

DISTRICT: MORIGAON

IN THE COURT OF ADDL. CHIEF JUDL.MAGISTRATE,

MORIGAON::::::::::ASSAM.

GR Case No. 2520 of 2014

U/S 279/304(A) of IPC.

PROSECUTOR: STATE OF ASSAM

-VS.-

ACCUSED: SRI PANKAJ KR. NATH

Present : Smti. S. Acharyya, AJS,
Addl. Chief Judicial Magistrate,
Morigaon.

APPEARANCE:

For the State : Mr. P. Hazarika, Ld. Addl. Public Prosecutor.
For the accused person : Mr. R. M. Baruah & Mr. P. K. Chanda, Ld. Advocates.
Offence explained on : 05.11.2015.
Evidence recorded on : 08.03.2016, 27.10.2016 & 06.03.2017.
Argument heard on : 21.11.2019.
Judgment delivered on : 30.11.2019.

J U D G M E N T

1. The prosecution case in brief is that the informant Sri Anil Ch. Nath lodged an ejahar stating inter alia that on 04.12.2014, at about 4.00 PM, when his elder brother Paban Ch. Nath had been coming to his house from Kushtoli market on foot then at PWD road, near Salsingabori Primary school, one motor cycle bearing registration No. AS-21-A-4573 coming with high speed and negligently hit his elder brother and thereby he sustained grievous injury. The injured was taken to Morigaon civil hospital and he died. Hence the case.

2. On receipt of the 'ejahar' at the police station, the same was registered as Laharighat P.S. Case No. 418/2014 and the matter was investigated upon.

Contd....

3. After completion of investigation police filed a charge-sheet against the accused person Sri Pankaj Kr. Nath under section 279/304(A) IPC.

4. On appearance of the accused person, he was allowed to go on bail. Relevant documents of the case were furnished to him. Upon perusal of record particulars of offence, under section 279/304(A) IPC has been read over and explained to the accused person to which, he pleaded not guilty and claimed to be tried.

5. The prosecution in support of its case examined four witnesses. Whereas, the defence side has not examined any witness in support of its defence.

6. The statement of accused under section 313 Cr.P.C. is recorded. He denied the allegations brought against him.

7. I have heard the argument advanced by the learned counsels for both sides.

8. Upon hearing and on perusal of the record I have framed the following points for determination:

(i) Whether the accused person, on 04.12.2014 at about 4.00 P.M. near Salsingabori L.P. school under Laharighat PS in the Dist. of Morigaon drove his bike bearing registration No.AS-21-A-4573 in the public road 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 thereby committed an offense punishable U/S 279 of IPC?

(ii) Whether the accused person on the said date, time and place caused death of Paban Ch. Nath by driving the above mentioned vehicle in a rash or negligent manner which does not amount to culpable homicide and thereby committed an offense punishable U/S 304(A) of IPC ?

DISCUSSION, DECISIONS AND REASONS FOR THE DECISIONS:

9. For convenience of discussion and for the sake of brevity, I am discussing both the points together.

10. PW1 Sri Anil Ch. Nath, who is the informant inter alia deposed that on 4.12.2014, at about 4.00 PM, his elder brother Paban Ch. Nath was returning home on foot from Kushtoli Bazar. On his way the accused, Pankaj

Contd....

Nath had hit him from backside by riding a motorcycle. The accident took place at PWD road near Salsingabori L.P. school. He was at his home at the time of accident. After getting the information, he rushed to the place of occurrence and found his brother in serious condition. He immediately took him to Morigaon Civil Hospital. He remained busy with the post-mortem examination of his brother and thereafter, he lodged the ejahar. Police had interrogated him lately. His brother sustained injuries in his head for which he died. He does not know exactly as to why the accident took place. Police seized the motorcycle of the accused. He cannot say the number of the said motorcycle. He exhibited the ejahar and seizure list as Ext-1 and 2 and his signature as Ext-1(1) and 2(1). In his cross examination, PW1 inter alia answered that he did not see the accident. He denied the suggestions put to him by the Ld. defense counsel.

11. PW2 Sri Jatin Nath, inter alia deposed that on 4.12.2014, at about 4.00 PM, when deceased Paban Nath had been coming towards his home from market on foot, accused Pankaj Nath coming with a bike in high speed hit him from back side at Salsinga. Public caught Paban and informed at Paban's village. He had seen Paban when he was lying. Paban died when he was taken to Guwahati from Morigaon. He had not seen the accident. The accused drove the bike in speed. In his cross examination, PW2 inter alia answered that he went to the PO after 15/20 minutes of the incident.

12. PW3 Smti. Kabita Devi, inter alia deposed that on 4.12.2014, at about 4.00 PM, when her husband had been coming to his house on foot, then in front of Salsingabori L.P. School, the accused person by driving his bike in high speed hit him from back side. Due to the hit, her husband got injured and became senseless. Getting information, she went to the PO and found her husband in senseless condition. She heard that the accident happened because the accused Pankaj had driven his bike in high speed. She had seen the accused Pankaj at the PO. Villagers apprehended Pankaj. Her husband was taken to Morigaon Civil Hospital and he was referred to Guwahati. Her husband died when he was taken to Guwahati. She exhibited the seizure list as Ext.2 and her signature as Ext.2(2). In her cross examination, PW3 inter alia answered that she had not seen the accident.

13. PW4 Sri Tankeswar Nath inter alia deposed that in the year
Contd....

2016, at about 5.00 PM, on getting information, he went to Salsingabori village and found injured Paban Nath in a house near to the PO. He took injured Paban Nath to Morigaon Civil Hospital. The injured was referred to Guwahati. But he died at the road when he was taken to Guwahati. Post-mortem was done at Morigaon. He heard that accused Pankaj Nath drove the bike. He does not know details of the accident. In his cross examination, PW4 denied the suggestions put to him by the Ld. defense counsel.

14. I have carefully gone through the evidence on record. From the evidence it appears that though Pw-1.Pw-2, Pw-3 and Pw-4 stated that accused committed the accident but they are not the eye witnesses of the accident. In view of above discussion, I am of the opinion that the prosecution side has failed to establish the case against the accused beyond all reasonable doubt.

15. In view of above discussion, the accused Sri Pankaj Kr. Nath is acquitted of offence U/S 279/304(A) of IPC and set at liberty forthwith.

16. Bail bond shall remain in force for next six months.

17. The zimma of the seized article be disposed of as per law.

18. The case is disposed of on contest.

19. Given under my hand and seal, today, the 30th day of November, 2019.

Dictated and corrected
by me.

S. ACHARYYA
Addl Chief Judicial Magistrate
Morigaon.

S. ACHARYYA
Addl Chief Judicial Magistrate
Morigaon.

Dictation taken and
transcribed be me.

Computer Typist.

APPENDIX:

Prosecution witness:

PW1- Sri Anil Ch. Nath.

PW2- Sri Jatin Nath.

PW3- Smti. Kabita Devi.

PW4- Sri Tankeswar Nath

Prosecution exhibits:

Ext.1- Ejahar.

Ext.2- Seizure List

Defence witness:

Nil.

Defence exhibit:

Nil.

Dictated and corrected
by me.

S. ACHARYYA
Addl Chief Judicial Magistrate
Morigaon.

S. ACHARYYA
Addl Chief Judicial Magistrate
Morigaon.

Dictation taken and
transcribed be me.

Computer Typist.