

IN THE MAGISTRATE'S COURT AT LABASA
CRIMINAL JURISDICTION

Traffic Case No. 138 of 2017

STATE

v

SAHADAT KHAN

Appearance : **PC Lal** for the prosecution
Accused in person

Judgment : **20 September 2019**

JUDGMENT

1. The accused, *Sahadat Khan*, is charge for *Careless Driving*, contrary to *section 99(1)* and *114* of the *Land Transport Act*.
2. The particulars of the offence are;-
"Sahadat Khan on the 29th day of October 2016, at Seaqqa, in the Northern Division, drove motor vehicle registration number FE 856 at Natua along Labasa Seaqqa road, without due care and attention and collided with motor vehicle registration number HE 287."

3. The Accused pleaded not guilty to the charge on 27 June 2017, and maintain his plea on the trial date.
4. The case proceeded to trial on 5 March 2019.
5. The Prosecutor called Jefferson Gock (Gock) as the first witness, PC 3031 Dupendra the second witness, Josua Dimuri the third and final witness. The Accused is the only witness for his case.

Law

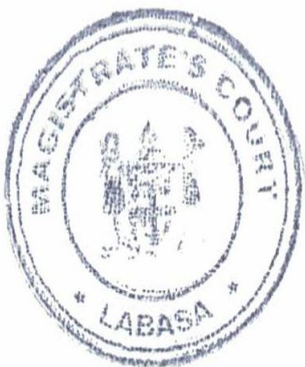
6. *Section 99(1) of the Land Transport Act, state;-*
"A person who drives a motor vehicle on a public street without due care and attention commits an offence and is liable on conviction to the prescribed penalty"
7. The elements of the offence are;-
 - a) *the accused,*
 - b) *drove a motor vehicle,*
 - c) *on a public street,*
 - d) *without due care and attention.*
8. The burden of prove is on the prosecution to prove all the elements of the offence beyond reasonable doubt.

Analysis and determination

9. The accused admitted in his evidence that on 29th October 2016, he was driving his truck FE 856 and he was turning to his drive way when the accident happened. These evidence has satisfied elements (a) and (b) of the offence in paragraph 7 above.

10. The third element is on a public street, meaning that the accused drove a motor vehicle on a public street. The evidence adduced only mention the main road. There was no evidence adduced to say that the place where the accused was driving his truck and involved in the accident is a public street. Public street is an essential element of the offence and evidence must be adduced to establish and prove the element beyond reasonable doubt.
11. In absence of any evidence to prove the element of public street, the prosecution case failed. As such, I will not make an assessment and finding on the last element (d) of the offence as whatever the finding, it will not change my earlier finding that the prosecution case failed.
12. In assessing the evidence, I find that the prosecution failed to discharge the burden of proof required.
13. In this judgment, I find the accused not guilty as charged. Accordingly, the accused is acquitted.

28 days to appeal



C. M. Tuberi

RESIDENT MAGISTRATE