death of Deben Das by doing any rash or negligent act not amounting to culpable homicide?

8. DISCUSSION, REASONS AND DECISION:

9. POINT NO. 1, 2, 3, 4 & 5:

10. The prosecution has examined the informant Dadhiram Das as PW1. He has simply said that about four years ago at around

10.30 AM his father was going from Barama to Tihu in a bus. The bus met with an accident and as a result his father got injuries. His father was taken to Nalbari Hospital wherefrom he was referred to GMCH, Guwahati and there he died on the same day. Ext. 1 is FIR. In cross-examination, PW1 said that as he had not seen the accident, he cannot say for whose fault the accident took place. He also said that he does not know the driver of the bus.

11. It appears that the PW1 informant has not said a single word against the accused that the accused had any role in causing the accident resulting into death of his father and alleged injury of other passengers.
12. PW2 Khagen Pathak had not seen the accident and had simply seen one star bus lying in a ditch at Madhapur.
13. PW3 Kasem Ali has said that hearing a big sound of collision, he came out and saw a bus capsized in a nearby ditch and the passengers were trying to come out. Hence, he along with other villagers rescued the passengers and sent them to Barama Hospital for treatment. He further said in his cross-examination that he has no idea how and for whose fault the accident took place.
14. PW4 Iyamat Ali and PW5 Chakradhar Das had not said anything about the alleged accident.

15. The prosecution has examined the medical officer Dr. Mainul Haque as PW6 and has exhibited as many as 21 nos. of medical report of the passengers of the offending bus. The IO has not made those passengers prosecution witness in the charge sheet. Perusal of the medical reports show that the address of the injured passengers are not complete for which, the injured passengers could not be procured before the Court.
16. The entire prosecution evidence is silent about any act of the accused displaying rash or negligence of the accused in driving the offending bus. Moreover, the prosecution even has not been able to prove that the accused had driven the offending bus at the relevant time. However, there is no doubt that Deben Das, who is the father of the informant had died in motor vehicular accident. But there is no evidence that the accused had any role in causing death of Deben Das or causing injury to any other passenger of the offending bus. The prosecution has totally failed to prove the ingredients of section 279/337/304(A) IPC.
17. Under such circumstance, I find that the evidence is not sufficient. However, I find that it is proved that Deben Das has died. But it is not proved that the accused person had driven bus bearing Regn. No. AS-01EC-9026 naming "Mama Bhagin" 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** Deben Das and others had sustained injury **AND** the accused person had caused injury to Deben Das and others by doing any rash or negligent act as to endanger human life or personal safety of others **AND** the accused person had caused death of Deben Das by doing any rash or negligent act not amounting to culpable homicide. So, the accused person cannot be held guilty u/s. 279/337/304(A) 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 279/337/304(A) IPC. So, I acquit accused Uddhab Das of the charges u/s 279//337/304(A) IPC and is set at liberty.

19. The custody of the articles vide MR No.44/15/Zimma No.29/15 is made absolute.

20. The bail-bond furnished u/s 437(A) Cr.PC. will remain in force up to six months from today.

21. Given under my hand and seal of this Court this 21st day of May, 2022.

Typed by me—

D. Boro
CJM, Baksa

Typed by me...

D. Boro
CJM, Baksa

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