

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, KOKRAJHAR::
ASSAM.**

G.R. Case No. 506/2017

U/S. 279/338 OF IPC

State of Assam

-Vs-

1. Sri Pratik Kr. Bansali.

.....accused person.

***PRESENT: A.K. BARUAH, LL.M., AJS.
Chief Judicial Magistrate,
Kokrajhar.***

APPEARANCE:

Advocate for the Prosecution : Mr.K.C.Saha, Addl.PP.
Advocate for the Defence : Miss Sumita Chanda.
Date of evidence : 06.11.2017 & Giyasuddin Ahmed.
Date of argument : 28.12.2017
Date of judgment : 11.01.2018

J U D G M E N T

1. The case of the prosecution in brief is that, on 16.03.2017 at about 7.00 P.M., while the complainant namely Miss Jhumki Bhowmik was standing on Kokrajhar bazaar road, the accused namely Pratik Kr. Bhansali while riding the motor cycle bearing registration No. AS-16B/3045 knocked down the complainant from the back side. As a result of the incident, the complainant fell down on the road and sustained grievous injury on her left hand. The complainant was taken to MRM hospital Kokrajhar and she had to undergo treatment at Patna. The complainant lodged one FIR at Kokrajhar Police Station regarding the incident.

2. On the basis of the FIR lodged by the complainant, a case being Kokrajhar P.S. Case No. 327/2017 u/s. 279/337/338 of IPC was registered against the accused namely Pratik Kr. Bhansali.
3. After registration of the case, police conducted investigation and submitted charge sheet against the accused namely Pratik Bhansali u/s. 279/338 of IPC.
4. The accused appeared in this case and copy was furnished to him u/s. 207 of Cr.P.C. The particulars of the offences u/s. 279/338 of IPC were explained to the accused to which he pleaded not guilty and claimed to be tried.
5. **POINTS FOR DETERMINATION:**
 - i) Whether the accused was riding a motor cycle bearing registration No. AS-16B-3045 in a rash and negligent manner so as to endanger human life or as to likely to cause hurt or injury to any person on 16.03.2017 at about 7.00 P.M. at Kokrajhar Bazar Road?
 - ii) Whether the accused caused grievous hurt to the complainant namely Jhumki Bhowmik by hitting her when she was standing on Kokrajhar Bazar Road, by riding the above mentioned motor cycle in a rash and negligent manner on above mentioned date, time and place?
6. The prosecution examined as many as 4(four) P.Ws. in this case. The defence plea is of total denial and defence did not examine any witness. The statement of the accused was recorded u/s. 313 of Cr.P.C..
7. I have carefully perused the entire evidence on record, heard both the sides and I proceed to decide as follows:

DECISION AND REASONS FOR THE DECISION:

8. The evidence of PW.1 is that on 16.03.2017 at about 7.00 P.M., when she was standing on Kokrajhar bazaar road waiting for Rickshaw, one motor cycle hit her from the back side and thereby seriously injured her. PW.1

sustained fracture injury on her left hand and she was shifted to MRM hospital. Later on, PW.1 had to undergo medical treatment at Patna and still she is undergoing treatment at Patna. PW.1 lodged one FIR at Kokrajhar police station. PW.1 identified the FIR as Ext.1 and her signature as Ext.1 (1).

In the cross examination, PW.1 deposed that soon after the accident she became senseless and she cannot say who was exactly riding the offending motor cycle at the time of the occurrence. There was a delay in lodging the FIR as she was admitted at the hospital for treatment.

9. The evidence of PW.2 is that on 16.03.2017 at about 7.00 P.M., at Kokrajhar bazaar road, Miss Jhumki Bhowmik met with an accident with a motor cycle bearing Registration No. AS-16B 3045, as a result of which the complainant sustained fracture injuries on her left hand. The victim was shifted to MRM hospital and thereafter she had to undergo medical treatment at Parash HMI hospital, Patna for better treatment.

In the cross examination, PW.2 deposed that he did not see personally the occurrence of the accident, but he came to know about the accident from the victim.

10. The evidence of PW.3 is that he knows the complainant cum victim of this case who sustained injuries in an accident. PW.3 identified the seizure list as Ext.2 and his signature as Ext.2(1). The victim sustained serious fracture injury in the accident and she had to undergo medical treatment at Patna.
11. The evidence of PW.4 is that on 20.05.2017, one FIR was lodged by Smt. Jhumki Bhowmik at Kokrajhar P.S. The O/C endorsed the case to PW.4 for investigation. PW.4 visited the P.O., recorded the statement of the witnesses and drew the sketch map of the P.O.. PW.4 collected the MVI report of the offending vehicle bearing registration no. AS 16-B/3045. PW.4 identified the MVI report as Ext.3 and the signature of MVI as Ext.3(1) which he knows. The offending motorcycle and its documents were seized by PW.4 in this case. PW.4 identified the seizure list as Ext.2

and his signature as Ext.2(1). The victim of this case had first admitted to the MRM Hospital Kokrajhar and she was later on admitted to Hospital at Patna for the injury sustained by her. PW.4 collected the medical report of the victim. After completion of investigation, PW.4 filed C.S. of this case. PW.4 identified the C.S. as Ext.4 and his signature as Ext.4(1).

In the cross examination, PW.4 deposed that he did not find the accused at the PO. PW.4 denied the suggestion that he filed CS against the accused without having sufficient evidence against him.

12. From the above discussion of evidence, it appears to me that from the evidence of the PWs, it does not appear that the accused was riding the offending motor cycle bearing Regd No. AS-16/B-3045 at the time of the incident. There is no evidence on record which suggest that the accused was riding the offending motor cycle mentioned above in a rash or negligent manner at the time of the incident. There is no material or evidence from which I can draw the conclusion that the accused was riding the offending motor cycle mentioned above in a rash or negligent manner and injured the victim. Hence, I have no other option but to hold the points for determination in the negative.
13. In the result, I have not found the accused guilty in this case. Hence I acquit him from the charges of this case and set him at liberty forthwith. The bail bond shall remain in force for 6(six) months from today. Considering the facts and circumstances of the case ,nature of the alleged offence and as the victim can claim compensation in the MAC tribunal for the accident, the case is not referred for victim compensation.

Given under my hand and seal of this court on the 11th day of January/2018.

(A.K. Baruah)
Chief Judicial Magistrate,
Kokrajhar::ASSAM

APPENDIX**Prosecution witness:**

PW-1: Miss Jhumki Bhowmik.

PW-2: Sri Amaresh Ch. Das.

PW-3: Sri Pranab Chakrabarty.

PW-4: Mr. Giyasuddin Ahmed.

Documents exhibited by prosecution side:

Ext.1: F.I.R.

Ext.2: Seizure list.

Ext.3: MVI Report.

Ext.4: Charge sheet.

Defence witness:

None

(Mr. A.K.Baruah)
Chief Judicial Magistrate
Kokrajhar