

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 for the accused

Ruling : **13 March 2020**

RULING

NO CASE TO ANSWER

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.
4. The Prosecutor called three witnesses and closed his case. The Counsel for the accused make an application for no case to answer. The submission was filed on 17 February 2020.

Law

5. Section 178 of the Criminal Procedure Act provides for no case to answer application to be made.
6. 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"
7. 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.
8. The test for no case to answer in the Magistrate Court was explained in **Abdul Gani Sahib v The State** [2005] FJHC 95; HAA 022 of 2005; 28 April 2005, as;-
*"Firstly whether there is relevant and admissible evidence implicating the accused in respect of each element of the offence,
Second whether the Prosecution evidence, taken at its highest, a reasonable tribunal could convict. In considering the prosecution evidence at its highest, a reasonable tribunal could convict".*

9. The burden of proof is on the prosecution to establish the two tests above.

Defence application

10. The defence submitted that the elements of careless driving has not been established. As such, the prosecution failed to provide evidence to satisfy the essential elements of the offence. The evidence of the prosecution is not credible as the evidence have been discredited during cross examination. On the evidence of the prosecution, no tribunal can convict on it.

Analysis and determination

11. 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. That are relevant and admissible evidence on the identity of the accused.
12. 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 (PE1A and PE1B) which show that the bus HA 415 was involved in a collision with vehicle GQ 212. The defence submitted in paragraph 9 of their submission that the accused was driving the bus registration number HA 415. The evidence are relevant and admissible that the accused drives a motor vehicle.
13. PC Pawan, PC Ilaisa, and Vinay Vikash Deo (Vinay) the third witness for the prosecution case all confirmed in

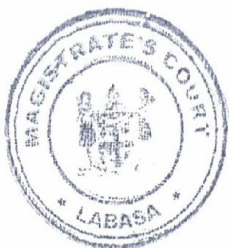
their evidence, that Lajonia road where the accident happened is a public road as it is accessible by members of the public. The evidence was not challenge or contested by the defence. The evidence are relevant and admissible relating to the element of public street.

14. 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 rear right of the bus hit the rear right of the vehicle he was driving.
15. 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. Their driver 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 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.
16. 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 an 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, that the road was not big and he was about 3 cars away from the scene of the accident.

17. The vehicle accident report was tendered as evidence and marked PE2. The report stated that there is no defective on the vehicle at the time of the accident.
18. 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. The evidence shows that there are relevant and admissible evidence that the accused was driving the bus without due care and attention.
19. In assessing the evidence adduced by the prosecution, there are relevant and admissible evidence on all the elements of the offence. Those evidence were not discredited during cross-examination.
20. As such, I find that there are sufficient evidence that requires the accused to put his defence.
21. In this ruling, I find that the accused has a case to answer.

28 days to appeal



C. M. Tuberi
RESIDENT MAGISTRATE