

IN THE MAGISTRATE'S COURT AT LABASA
CRIMINAL JURISDICTION

Traffic Case No. 686 of 2017

STATE

v

RAJNEEL DEO

Appearance : **PC Lal** for the prosecution
Mr Raramasi. S and **Mr Sen. A** for the
accused

Judgment : **7 August 2020**

JUDGMENT

1. The accused, Rajneel Deo, is charge for *Careless Driving*, contrary to *section 99(1)* and *114* of the *Land Transport Act*.
2. The particulars of the offence are;-

"Rajneel Deo on the 29th day of July 2017, at Labasa, in the Northern Division, drove a motor vehicle registration number HA 415 along Lajonia Road without due care and attention bumped a motor vehicle registration number GQ 212."

3. The Accused pleaded not guilty to the charge on 15 May 2018. The case proceeded to trial on 4 February 2020 and continued on 15 July 2020.
4. The Prosecutor called three witnesses for the prosecution case. The court ruled that there is a case to answer. The accused is the only witness for the defence case.

Law

5. *Section 99(1) of the Land Transport Act 1998, 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"
6. The elements of the offence are;-
 - a) *the accused,*
 - b) *drives a motor vehicle,*
 - c) *on a public street,*
 - d) *without due care and attention.*
7. The burden of proof is on the prosecution to prove all the elements of the offence beyond reasonable doubt.

Analysis and determination

8. The accused was identified in court by PC 5193 Pawan, the first witness for the prosecution case, and PC 3450 Ilaisa the second witness for the prosecution case.
9. Both PC Pawan and PC Ilaisa, testified that the accused was driving the bus that involved in an accident with the police vehicle on a blind or sharp bend along Lajonia road. The rough sketch plan and the fair sketch plan was

tendered as evidence marked PE1A and PE1B respectively. The said exhibits show that the bus HA 415 was involved in a collision with vehicle GQ 212. The accused confirmed in his evidence that he was driving the bus HA 415 when it was involved in an accident with the vehicle GQ 212 on a sharp bend in Lajonia on 29 July 2017.

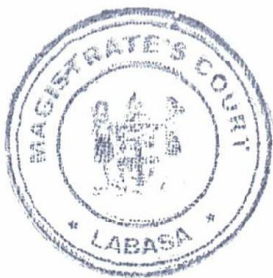
10. PC Pawan, PC Ilaisa, and Vinay Vikash Deo (Vinay) the third witness for the prosecution case all confirmed in their evidence, that Lajonia road where the accident happened is a public road as it is accessible by members of the public. That was confirmed by the accused in his evidence.
11. PC Pawan testified that the accident was on a gravel road along the Lajonia road and it was on a blind bend. He was driving the police vehicle GQ 212 and was heading towards the main road when he saw the bus driven by the accused coming towards them. He pulled his vehicle to the side of the road and stop, hoping for the bus to drive pass slowly. PC Pawan said the bus did not slow down and was coming in fast speed resulted in the rear right of the bus to hit the rear right of the vehicle he was driving.
12. PC Ilaisa testified that he was a passenger on the police vehicle driven by PC Pawan when their vehicle involved in an accident at a sharp bend along Lajonia road on 29 July 2017. He said, at the sharp bend a bus came on the opposite direction covering the whole road. PC Pawan stop their vehicle on the left side of the road. The bus was travelling on high speed resulted in the rear part of the bus to hit the rear part of their vehicle. He came out of the vehicle, taking the measurement and draw the rough sketch plan. In cross-examination, he said that PC Pawan

was not at fault as he was able to stop his vehicle before the accident.

13. Vinay stated in his evidence that he is a taxi driver. On 29 July 2017, between 5.15pm to 5.45pm, he was at the junction of Rara housing when he saw the accident between a bus HA 415 and a police vehicle. He said that the police vehicle was parked at the bend on the side of the road when the bus came and hit the rear of the vehicle. He said, the road was not big and he was about the distance of 3 cars away from the scene of the accident.
14. The vehicle accident report for the bus HA 415 was tendered as evidence and marked PE2. The report stated that there is no defective on the bus HA 415 at the time of the accident.
15. The evidence shows that PC Pawan had stop the vehicle GQ 212 on the side of the road to allow the accused to drive pass in the sharp or blind bend gravel road. PC Pawan had parked his vehicle, it was the accused who was driving the bus and caused the accident.
16. The accused confirmed in his evidence that he was driving the bus HA 415 on 29 July 2017, when it was involved in an accident with a police vehicle at the sharp bend along Lajonia road. The accused said that he entered the sharp bend first. When the police vehicle came from the opposite side, he drove towards the left side of the road. The police vehicle was travelling very fast and hit the rear right tyre of the bus. He said, the bus did not hit the police vehicle. The accused said, that the police vehicle should stop and allow the bus to pass.

17. The accused evidence that the police vehicle caused the accident was outweighed by the evidence of the three prosecution witnesses who all witness the accident on that day. The evidence of Vinay was independent and his evidence is consistent with the other witnesses for the prosecution.
18. The evidence of the prosecution were consistent. As such, I believe their evidence as credible and I find the evidence of the accused was offered to save him from his carelessness.
19. In assessing the evidence, I find the accused was careless when he drove through the sharp bend on a gravel road in Lajonia and hit the police vehicle that was parked on the side of the road.
20. The evidence adduced by the Prosecutor has established all the elements of the offence beyond reasonable doubt.
21. In this judgment, I find the accused guilty as charge and I convicted the accused as charged.

28 days to appeal



C. M. Tuberi
RESIDENT MAGISTRATE