



The Court of JM 1<sup>st</sup> Class, Ramgarh  
Present: Smriti Tripathi  
Judicial Magistrate  
26<sup>th</sup> April, 2023  
District: Ramgarh  
G.R. Case No. 1434/2017  
CNR No. JHRG030004862017  
Gola PS Case No. 122/2017

Informant	State (through Sandip Singh Malhotra)
Represented By	<i>Smt. Manju Kachchap, Id. APP</i>
Accused	Md. Saba Ahmad s/o Md. Anul Haque, male, aged about 32 years, r/o Lodhi, PS Chatrochatti, District Bokaro [A1]
Represented By	<i>Sri D.N. Singh, Ld. Advocate</i>

Date(s) of Offence	30.12.2017
Date of FIR	31.12.2017
Date of Chargesheet	31.03.2018
Date of substance of accusation	16.02.2019
Date of Commencement of evidence	01.04.2019
Date when Judgment is reserved	26.04.2023
Date of Judgment	26.04.2023
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 s. 428, CrPC
A1	Md. Saba Ahmad	-	10.01.18	s. 279, 337/338 & 304A, IPC	Acquitted	None	N/A

**J U D G M E N T**

1. The afore-named accused person (Hereinafter referred to as “**A1**”) is facing trial for charges framed u/s. 279, 337/338 & 304A of The Indian Penal Code, 1860 (Hereinafter referred to as the “**IPC**”)

**PROSECUTION CASE**

2. The compendious case of the prosecution, as sourced from the written application of Sandip Singh Malhotra (hereinafter referred to as the “**informant**”) is that on 30.12.2017

driver Rakesh Rai and operator Md. Aslam were travelling through his vehicle bearing registration no. OR23A-5990 when at about 10:00 PM, it was hit near Hemandpur Essar Petrol Pump by a Bolero being driven rashly and negligently bearing registration no. JH02AB-9592. This caused damage to the pickup van of the informant and Md. Aslam sustained injuries who was being taken to Sadar Hospital, Ramgarh but he succumbed to them mid-way. Hence, this case.

#### **FROM INVESTIGATION TILL TRIAL**

3. After Investigation, the Investigating Officer submitted **charge-sheet** bearing no. 37/2018 dated 31.03.2018 against A1 for the offence u/s. 279, 337/338 & 304A of IPC and thereafter, **cognizance** was taken under the same sections by the then court on 05.05.2018.
4. After supplying police papers to A1, on 16.02.2019 **substance of accusation was explained** u/s. 279, 337/338 & 304A of IPC to A1 in simple Hindi to which he pleaded not guilty and claimed to be tried.
5. After closing the prosecution evidence on 27.03.2023, the material against A1 was put to him and his **statement** was recorded u/s. 313 of CrPC on 10.04.2023 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.

#### **ARGUMENTS ADVANCES**

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 submitted that the prosecution has failed to prove the guilt of A1 beyond reasonable doubt.

#### **POINTS FOR CONSIDERATION**

9. Now, the Court will consider whether the prosecution has been able to substantiate the charges levelled against A1 beyond reasonable doubt or not. On the bedrock of the charges framed, the prosecution case will be examined on the following touchstones for the sake of a more structured analysis:

9.1 Did A1 drive vehicle bearing registration no. JH02AB-9592 on a public way in a manner so rash or negligent as to endanger human life?

9.2 Did A1 cause the death of informant’s brother Md. Aslam by driving vehicle bearing registration no. JH02AB-9592 in a rash and negligent manner?

9.3 Did A1 cause hurt and grievous hurt to informant’s brother Md. Aslam by driving vehicle bearing registration no. JH02AB-9592 rashly or negligently as to endanger human life, or the personal safety of others?

EVIDENCES

10. Before the court dwells to consider the points of determination as stated above, it would be apt to enlist the evidences brought in this case by all sides for the sake of brevity and proper reference, reference to only the relevant portions of which is made at relevant parts of this judgment, although they have all been perused by this court in detail. They are:

List of Prosecution/Witnesses

A. Prosecution:

Rank	Name	Nature of Evidence
PW01	Asraf Ansari	Hearsay Witness
PW02	Munshi Mahto	Hostile Witness
PW03	Surendra Soy	Formal Witness [Investigating Officer]

B. Defence:

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

List of Prosecution/Defence/Material Exhibits

A. Prosecution:

Sr. No.	Exhibit Number	Description
1.	Ext. P1/PW3	Endorsement
2.	Ext. P2/PW3	Formal FIR

B. Defence:

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

C. Material Objects:

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

## FINDINGS

*Did A1 drive vehicle bearing registration no. JH02AB-9592 on a public way in a manner so rash or negligent as to endanger human life?; Did A1 cause the death of informant's brother Md. Aslam by driving vehicle bearing registration no. JH02AB-9592 in a rash and negligent manner?; Did A1 cause hurt and grievous hurt to informant's brother Md. Aslam by driving vehicle bearing registration no. JH02AB-9592 rashly or negligently as to endanger human life, or the personal safety of others?*

11. In order to substantiate the accusations levelled against A1, being examined on the points of consideration stated above, the prosecution has produced three witnesses. All three points of consideration are being taken up together for the sake of brevity. Of the three witnesses, one turned hostile, one is a hearsay witness, and one being the Investigating Officer deposed the formal details of the investigation carried out by him.

11.1 PW01 deposed that the alleged incident took place on 30.12.2017 at about 10:00 PM in the night at Gola while he was at his house. In early morning on the next day, he learnt that his brother Aslam Ansari was admitted in Sadar Hospital, Ramgarh. He then went there saw his brother's corpse. He deposed that when he went to the hospital he learnt that one Bolero vehicle which was being driven very rashly and negligently hit the vehicle on which his brother was present thereby causing his death. He the deposed that the *postmortem* of his brother was conducted at Sadar Hospital, Ramgarh. Further, that Rajesh was the driver of his Pickup van and his deceased brother was sitting in the front seat at the time of the alleged incident. In his cross-examination, he deposed that he was informed about the alleged incident by Iliyas Ansari. Also, that he has not seen the incident on his own and that he cannot depose the registration number of the Bolero vehicle by which the alleged accident took place. Finally, that he cannot identify the accused/driver as he never saw him and he has no knowledge by which vehicle his brother was hit.

11.2 PW02 denied having any knowledge about the alleged incident and was declared hostile.

11.3 PW03 elaborated on the formal details of his investigation and deposed that the death inquest report of late Md. Aslam as well as challan of *postmortem* were prepared by him. further, that he recorded the re-statement of informant and also recorded the statement of witnesses Suresh Mahto and Asraf Ansari who supported the FIR. Further, that he visited the place of the alleged incident, inspected the surroundings and recorded the statement of witness Mushi Mahto

and Dinesh Hansda at the said Petrol Pump who supported the incident. Thereafter, both the alleged vehicles were brought to the police station. In his cross-examination, he deposed that the death inquest report was prepared by him but he did not record the statement of family members of the deceased. Also, that the said report was not submitted in the court. Further, that he did not seize the license of driver of the alleged Bolero as he had fled away and that he did not record the statement of the Pickup Van's cleaner. He did not get MVI test of the alleged vehicle. He denied that his investigation is faulty.

11.4 Apart from these, neither was the informant nor any eye witness was produced by the prosecution. The driver of the vehicle or any other charge-sheeted witnesses who would have seen the alleged incident were not produced. The documents exhibited do not go on to show that it was A1 only who committed the alleged incident.

11.5 Therefore, the prosecution has failed to prove that it was indeed A1 who committed the alleged incident, beyond reasonable doubt.

12. Thus, regard had to the materials placed before this court and the discussion made above, this court is of the considered opinion that the prosecution has failed to establish that A1 committed the alleged offence and has thereby failed to substantiate the accusation u/s. 279, 337/338 & 304A of IPC. Hence, A1 is hereby **acquitted** in this case. A1 as well as his respective bailors stand discharged from the liabilities of their respective bail bonds.

(Dictated and corrected)

Pronounced by me in open court

Sd/-

Sd/-

**(Smriti Tripathi)**

**JO Code: JH02021**

JM 1<sup>st</sup> Class, Ramgarh

*Ramgarh, dated the 26<sup>th</sup> April, 2023*

**(Smriti Tripathi)**

**JO Code: JH02021**

JM 1<sup>st</sup> Class, Ramgarh

*Ramgarh, dated the 26<sup>th</sup> April, 2023*