

GAHC010153012021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./584/2021

MD. NUR MAHAMMAD ALI @ NUR MAHAMMAD ALI
S/O JAMAL ALI, R/O VILL-KALJAR, P.O.-KALJAR, P.S.-BARAMA, DIST-
BAKSA, ASSAM, PIN-781346

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:BARUN DAS
S/O LATE DHANESWAR DAS
R/O VILL-PALACHI AMINGAON
P.O.-BAGULAMARI
P.S.-BARAMA
DIST-BAKSA
ASSAM
PIN-78134

Advocate for the Petitioner : MR I HAQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 15.11.2023

Heard Mr. I. Haque, learned counsel for the petitioner. Also heard Mr. M.P.

Goswami, learned Additional Public Prosecutor for the State/respondent No. 1 and Mr. A. Sharma, learned counsel for the informant/respondent No.2.

2. This is an application under Section 482 Cr.P.C. for quashing an FIR/charge-sheet against the impugned order dated 15.02.2020 passed by the learned CJM, Baksa in PRC Case No. 94/2020, whereby cognizance was taken on the basis of charge-sheet dated 30.01.2020 submitted under Section 279/304-A IPC against the petitioner.

3. The brief facts of the case is that the petitioner is the registered owner-cum-driver of a truck bearing registration No. AS-09-AC-2520. On 19.10.2019 at 5 p.m., one Satyajit Das who was travelling in the said truck as a helper died due to electrical shock. When the truck was egressing after unloading sand, then a live wire hanging nearby contacted with the roof of the truck as a result of which the said helper of the truck i.e. Satyajit Das died.

4. On receipt of the report regarding accident due to electrocution, a GDE was recorded vide Barama police station GDE Nos. 345 and 348 dated 19.10.2019. Subsequently, Sub-divisional Engineer, Barama Electrical Sub-division of APDCL lodged an FIR stating that on 19.10.2019 at around 5 p.m., a person namely Satyajit Das was suspected to be expired in an electrical accident which took place at Barama First Gate (Pub Chowk). According to the public information, they came in a truck bearing Regd. No. 09-AC-2520 was placed below LT conductor for unloading soil without any information and prior permission from APDCL staff and came in contact with LT conductor and the helper touched the door with bare foot as a result of which he died accordingly.

5. On receipt of the FIR, a U/D case was registered vide Barma P.S. U/D Case

No. 10/2019 and after completion of investigation, charge-sheet was submitted against the present petitioner under Section 279/304-A IPC. Accordingly, the learned Magistrate took cognizance of the offence and summons were issued to the petitioner.

6. It is submitted by the learned counsel for the petitioner that there is no allegation against the present petitioner that the accident occurred due to rash and negligent driving of the driver of the vehicle and the petitioner who was travelling in the vehicle died due to such negligent driving. It is an admitted fact that when the truck was unloading soil at Barama first gate, the helper of the truck Satyajit Das touched the door with bare foot and due to contact of electrical wire hanging improper position over the truck, he died due to electrocution. It is also submitted that the deceased was the labour of the said truck and the incident occurred due to negligence of the electrical department.

7. The learned counsel for the petitioner submitted one enquiry report of the Senior Grade Electrical Inspector, Government of Assam which reveals that on the date of incident, the deceased Satyajit Das came in contact with LT 3 phase 4 wire line while the truck carried sand was unloading below the said line. It is also reported that though unloading of sand was done under the aforementioned live line but had the line was placed under appropriate ground clearance, the victim would not have come in contact with the same.

8. On the other hand, Mr. Goswami, learned Addl.P.P. has fairly submitted that there is no allegation against the present petitioner that he was driving the alleged truck in a rash and negligent manner for which the accident occurred causing death of the victim.

9. Mr. Sharma, learned counsel representing the respondent No. 2 also argued on the same tune by stating that as per FIR, the incident occurred due to electrocution. The helper of the truck i.e. the deceased touched the live wire when the truck was unloading sand on the aforesaid spot.

10. I have considered the submissions made by the learned counsel for the parties. I have also perused the scanned copy of LCR including the GDE Nos. 345 and 348.

11. It appears from the GDE No. 345 that an information given by one Pradip Deka, resident of Pub Chowk, Barama, over telephone that when a truck was egressing after unloading the sand in front of the house of Rati Boro, then the roof of the truck contacted with a hanging electricity wire and the handyman of the said truck sustained grievous injury and fell down due to short circuit.

12. It also appears from the GDE No. 348 that one vehicle vide Reg. No. AS-09-AC-2520 after unloading the sand in front of the house of Rati Boro and when egressing from the spot, the electric wires in front of his house, came in contact with the roof of the truck and electrified the said truck, as a result of which, the handyman, namely Satyajit Das sustained grievous injuries. Immediately, he was taken to Barama PHC with the help of local public. Though the Doctor of Barama PHC referred to Musalpur Hospital but on the way, he died.

13. The parameters laid down in ***State of Haryana v. Bhajan Lal***, reported in ***1992 Supp (1) SCC 335: 1992 SCC (Cri) 426*** for quashing the FIR against the accused under 482 Cr.P.C includes: (i) If the allegations made in the FIR/complaint, even if taken at face value, do not prima facie constitute any

offence or make out any case against the accused and(ii) If the allegations made in the FIR/complaint and the evidence collected in support of the same do not disclose the commission of any offence, and do not build any case against the accused.

10. In view of the above observations, the Court is of the considered view that the ingredients of the alleged offence under sections 279/304-A IPC have not been prima facie made out against the present petitioner and thus find it fit, in exercise of the powers under section 482 Cr.P.C, to quash and set aside the FIR dated 21.10.2019 and the proceedings in PRC No./94/2020 pending before the court of learned CJM, Baksa which is done accordingly.

11. With the above directions, the criminal petition stands disposed of.

JUDGE

Comparing Assistant