

IN THE COURT OF JUDL .MAGISTRATE FIRST CLASS, BANPUR.

Present. : Miss Sarmistha Dash, LL.B,  
Judicial Magistrate First Class,  
Banpur.

Date of argument. : 03.09.2014

Date of Judgment. : 11.09.2014

G.R. No. 451/2009

T. R. No. 90/2011

State .....Prosecution.

-Versus-

Rama Chandra Muduli, aged about 28 years,  
S/o Krushna Chandra Muduli.

Vill: Achutarajpur, P.S: Banpur,

Dist: Khurda

.....Accused.

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Offence : Under Sections 279/337 of the Indian Penal Code.

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For the Prosecution. : Sri Jaladhar Pradhan, A.P.P.

For the Defence. :Sri Uma Sankar Dash & others

J U D G M E N T.

01 The accused stands prosecuted for the offences punishable Under Sections 279/337 of the I.P.C.

02. The case of the prosecution in brief runs thus:

One Upendra Barik, Home guard No.14 appeared before the O.I.C Banpur P.S alleging therein that on 13.12.2009 at 1 pm when he was in duty saw that one motor cycle bearing No. OR-02-AK-5880 coming from Narendrapur side and one torrliy rickshaw bearing No.OR02-AZ-3316 coming from Banpur side dashed with each other. As a result of which the rider of the motor cycle sustained injuries on his body.

Upon such report P.S. Case No.292/2009 was registered and investigation was carried out and after completion of investigation as prima

facie evidence is well made out against the accused, the I.O. submitted charge sheet against him. Hence this trial.

03. The defence plea is denial simpliciter

04. The points for determination in this case emerge as follows;

(i) Whether on 13<sup>th</sup> day of December, 2009 at 1pm near Sanahantuada the accused drove one tractor bearing No.OR-02-AZ-3316 in a manner so rash & negligent as to endanger human life?

(ii) Whether on the alleged date, time and place the accused caused injuries to the informant's father by such rash and negligent driving?

05. In order to prove its case, prosecution has examined as many as three P.Ws in its favour where as defence has examined none. P.W.1 is the informant where as rest of the witnesses are independent witnesses to the occurrence.

06. This is a case U/s 279/337 of the I.P.C. In order to substantiate the case against the accused, it is necessary to scrutinize the case of prosecution. During course of the trial P.W.3 who is the informant of this case has stated that as per the direction of the I.I.C he lodged the F.I.R marked as Ext.1. During his cross examination he has stated that he could not say the contents of the F.I.R. P.Ws 1 & 2 deposed that they do not know anything about this case.

7. After a careful scrutiny of the evidence available on record it is found that all the three P.Ws have not uttered a single word about the occurrence or about the accident caused in between an auto rickshaw and motor cycle and due to such accident the rider of the motor cycle sustained injuries in their person. There is absolutely no material to show that the accused was driving the alleged vehicle in a high speed without total disregard for the life

and safety of others so as to criminally make himself liable for rashness and negligence. Hence in the absence of any cogent, reliable trust worthy evidence on the record the accused is entitled for an acquittal.

In the result, the accused is held not guilty for the offence U/s 279/337 of the I.P.C and acquitted there from U/s 255(1) of the Cr.P.C. He be set at liberty and his surety be discharged.

The zimanama be cancelled after four months of expiry of the appeal period, if no appeal is preferred and if preferred are dealt as per the orders of the appellate court.

Enter the case as insufficiency of evidence.

Judicial Magistrate First Class,  
Banpur

This judgment typed to my dictation, corrected by me and pronounced in the open court, given under my hand and seal of this court, this the 11<sup>th</sup> day of September, 2014.

Judicial Magistrate First Class,  
Banpur.

List of witnesses examined for Prosecution.

PW.1 Dasarathi Biswal  
PW.2. Braja Barik  
PW.3 Upendra Barik

List of witnesses examined for defence.

None.

List of Exhibits marked for Prosecution.

Ext.1. F.I.R  
Ext.1/1 Signature of P.W.3 on Ext.1.

List of Exhibits marked for defence.

Nil.

List of MOs marked for Prosecution.

Nil.

Judicial Magistrate First Class,  
Banpur