GAHC010194002011

2026:GAU-AS:16415

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

Case No. : Crl.Rev.P./169/2011

PRANAB GOGOI
S/O SHRI PHOTIK GOGOI R/O VILL- LACHIT NAGAR, P.O. and P.S. SILAPATHAR, DIST. DHEMAJI, ASSAM.

VERSUS

THE STATE OF ASSAM

Advocate for the Petitioner : MR.R DOLEY, MS. B SARMA, Amicus Curiae,MR.B DEY,MR.R DHAR,MR.H CHETRY

Advocate for the Respondent : PP, ASSAM, ,,

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 06.11.2026

Heard Ms. B. Sarma, learned Amicus Curiae, appearing for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, appearing for the State Respondent.

2. The present Criminal Revision Petition, has been instituted by the petitioner, assailing the Judgment & Order dated 05.03.2011, passed by the Court of learned Sessions Judge, Dhemaji, in Criminal Appeal No.16(2)/2010, dismissing the same and thereby upholding the conviction and sentencing of the petitioner by the learned Judicial Magistrate First Class, Dhemaji, in G.R. Case No.760/2006 (SLP), vide Judgment & Order dated 28.04.2010 under Sections 279/304(A) IPC.

3. The prosecution case as evident from the materials available on record is that on 18.11.2006, at around 10 'o' clock, while Santa Kumar Limbu and Nar Bahadur Limbu were proceeding to their respective houses on a bicycle, the petitioner, herein, who was riding a motorcycle bearing Registration No. AS-22-8437, had knocked them down. Due to the said accident, Nar Bahadur died while being taken to the hospital, and Santa Kumar Limbu sustained injuries. The bicycle was also damaged in the said accident.

3.1. The police on receipt of the FIR registered the same as Silapathar Police Station Case No.187/06 under Sections 279/338/427/304(A) IPC. On conclusion of the investigation, the police laid a charge-sheet under the said Sections against the petitioner, herein.

3.2. The learned Trial Court on explaining the offences under the said Sections, to the petitioner, herein, the petitioner having pleaded not guilty and claimed to be tried, a Trial ensued. On conclusion of the Trial, the learned Trial Court vide Judgment & Order dated 11.06.2009, convicted the petitioner, herein, under Sections 279/338/427/304(A) IPC.

3.3. Being aggrieved, the petitioner, herein, had preferred an appeal being Criminal Appeal No.9(3)/2009. The learned Sessions Judge, Dhemaji, vide Judgment & Order dated 29.10.2009, proceeded to interfere with the said Judgment & Order dated 11.06.2009, passed by the learned Trial Court and remanded the case to the learned Trial Court with a direction to explain the particulars of Section 304(A) IPC to the petitioner, herein.

3.4. It is to be noted that the learned Appellate Court had found that the offence under Section 304(A) IPC was not explained to the petitioner and further offence under Section 427 IPC was not attracted in the facts and circumstances of the case. In pursuance of the said Judgment & Order dated 29.10.2009, passed by the learned Appellate Court, the Trial Court explained the offences under Sections 279/338/304(A) IPC to the petitioner, herein, who pleaded not guilty.

3.5. Further, the parties to the proceeding having submitted that no fresh evidence would be adduced, the matter was heard and vide Judgment & Order dated 28.04.2010, the petitioner was convicted under Sections 279/304(A) IPC and sentenced to undergo Simple Imprisonment for a period of 03 (three) months under Section 279 IPC and Simple Imprisonment for a period of 06 (six) months along with a fine of Rs.5000/- (Rupees Five Thousand), in default, to undergo Simple Imprisonment for 02 (two) months for the offence under Section 304 (A)

IPC.

3.6. The petitioner, herein, being aggrieved by the said Judgment & Order dated 28.04.2010, preferred an appeal against the same which was registered as Criminal Appeal No.16(2)/2010. The learned Sessions Judge, Dhemaji, being the Appellate Court, proceeded on consideration of the materials coming on record to dismiss the said appeal vide Judgment & Order dated 05.03.2011, thereby affirming the Judgment & Order dated 28.04.2010 passed by the learned Trial Court.

Being aggrieved, the petitioner has instituted the present criminal revision petition.

4. I have heard the learned counsel for the parties and also perused the materials available on record.

5. The learned Trial Court basing on the evidences coming on record had proceeded to draw the following conclusions;

> "17. First of all, the accused person admitted that the motorcycle bearing registration No. AS-22-8437 is owned by him. All the witnesses stated that the accused person was driving his motorcycle in excessive speed. Although the accused person took the plea that he did not drive the motorcycle, yet, from the seizure list marked as Ext.4 it is clear that the said motorcycle was seized by the police at about 10 p.m on 18/11/2006 itself, which is the date of occurrence. The motorcycle was seized along with the broken bicycle. If the said motorcycle was not involved in the case, why and how the same was seized by the police along with the broken bicycle? In the presence of witnesses. Although the defence took the plea, that the P. W 2 in his cross examination stated that Ext 3(1) is not his signature, yet, that witness reiterated that Ext 4(1) is his signature in the seizure list marked as Ext 4. The P.W.2 is an independent witness, who was on duty, and unequivocally stated that the police seized the motor cycle owned and driven by the accused Pronob Gogoi. Similarly the Investigating Officer of the incident who visited the spot prepared the sketch map of the place of occurrence wherein it is clear that motor cycle bearing the registration

No AS-22-8437 along with the broken motor cycle marked as 'C' and 'D' respectively. That sketch map marked as Ext 5 has remain unchallenged, making it clear that the motor cycle bearing the registration No AS-22-8437 owned and driven by the accused Pronob Gogoi caused the accident. Therefore, for the minor mistake to the effect that the F.I.R. indicates the number as AS-22-8537, as but the witnesses stated the number as AS-22-8437 argued by the learned counsel for the accused, does not hold good so as to weaken the case of the prosecution. Moreover, from the records it is clear that on 27/11/2006 surrendered before learned Chief Judicial Magistrate and went on bail, who was directed to surrender before the I/o within 24 hours from that date. This fact also indicates that the accused person was involved in this case and for which he did so.

18. Secondly, from the materials available on record, it has become clear that on 18-11-2006 at about 10 P.M the accused Sri Pronob Gogoi was driving the motor cycle bearing registration No. AS-22-8437. That the said vehicle caused the incident is also supported by the Exts. No. 3 and 4. Ext 4 is the seizure list by which the I/O seized the bicycle in a damaged condition and simultaneously, the offending vehicle also got damaged partially on the front side as revealed from the report of the M.V.I marked as Ext.5. Although the investigating agency in our country is not so acquainted to find out In what speed the particular vehicle was running in a particular time, yet, in the absence of such expert report, the point can be determined from the relevant facts and circumstance. In the case in hand, all the relevant witnesses i.e. P.W.S 1,2,3,4, 6 and 9 stated that the accused person was driving the motor cycle in excess speed for which it knocked the bicycle for which the victim Santa Kumar sustained injuries and the other victim Nor Bahadur Limbu expired. I do not find anything to disbelieve the credibility of the witness. Besides, from the seizure list marked as ext 4 it is clear that the bicycle seized by the police from the place of occurrence was found broken and from the report of the M.V.I., it is clear that the 'head-light' of the motor cycle was also broken. Definitely, the light or other part of any vehicle, particularly on the front side will not be broken unless the same collides with anything. In the instant case, the fact that the bicycle and the offending motorcycle were found in damaged condition leads to the conclusion that the driver of the offending vehicle either drove the vehicle in excess speed or drove the same in

rash and negligent manner.

19. Thirdly, as stated above, from the evidence of the P.W's it is clear that the bicycle driven by the victims got damaged due to the accident and for which, the same was seized by preparing the seizure list marked as Ext 4. The defence could not and even did not attempt to tarnish this part of evidence in any manner. In view of the above, it is clear that the accused person Pronob Gogoi caused mischief of the bicycle driven, by the victims Santa Kumar Limbu and Nar Bahadur Limbu.

20. Fourthly, there is nothing on record to show that for the said accident the victim Santa Kumar Limbu sustained grievous injury. Even, there is no medical report in this regard before this court perusal and decision.

21. Fiftly, from the corroborated evidence of the witnesses it is clear that the after the alleged incident, the victim Nar Bahadur Limbu died on the way to hospital. From the Ext2 it is clear that the victim Nar Bahadur Limbu expired and for which, his inquest was done by the P.W.8. Similarly, from the report of the Medical officer coupled with the oral evidence on Ext 7 it is clear that the victim Nar Bahadur Limbu got severe injuries. It is stated in the report that 'rigormortius was present. Blood extruding through bilateral nostrils.Caneal and spinal canal intact. Thorax on compression of chest blood extruding from nostrils. 3rd, 4th and 5th rib bones fractured. On opening thorax bilaterally langue ruptured and collapsed. Abdomen blood coming out through mouth. In other parts normal. The doctor opined the cause of death was due to cardiac respiratory failure following blunt chest tramma'. From the above, it is clear that the injured Nar Bahadur Limbu expired for the injuries sustained by him due the knocking down by the accused Pronob Gogoi through his motor cycle."

6. Basing on the said conclusions, the petitioner, herein, was convicted and sentenced as follows;

"22. In view of the foregoing discussion, I am of the considered opinion to hold that the prosecution has been able to prove that on 18/11/2006 at about 10 P.M. the accused person namely Pronob Gogoi was driving the motor cycle bearing the registration No AS-22-8437 in a rash and negligent manner endangering human life

and for such rash and negligent driving knocked down the bicycle riders namely Sri Santa Kumar Limbu and Nar Bahadur Limbu(since deceased)as a result of which, the bicycle got damaged, the victim Nar Bahadur Limbu succumbed to his injuries and expired from this mortal world. Accordingly, the accused person is hereby convicted under sections 279/304(A)I.P.C.

23. Considering the nature of the offence and circumstances in which the same occurred, the accused person is sentenced to suffer simple imprisonment for a period of three months for the offence punishable Under section 279 I.P.C and simple imprisonment for another period of six months and to pay a fine of Rs 5,000/-1/D to suffer simple imprisonment for a period of two month for the offence punishable under Section 304(A) I.P.C. The sentence of imprisonment will run concurrently."

7. On a close perusal of the conclusions drawn by the learned Trial Court in the light of the evidences coming on record, this Court is of the considered view that the same would not mandate an interference from this Court, inasmuch as, the conclusions are found to be supported by the evidences coming on record.

8. Having drawn the said conclusions, this Court would now examine the conclusions drawn by the learned Appellate Court vide Judgment & Order dated 05.03.2011. The learned Appellate Court on a due consideration of the conclusions drawn by the learned Trial Court in the light of the evidences coming on record had drawn the following conclusions;

"On carefully scrutinizing the evidence of P.W-1, 3 and 4, no material contradiction is detected. That is why, their evidence may be taken into consideration as a true and reliable piece of evidence if other circumstances are proved.

It is unchallenged fact that Nar Bahadur Died on the relevant date of alleged accident. It is also unchallenged fact that P.W-1,3, 4 and deceased were returning to their houses on the relevant night by riding bi-cycle and at that time P.W-4

sustained fracture. In addition of above, P.W-2 deposed that at the relevant time, he was on duty at Silapathar Forest Gate and after hearing hue and cry, went there and found a bi-cycle and a motor cycle were lying and also found the injured person. He also deposed that police seized the motor cycle and he put his signature on the seizure list vide Ext-3. From his evidence, it is evident that police seized the motor cycle bearing Regd. No. AS-22/8437 from the place of occurrence. The said fact is remaining unchallenged on the record. In this case the I/O deposed that he seized the motor cycle bearing Regd. No. AS-22/8437. The said fact is not challenged. Moreover, the M.V.I. (P.W-5) deposed that he examined the aforesaid vehicle and found broken head vide Ext-5 (Report). Hence, it is concluded that the informant wrongly mentioned the Vehicle No. as AS-22/8537 in the Ext-1, ejahar. Ejahar is nothing but a document to inform a cognizable offence. All material facts may not be discussed in the FIR or some fact may be disclosed wrongly. As the FIR is not pleading, prosecution can travel beyond the ejahar and accordingly fact disclosed in the F.I.R. may be cured during evidence. In the instant case, while the ejahar was lodged the vehicle (motor-cycle) Number was given AS-22/8537. After going through the entire record, it is found that police seized a vehicle No. AS-22/8437 from the spot. The said fact is supported by seizure list witness. That is why, the plea taken by the accused during argument regarding the actual Number of the Vehicle involved has no fruit. This is also clear from the statement of the accused, recorded by Court below at the time of explaining the offence that the vehicle bearing Registration No. AS-22/8473 involved. So, there is no reason to conclude like that the accused was confused at the time of trial. Moreover, P.W-7 supported the prosecution story and deposed that he found the dead body of Nar Bahadur Limbu at Silapathar P.S. and the M/O deposed that on P.M. Exam, ination of dead body of deceased, he found 3rd, 4th and 5th rib bone fractured, Lung- ruptured and collapsed. P.W-6 Sri Kumar Limbu also supported the evidence of P.W-1, 3 and 4.

Hence, I do not find any infirmity to the conclusion drawn by the Court below that the accused involved in the commission of alleged offences. Moreover, it is boosted to conclude against the accused that he committed the offence because I/O deposed that after the incident, the accused surrendered before police. Hence, I believe the deposition of P.W-1, 3 and 4."

9. Basing on the said conclusions, the learned Appellate Court had proceeded to affirm the conviction and sentencing of the petitioner, herein, by the learned Trial Court vide Judgment & Order dated 28.04.2010.

10. This Court has perused the conclusions drawn by the learned Appellate Court and finds that the said conclusions are not erroneous and the same to be based on the materials coming on record and accordingly, the said conclusions drawn by the learned Appellate Court would not mandate an interference from this Court.

11. Having drawn the said conclusions, this Court notices that the offences were committed by the petitioner on 18.11.2006 and was convicted by the learned Trial Court vide Judgment & Order dated 28.04.2010. The conviction and sentencing of the petitioner, herein, was upheld by the learned Appellate Court vide Judgment & Order dated 05.03.2011.

12. More than 20 (twenty) years have elapsed since the date of commission of the offences and the matter has been pending before this Court since 2011. Accordingly, considering the provision of Sections 279 IPC and 304(A) IPC, the said provisions also mandating imposition of a fine in lieu of imprisonment; this Court is of the considered view that the present case is a fit one for modifying the sentencing of the petitioner, herein.

13. Accordingly, the sentencing of the petitioner is modified and for the offence under Section 279 IPC, the petitioner is sentenced to pay a fine of Rs.1000/- (Rupees One Thousand) and for the offence under Section 304 (A) IPC, the petitioner is sentenced to pay a fine of Rs.5000/- (Rupees Five Thousand), as imposed by the learned Trial Court.

14. With the above modification of the sentencing of the petitioner, the present criminal revision petition stands disposed of.

15. Registry to send down the records of the case to the learned Trial Court along with a copy of the present order to the Court of the learned Chief Judicial Magistrate, Dhemaji, for further compliance of the directions so passed.

16. Before parting with the records of the case, this Court records its appreciation to the able assistance provided by Ms. B. Sarma, as learned Amicus Curiae in the matter, which had facilitated disposal of the present matter.

JUDGE

Comparing Assistant