

IN THE MAGISTRATE'S COURT AT LABASA
CRIMINAL JURISDICTION

Traffic Case No. 1 of 2017

STATE

V

SAFEEQ BUKSH

Appearance : **PC Lal** for the prosecution
Mr Prasad. J for the accused

Judgment : **17 July 2020**

JUDGMENT

1. The accused, Safeeq Buksh is charge for *Dangerous Driving*, contrary to *section 98(1) and 114*, of the *Land Transport Act*.
2. The particulars of the offence are that Safeeq Buksh on 9 September 2016, at Labasa, in the Northern Division, drove a motor vehicle registration number CL 507 along Labasa Korotari road, in a manner which was dangerous to the public having regards to all circumstances of the case.
3. The Accused pleaded not guilty to the amended charge on 7 May 2019. The case proceeded to trial on 25 February 2020.

4. The Prosecutor called five witnesses and closed his case. There was an application for no case to answer. The court ruled that there is a case to answer. On 16 June 2020, the defence informed the court that the accused is exercising his rights to remain silent and call no witness to the stand.

Law

5. Section 98(1) of the Land Transport Act, state;-
- "(1)A person who drives a motor vehicle on a public street recklessly, or at a speed or in a manner which is dangerous to the public having regards to all the circumstances of the case including the nature, condition and use of the public street and the amount of traffic which is actually at the time or which might reasonably be expected to be on the public street, commits an offence....."*
6. The elements of the offence are;-
- a. *the accused,*
 - b. *drove a motor vehicle,*
 - c. *on a public street,*
 - d. *in a dangerous manner.*
7. The burden of proof is on the prosecution to prove all the elements of the offence beyond reasonable doubt.

Analysis and determination

8. I will deal with each elements of the offence now.

The accused

9. The first, third, and fifth witnesses for the prosecution case have identified the accused in court.

Drove a motor vehicle

10. Ravindra Deo (Deo) is the first witness for the prosecution case and was the driver of the tractor that was travelling behind the tractor that collided with the van CL 507. Arvin Kumar (Arvin) is the third witness for the prosecution case and he was the driver of the tractor that was travelling in front of the tractor that collided with the van CL 507. Both Deo and Arvin confirmed in their evidence that the accused is the driver of the van CL 507 at the time of the accident.

On a public street

11. *Public street* is define in section 2 of the *Land Transport Act* to mean-

"(a) *any land or place vested in the State for the purpose of a road or public road as defined in any Act;*

(b) *any street, road, land, thoroughfare, footpath, bridge or other place open to or used by the public for passage with vehicles and includes every carriageway, footpath, traffic island, median, nature strip or any area provided to separate vehicular traffic on any such street, road, land, thoroughfare, footpath, bridge or other place, regardless of whether such place has been vested in the State for the purpose of being a road or public road as defined in any Act; or (emphasis is mine)*

(c) *any place declared under section 71.*

12. Dewan Chand (Chand) is the second witness for the prosecution. He is the driver of the tractor that was involved in the accident with the van CL 507. His tractor was travelling behind the tractor driven by Kumar and in front of the tractor driven by Deo.

13. Both Deo and Chand have confirmed in their respective evidence that the accident was at Korotari road and the road is used by the public as everybody has access to that road. Arvin said, it is a government road used by everybody.
14. The evidence of Deo, Arvin, and Chand have satisfied the definition of public street as defined in *section 2(b)* of the *Land Transport Act*.

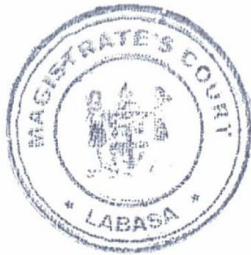
Driving in a dangerous manner

15. Arvin testified that he was driving his tractor along the Korotari road when he saw the van CL 507 coming from Korotari side. The van crossed the lane and coming over to his side. He drove to the left of the road and stop his tractor. When he looked back, he saw the van CL 507 had involved in an accident and was thrown into the other side of the road.
16. Chand testified that he was driving his tractor when the van CL 507 came into his lane from the front in a high speed. He stop his tractor as he was scared and do not know what to do. The van came and bumped his tractor. The van was then bounce into the drain. He saw the van from the light of the van that was coming towards him.
17. Deo testified that he saw a van coming in high speed. The van came into their lane and hit the trailer of the tractor driven by Chand. He said the van was over speeding and when it collided with the trailer of the tractor it was thrown over to the other side of the road. He saw the van from the light of the front tractor and the light of his tractor and also from the light from the van.

18. Chand, Arvin, and Deo were driving their respective tractors one after the other when the accident happened. Their evidence were all consistent that the van CL 507 were travelling very fast and speeding. However, all the allegation of speeding are not credible evidence as no one actually saw the speed of the van CL 507 at the time of the accident.
19. The evidence of Chand, Arvin, and Deo shows that the van CL 507 crossed the line and came into their lane and collided with the trailer of the tractor driven by Chand. The manner of the accused driving by crossing the line and drove into the other side of road was dangerous in the circumstances of the case as there were three tractors on the other side of the road. In doing so, the accused had created a dangerous situation from his manner of driving into the other lane. The accused was at fault when he cannot drive his vehicle back to his lane.
20. The Vehicle Accident Report for CL 507 was tendered by consent as prosecution exhibit 3. The report stated that the vehicle CL 507 has no mechanical defect to contribute to the accident. That shows that the accident was due to the accused manner of driving.
21. The evidence adduced by the prosecution as discussed above has established all the elements of the offence.
22. The accused is exercising his rights to remain silent and no adverse inference will be drawn against him in that regard. There was no other witness called by the defence.

23. The evidence of the prosecution was not challenged or discredited. There is no evidence from the defence to create some doubt on the evidence of the prosecution.
24. In assessing the evidence, I find that the Prosecutor has proved all the elements of the offence beyond reasonable doubt. Burden of proof has been discharged.
25. In this judgment, I find the accused guilty as charged and I convicted the accused accordingly.

28 days to appeal



A handwritten signature in blue ink, appearing to read "C. M. Tuberi", is written over a horizontal line.

C. M. Tuberi

RESIDENT MAGISTRATE