

DISTRICT: MORIGAON

IN THE COURT OF ADDL. CHIEF JUDL.MAGISTRATE,

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

GR Case No. 3055 of 2017

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

PROSECUTOR: STATE OF ASSAM

-VS.-

ACCUSED: SMTI. GEETA DAS

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

APPEARANCE:

For the State : Mr. P. Hazarika, Learned Addl. Public Prosecutor.

For the accused person : Mr. M. M. Deka, Learned Advocate.

Offence explained on : 20.05.2019

Evidence recorded on : 24.06.2019, 11.09.2019, 30.09.2019 & 24.10.2019

Argument heard on : 24.10.2019

Judgment delivered on : 24.10.2019

J U D G M E N T

1. The prosecution case in brief is that the informant Sri Apurba Deka, lodged an ejahar stating inter alia that on 08.11.2017, at about 3.30 P.M., his mother Smti. Bhadra Deka was going towards Morigaon as pillion rider of the scooty bearing registration number AS-21E-8644, being driven by the accused Smti. Geeta Das. That the accused person drove her scooty in high speed and negligently and hit one cow near Baghjap *namghar* and his mother fell down and sustained injury. The injured was taken to GNRC, Guwahati for treatment immediatly, but she was declared as dead. Hence the case.

2. On receipt of the 'ejahar' at the police station, the same was registered as Jagiroad P.S. Case No. 461/2017 and the matter was

Contd....

investigated upon.

3. After completion of investigation police filed a charge-sheet against the accused person Smti. Geeta Das under section 279/304(A) IPC.

4. On appearance of the accused person she was allowed to go on bail. Relevant documents of the case was furnished to her. Particular of offence under section 279/304(A) IPC is read over and explained to the accused person to which she pleaded not guilty and claimed to be tried.

5. The prosecution in support of its case examined five 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 recoded. The accused denied the allegation.

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 08.11.2017 at about 3.30 P.M. at Baghjap near Namghar under Jagiroad PS drove her scooty 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 Smti. Bhadra Deka 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 Apurba Deka, who is the informant inter alia deposed that the occurrence took place on 8.11.2017, at about 3.30 PM. His mother Lt. Bhadra Deka has been coming by the scooty of the accused person as pillion rider. Near baghjap, at PWD road, one cow hit with the scooty. His

mother fell down from the scooty. They have taken his mother at GMCH, Guwahati. But she was declared dead. The accident took place as the cow hit with the scooty. He exhibited the ejahar as Ext.1 and his signature as Ext.1(1). Defense side declined to cross examine him.

11. PW2 Sri Nayan Moni Bhagawati, inter alia deposed that the incident took place at about 2 years back. He was not present at the PO. His friend Apurba informed him over phone that his mother met with an accident and she was taken to Guwahati for treatment. He went to Guwahati. The informant's mother expired at GMCH. He heard that informant's mother was the pillion rider of the bike which was driven by the accused person and one cow hit the bike and she fell down from the bike. Police recorded his statement. He exhibited the seizure list as Ext.2 and his signature as Ext.2(1). Defense side declined to cross examine him.

12. PW3 Sri Ajoy @ Akhsay Kr. Deka inter alia deposed the incident took place at about 1½ / 2 years back, at about 12.30/1.00 PM, at Baghjap. He was at his home. Apurba called him and told that his mother met with an accident. The accused was riding her scooty and the informant's mother was the pillion rider. Then at Baghjap, one cow came on the way and hit the scooty. The informant's mother fell down and died. Defense side declined to cross examine him.

13. PW4 Sri Biplab Nath inter alia deposed that the incident took place at about 2 years back, at about 2.00/3.00 PM, at Baghjap. While the accused person was riding scooty, then at Baghjap, the scooty hit with a cow. Informant's mother was the pillion rider of the scooty. She fell down. She was taken to hospital. She expired. In his cross examination PW4 inter alia answered that the cow hit with the scooty.

14. PW5 Sri Lankeswar Deka @ Lilankar inter alia deposed that the incident took place at about 1½/2 years back, at about 11.00 AM near Baghjap Chariali on PWD Road. The informant informed him that his mother met with an accident. He went to the PO. On being asked he came to know that the accused was riding a scooty and informant's mother was pillion rider and they were coming from Baghjap towards Morigaon and at PO one cow hit the scooty. Later the victim died. Defense side declined to cross examine him.

15. I have carefully gone through the evidence on record. From the

evidence of Pw-1, 2, 3, 4 & 5 it appears that the accident took place as one cow hit the scooty. The Pw-1 who is the informant in his evidence clearly stated that accident took place as the cow hit the scooty. The prosecution did not adduce any evidence. Hence, there is no incriminating evidence against the accused person.

16. In view of above discussion, the accused Smti. Geeta Das is acquitted of offence U/S 279/304(A) of IPC and set at liberty forthwith.

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

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

19. The case is disposed of on contest.

20. Given under my hand and seal, today, the 24th day of October, 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 Apurba Deka.

PW2- Sri Nayan Moni Bhagawat.

PW3- Sri Ajoy @ Akhsay Kr. Deka.

PW4- Sri Biplab Nath.

PW5- Sri Lankeswar Deka @ Lilankar

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.