

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION No.338 OF 2021

(397(Cr.PC) / 438(BNSS))

BETWEEN:

SRI. P. M. SHANKAR
S/O LATE MUNIYAPPA
NOW AGED ABOUT 36 YEARS,
R/AT PAPANAHALLI VILLAGE
DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT

...PETITIONER

(BY SRI N.S.SRIRAJ GOWDA, ADVOCATE)

AND:

STATE OF KARNATAKA
BY SULIBELE POLICE STATION
REPRESENTED BY
SPECIAL PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001

...RESPONDENT

(BY SRI K.NAGESHWARAPPA, HIGH COURT GOVERNMENT
PLEADER)

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397 R/W 401 CODE OF CRIMINAL PROCEDURE PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION PASSED IN C.C.NO.70/2010 DATED 28.08.2018 BY THE HON'BLE PRINCIPAL CIVIL JUDGE AND JMFC, HOSAKOTE FOR THE OFFENCE PUNISHABLE UNDER SECTION 279, 304A OF INDIAN PENAL CODE SENTENCING HIM TO UNDERGO SIMPLE IMPRISONMENT FOR A PERIOD OF 6 MONTHS FOR THE OFFENCES PUNISHABLE UNDER SECTION 279 OF INDIAN PENAL CODE AND FINE OF RS.1,000/- FURTHER HE SENTENCED TO UNDERGO SIMPLE IMPRISONMENT FOR A PERIOD OF 1 YEAR AND FINE OF RS.5,000/- FOR THE OFFENCE PUNISHABLE UNDER SECTION 304A OF INDIAN PENAL CODE.



THIS PETITION HAVING BEEN RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

CAV ORDER

Revision petitioner is the accused who suffered an order of conviction for the offence punishable under Sections 279 and 304A of the Indian Penal Code and sentenced as under in C.C No.70/2010.

"Accused is sentenced to undergo S.I. for a period of 6 months for the offence punishable under Section 279 of IPC and fine of Rs.1,000/-.

Accused is sentenced to undergo S.I. for a period of one year and fine of Rs.5,000/- for the offence punishable under Section 304A of IPC. Accused shall be pay Rs.5,000/- to LRs. Of deceased as compensation under Sec.357 of Cr.P.C., which is imposed by the fine, remaining Rs.1,000/- shall be pay to Govt., if failed he is further sentenced simple imprisonment for a period of 3 months."

2. Order of conviction and sentence was challenged by the accused before the First Appellate Court in Criminal Appeal No.111/2018.

3. Learned Judge in the First Appellate Court, after securing the records, heard the arguments of the parties in detail and on re-appreciation of the material evidence on record dismissed the appeal by considered judgment dated 06.02.2021.

4. Thereafter, accused is before this Court in this revision petition.

5. Facts in the nutshell which are utmost necessary for disposal of the present revision petition are as under:

5.1 In respect of a road traffic accident that occurred on 20.01.2010 at about 08.45 a.m. on Sulibele-Hosakote road which is a National Highway, near Sadappanahalli gate, accused being the rider of the Hero Honda Motorcycle bearing No.KA-43/J-6773 ridden the same in a rash and negligent manner and dashed against one Sri Ramaiah/victim who was standing on the left side of the road.

5.2 As a result, said Ramaiah sustained injuries and on the way to the hospital, he succumbed to the injuries. Therefore, a complaint came to be lodged.

5.3 Sulibele police registered a case and after thorough investigation filed the charge sheet against the accused for the

offence punishable under Sections 279 and 304A of the Indian Penal Code.

6. Learned Trial Magistrate after taking cognizance, secured the presence of the accused and recorded the plea. Accused pleaded not guilty. Therefore, trial was held.

7. In order to bring home the guilt of the accused, prosecution proceeded to examine eight witnesses as P.Ws.1 to 8 and placed on record ten documentary evidence which were exhibited and marked as Exhibits P-1 to P-10 comprising of complaint, FIR, inquest report, postmortem report, IMV report, rough sketch, reply notice, indemnity bond and voluntary statement of the accused.

8. On conclusion of recording of evidence, accused's statement as is contemplated under Section 313 of the Code of Criminal Procedure was recorded wherein accused has denied all the incriminatory circumstances, but did not choose to place his version of the incident on record nor any defence evidence was placed.

9. Thereafter learned Trial Magistrate heard the arguments of the parties and convicted the accused and sentenced as referred to supra.

10. Being aggrieved by the same, accused preferred an appeal in Criminal Appeal No.111/2018 which was dismissed on merits.

11. Subsequently, accused is before this Court in this revision petition.

12. Sri N.S.Sriraj Gowda, learned counsel for the revision petitioner reiterating the grounds urged in the petition would contend that the learned Trial Magistrate failed to note that oral testimony of PWs-1, 2, 3 and 6 are interested witnesses being the relatives of the deceased.

13. Therefore their evidence ought not to have been believed in adjudging the rashness and negligence on the part of the accused.

14. PW-6 being the son of the deceased is to be considered as a hearsay witness as admittedly he was not present at the spot. Therefore, entire case of the prosecution itself is doubtful.

15. He further pointed out that PW-2 being the barber was in his shop shaving a person by name Venkatesh at the time of the accident. Therefore, he could not have witnessed the incident. Hence, his testimony could not have been believed by the learned Trial Magistrate.

16. He pointed out that such a testimony was marked vide Exhibit D-1 which was not even considered by the learned Trial Magistrate while passing the order of conviction resulting in miscarriage of justice and thus sought for allowing the petition.

17. *Per contra*, learned High Court Government Pleader opposes the revision grounds and contended that there is no dispute that accused was the rider of the motorcycle bearing No.KA-43/J-6773 as on the date of the incident.

18. Admittedly, the incident has occurred at about 08.45 a.m. on 20.01.2010 in broad daylight. It is not uncommon that at that juncture, PW-2 was in his shop doing the job as a barber.

19. Likewise PW-1 and PW-3 have specifically deposed about the incident. PW-2 also rushed to the spot immediately after the accident and therefore his evidence cannot be brushed aside and thus sought for dismissal of the revision petition.

20. Having heard the arguments of both sides, this Court perused the material on record meticulously.

21. On such perusal of the material on record, it is established by the prosecution that the road traffic accident occurred 20.01.2010. at about 8.45 am near Sadappanahalli gate in front of barber shop of PW-2.

22. Admittedly, PW-1 and PW-3 are the eye witnesses to the incident.

23. No doubt, PW-2 was inside the barber shop as is elicited vide Exhibit D-1 in his cross-examination whereunder he was indulged in shaving a person by name Venkatesh.

24. Further, evidence of PW-1 and PW-3 was sought to be doubted on the ground of interestedness.

25. It is settled principles of law and requires no emphasis that merely on the ground of interestedness, the testimony of the eyewitness cannot be brushed aside in *toto*.

26. All that the Courts are required to find out is to the false implication of the accused on the ground of interested testimony of the prosecution witnesses.

27. In the case on hand, admittedly neither PW-1 nor PW-3 or for that matter PW-2, did not nurture any previous enmity or animosity against the accused to depose falsely.

28. PW-6 being the son of the deceased, came to the spot immediately on getting the information and has also spoken about the accident.

29. How the testimony of a eyewitness is to be considered, whether it is the number of witnesses that are to be counted or the quality of the testimony of the eyewitness to be counted, is no longer *res integra*.

30. Hon'ble Supreme Court in the case of ***Ranjit Singh and others vs. State of Madhya Pradesh*** reported in **(2011)4 SCC 336** has specifically stated that the testimony of the sole eyewitness, if it inspires confidence in the Court, that can be acted upon to prove the guilt of an accused.

31. Taking note of these aspects of the matter and also taking note of the fact that accused has gone to the extent of denying the very accident itself and did not choose to place his evidence on record, this Court does not find any reason

whatsoever to interfere with the order of conviction recorded by Trial Magistrate confirmed by the First Appellate Court.

32. Thus, the following:

ORDER

- i. Revision Petition is meritless and is hereby ***dismissed.***
- ii. Petitioner shall surrender before the Trial Court on or before ***05th June 2026*** for serving remaining sentence.

**Sd/-
(V SRISHANANDA)
JUDGE**

kcm