

The Court of JM 1st Class, Ramgarh**Present: Mrs. Smriti Tripathi****Judicial Magistrate****19th December, 2022****District: Ramgarh****G.R. Case No. 341/2016****CNR No. JHRG030000612016****(Gola PS Case No. 19/2016)**

| | |
|----------------|--|
| Informant | State (Through Lakhan Singh) |
| Represented By | <i>Smt. Manju Kachchap, Ld. A.P.P.</i> |
| Accused | Tapas Pal s/o Sunil Pal, male, aged about 35 years, r/o village Pichhari, PS Petarwar District Bokaro [A1] |
| Represented By | <i>Sri Bahadur Mahto, Ld. Advocate</i> |

| | |
|----------------------------------|--------------------------|
| Date(s) of Offence | 12.03.2016 to 13.03.2016 |
| Date of FIR | 15.03.2016 |
| Date of Chargesheet | 24.04.2016 |
| Date of framing of charge | 05.05.2018 |
| Date of Commencement of evidence | 07.06.2018 |
| Date when Judgment is reserved | 16.12.2022 |
| Date of Judgment | 19.12.2022 |
| Date of Sentencing Order, if any | N/A |

| Rank of the Accused | Name of the Accused | Date of Arrest | Date of Release on Bail | Offences charged with | Whether acquitted or convicted | Sentence Imposed | Period of Detention Undergone during Trial for purpose of Section 428, CrPC. |
|---------------------|---------------------|----------------|-------------------------|---------------------------------|--------------------------------|------------------|--|
| A1 | Tapas Pal | - | 16.03.16 | s. 279, 337, 338 and 427 of IPC | Acquitted | None | N/A |

J U D G M E N T

1. The aforementioned accused person (Hereinafter referred to as "**A1**") is facing trial for charges framed u/s. 279, 337, 338 and 427 of The Indian Penal Code, 1860 (Hereinafter referred to as the "**IPC**").

2. The compendious case of prosecution, sourced from the written report of Lakhan Singh (hereinafter referred to as the "informant") is that between the intervening night of 12.03.2016 to 13.03.2016, Ram Mahesh, the driver of Hywa Truck bearing registration no. MP39H1050 of Dilip Buildcon Company was going towards Charni Plant from Gola and was waiting at the distance of 100 guage from Chakrawali Choudhary Hotel for another vehicle. Suddenly, another truck bearing registration no. JH02AD-8470 was coming, being driven rashly and negligently from Petarwar, and dashed the said Hywa due to which, the truck entered Choudhary Hotel whereby its engine got damaged and right leg of the driver Ram Mahesh got seriously injured. Due to the alleged incident, wall of the said hotel got demolished and staff of hotel also received injury and the said driver was taken to Bokaro Hospital for treatment and was then referred to RIMS for better treatment. Hence, this case.

3. After investigation, the Investigating Officer submitted charge-sheet bearing no. 42/2016 dated 24.04.2016 against A1 for the offence u/s. 279, 337, 338 and 427 of IPC and thereafter, cognizance was taken under the same sections by the then court on 30.05.2016.

4. After supply of police papers, on 05.05.2018 substance of accusation was explained to A1 u/s. 279, 337, 338 and 427 of IPC in simple Hindi to which he pleaded not guilty and claimed to be tried.

5. After closing the prosecution evidence on 26.08.2022, the statement of the A1 was recorded u/s. 313 of CrPC in which he denied the material available against him and claimed to be innocent.

6. Thereafter, the defence was provided with an opportunity to adduce evidence on its behalf, if any but the Id. counsel for the defence submitted that he does not want to adduce any evidence. Upon his prayer, the defence evidence was closed and the matter was posted for arguments.

7. The prosecution argued that the case has been supported by the witnesses beyond reasonable doubt which warrants conviction of A1.

8. The defence on the other hand argued that a false case has been lodged and no offence as alleged is made out from the deposition of the witnesses. It was also submitted that the prosecution has failed to prove the guilt of A1 above named beyond reasonable doubt.

9. Now, the Court will consider as to whether the prosecution has been able to substantiate the charges levelled against A1 beyond reasonable doubt or not.

10. Before the court dwells to consider the case, it would be apt to enlist the

evidences brought in this case by all sides for the sake of brevity and proper reference, which are enlisted below:

List of Prosecution/Witnesses

A. Prosecution:

| Rank | Name | Nature of Evidence |
|------|-----------------------|--------------------|
| PW1 | Brajmohan Munda | Hostile Witness |
| PW2 | Sachidanand Choudhary | Eye Witness |
| PW3 | Ramjit Munda | |

B. Defence:

| Rank | Name | Nature of Evidence |
|-----------|------|--------------------|
| -- nil -- | | |

List of Prosecution/Defence/Material Exhibits

A. Prosecution:

| Sr. No. | Exhibit Number | Description |
|-----------|----------------|-------------|
| -- nil -- | | |

B. Defence:

| Sr. No. | Exhibit Number | Description |
|-----------|----------------|-------------|
| -- nil -- | | |

B. Material Objects:

| Sr. No. | Exhibit Number | Description |
|-----------|----------------|-------------|
| -- nil -- | | |

FINDINGS

11. PW1 did not depose anything substantial in his deposition and was declared hostile on the request of Id. Assistant Public Prosecutor.

12. PW2 deposed in his examination-in-chief that the alleged occurrence took place at about 1:00 am between 12.03.2016 and 13.03.2016 when, a vehicle bearing registration no. JH02AD-8470 was coming towards Petarwar, and dashed a Hywa Truck bearing registration no. MP39HE-1050 and then entered the Choudhary Line Hotel after hitting a Sheesham tree which resulted in damage to the hotel, collapse of the house and engine of the said truck got stuck there. Tapas Pal, who was driving the said truck was then evacuated after cutting the body of the truck. He further deposed that Tapas Pal was in an intoxicated state and was driving the vehicle in high speed. Due to this, leg of the driver of Hywa Truck he dashed was

broken. It also resulted in injury to one BrajMohan Singh, sleeping near the 'gumti' and injury on the head of PW02. Further that, he sustained a huge loss of ₹8-9 lakhs and damage to his hotel's deep-fridge, TV, chair-table and full house. He also claimed to identify A1 had he been present in the court. In his cross-examination, he deposed that he has no permit/licence for his hotel, that the police did not take his statement. Further that he gave a written application to the police on 14.03.2016 and also informed the police about monetary loss to his hotel. Further, that Brajmohan got injured and treated at hospital but no document of the said treatment has been filed. Further, that A1 did not sustain any injury and was not sent to hospital for treatment, and was instead, sent to the police station in the early hours of 13.03.2016. He further stated that only the front side of the said truck was damaged, and its tank, etc. were intact. He further expressed his inability to depose the speed of the truck which A1 was driving but estimated that its speed must have been around 60-65kmph.

13. PW3 has deposed in his examination-in-chief that the incident took place on 12-13 March, 2014-15 at around 12:45am near Chakrawali when a 12-14 wheeler vehicle dashed a Hywa Truck and then entered into Sachidanand Choudhary's hotel which demolished the house alongwith damage to refrigerator, TV etc. Further that, at that time, he was giving meals to the customers. He also corroborated PW02's statement regarding injury to Brajmohan Munda. As some wood fell from the hotel, PW03 also sustained injures on his back. Further that, no one else got injured and both the legs of Hywa driver got fractured and they were all treated at Gola Government Hospital. He also deposed that the said truck was coming rashly from Bokaro side and its driver-cum-owner was in drunken state, whose name PW03 failed to recall but claimed to identify him upon seeing. Further that, the registration number of Hywa was 1050 and of the truck was 8470. In his cross-examination, he deposed that he came to the court alongwith owner of the said hotel. Further that, he cooks and serves meal to customers. Also, that the hotel's kitchen is in a separate, corner-room. He also deposed that he submitted his treatment papers to the police station and that the Gumti's owner was sleeping inside it. Finally, that he went to the police station where his statement was recorded and thereafter, he was forwarded to hospital for treatment.

14. Having gone to the material on record, it is evident that although the prosecution has produced two eye witnesses, who have supported its case, they have failed to produce the informant or the Investigating Officer who would prove the foundation of this case. In absence of the prosecution case, informant's written statement, material found during investigation being exhibited, there is nothing on record to which the eye witness's statements can be corroborated.

15. Thus, this court is of the considered opinion that the prosecution has failed to substantiate the charge u/s. 279, 337, 338 and 427 of IPC. Hence, A1 is hereby **acquitted** in

this case of all charges. A1 as well as his respective bailors stand discharged from the liabilities of their respective bail bonds.

Pronounced by me in open court.

(Dictated and corrected)

(Smriti Tripathi)

JO Code: JH02021

JM 1st Class, Ramgarh

Ramgarh, dated the 19th December, 2022

(Smriti Tripathi)

JO Code: JH02021

JM 1st Class, Ramgarh

Ramgarh, dated the 19th December, 2022