

IN THE COURT OF THE ADDL.C.J.M, B H U B A N E S W A R.

Present:
Sri P.L.Satpathy,LL.B.,
Addl.C.J.M,Bhubaneswar.

G.R.CASE NO.2028/11

(Arising out of Khandagiri P.S. Case No.253 dtd.2.7.11)

S T A T E

-Versus-

Suresh Ku. Sahoo, aged about 33 years, S/o Late Dinabandhu Sahoo,
Village: Suanga, PS: Khandagiri, Dist: Khurda

..... Accused persons.

Counsel for the prosecution : Sri Bidyut Ranjan Mishra,A.P.P, BBSR.

Counsel for the defence : Sri Pramod .Kumar Pattnaik & Asso., Advs, BBSR

OFFENCE U/S.279/337/338 I.P.C

Date of argument: 20.12.14

Date of judgment: 23.12.14

J U D G M E N T

1. In this case the above named accused stand his trial U/s.279/337/338 IPC
2. The prosecution case, in short, is that:

Sri Sujan Ku. Muduli (pw.1) lodged a written FIR (Ext.1) at Khandagiri PS on 2.7.11 at 7.30 pm alleging there in that on 10.6.11 at about 10 am while his brother Prasanna Swain (pw.2) who was then working as peon in Irrigation Department, Secretariat, BBSR was proceeding from Khandagiri to Aiginia side with one Hero Honda CD Deluxe motorcycle bearing Regd. No. OR-02-AR-4476, the accused having driven one Tata ACE bearing Regd. NO.OR-02-AR-5844 gave a dash from the backside of the motorcycle due to rash & negligent driving as a result of which the said accident , pw.2 received multiple fracture injuries on his right leg . The persons present near by the accident spot immediately shifted pw.2 to Capital hospital , BBSR for his treatment. On the advise of the doctor of capital hospital,BBSR pw.2 was shifted to Panda Nursing home for his better treatment. As he was looking after the treatment of

his brother (pw.2) he could not lodge the FIR in time, hence delay caused. On the basis of the FIR (Ext.1) Khandagiri PS Case NO.253 dtd 2.7.11 U/s.279/337/338 IPC was registered against the driver of involved Tata ACE vehicle. Investigation was undertaken there of. After completion of the investigation police submitted charge sheet against the accused under the aforesaid sections before the Court of Ld. SDJM, BBSR to face his trial in the court of law. Subsequently this case was transferred to this court for disposal according to law.

3. The case of the defence is one of complete denial to the prosecution allegations and false implication.

4. The points for determination in this case are as follows:

I) Whether on 10.6.11 at 10 am the accused having driven the TATA ACE vehicle bearing Regd NO. OR-02-AR-5844 rashly and negligently on NH-5 gave a dash from the backside of one Hero Honda CD Delux motorcycle bearing Regd No. OR-02-AR-4476 near at Aiginia Chhak.?

ii) Whether due to the alleged accident pw.2 received injury on his persons?

5. To establish its case prosecution has examined four witnesses in all. PW.1 is the informant. PW.2 is the injured. PW.3 was a witness to the seizure and PW.4 is an independent witness to the occurrence. On the other hand defence has examined none on its behalf..

6. Basing upon the aforesaid story of the prosecution with alleged criminal charges U/s.279/337/338 of the IPC and the plea of the defence, the following points are required to be determined for just decision of the case and the said points are

I) Whether on 10.6.11 the accused was driving the vehicle in questions bearing Regd No. OR-02-AR-5844 in rash and negligent manner

II) Whether on the aforesaid date, time and at place the accused had committed the rash and negligent driving due to which pw.2 received injury on his person ?

7. As the above two points fixed for determination are covering all the offences alleged against the accused and the above two points are interlinked having ample nexus with each other, for which the above both points are taken up together analogously for discussion.

8. Though the prosecution had alleged the offences U/s.279/337/338 IPC against the accused, but it is curious enough that the victim (pw.2) himself has given complete goodwill to the accused from the alleged offences because in his entire evidence he (pw.2) has not whispered a single word that at the time of relevant accident the accused was driving the alleged accident TATA ACE vehicle. PW.1 is the informant in this case

and pw.4 who is one of the independent witness to the accident having not whispered a single word in favour of the prosecution implicating the accused with the alleged incident. PW.3 was not a witness to the accident. Besides the evidence of PW.1 to 4 prosecution has no other evidence in this case. Taking the prosecution evidence available in the record into consideration I am of the opinion that prosecution has failed to connect the present accused with the commission of the alleged offences and as such the accused is entitled to be acquitted.

In the result, I hold the accused not guilty of the offences U/s.279/337/338 IPC and acquit him therefrom U/s.255(1) CrPC. The accused is on court bail as such he be discharged from his bail bonds .

The zimanama in respect of the seized motorcycle bearing Regd. NO. OR-02-AB-4476(Ext.2) and the zimanama in respect of the Tata ACE bearing Regd. NO.OR-02-AR-5844 along with the relevant papers of the respective vehicle are hereby can-celled and the said vehicles along with its documents be retained with respective zimadar, four months after the appeal period is over, if there would be no appeal.

Addl.C.J.M,Bhubaneswar.

The judgment is dictated,corrected and pronounced by me in the open court today i.e. on 23 rd day of December, 2014 under my hand and seal of this court.

Addl.C.J.M,Bhubaneswar.

List of P.ws. examined for prosecution.

P.w.1 Sujan Ku. Muduli
P.w.2 Prasana Ku. Swain
p.w.3 Pramod Ku. Sahoo
pw.4 Puskar Subudhi

List of D.ws.examined for defence.

None.

List of exhibits marked for prosecution.

Ext.1 Written F.I.R
Ext.1/1 Signature of p.w.1 on Ext.1
Ext.2 Zimanama dtd 3.7.11
Ext.2/1 Signature of pw.1 in Ext.2
Ext.3 Signature of pw3 in seizure list dtd 3.7.11
Ext.3/1 Signature of pw1 in seizure list dtd 3.7.11
Ext.4 Signature of pw.4 in Seizure list dtd 10.7.11

List of exhibits marked for defence.

N i l.

List of M.Os.

N i l.

Addl.C.J.M,Bhubaneswar.

