

**IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH**

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL REVISION PETITION NO. 200020 OF 2024

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

BETWEEN:

REVANSIDDA S/O BASAVARAJ
AGED ABOUT 42 YEARS
OCC: LABOUR
R/O KONDAMPALLI VILLAGE
TQ: CHINCHOLI, DIST: KALABURAGI-585201.

...PETITIONER

(BY SRI. RAVI B. PATIL., ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH SULEPETH P.S
REPRESENTED BY
ADDL. STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
KALABURAGI-585107

...RESPONDENT

(BY SRI. GOPALKRISHNA B. YADAV, HCGP)

THIS CRL.RP IS FILED U/SEC. 397 R/W 401 OF CR.P.C, 438 OF BNSS (NEW) PRAYING TO A) ALLOW THE REVISION PETITION THEREBY TO SET ASIDE THE ORDER PASSED BY THE FIRST APPELLATE COURT IN CRIMINAL APPEAL NO.29/2012 BY THE COURT OF IV ADDITIONAL DISTRICT AND SESSIONS JUDGE AT KALABURAGI, SITTING AT SEDAM DATED 17.02.2021 AND THEREBY TO SET ASIDE THE ORDER PASSED BY THE TRIAL COURT DATED 06.02.2012 IN CC NO.82/2009 PASSED BY THE COURT OF PRINCIPAL CIVIL JUDGE AND JMFC AT CHINCHOLI, CONSEQUENTIALLY TO DISMISS THE CASE OF THE PROSECUTION IN ENTIRETY.



THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 12.03.2026, COMING ON FOR "PRONOUNCEMENT OF ORDERS" THIS DAY, THE COURT MADE THE FOLLOWING:

CAV ORDER

The appellant has preferred this revision petition against the judgment of conviction and order on sentence passed by the Principal Civil Judge and JMFC, Chincholi, in C.C.No.82/2009 dated 06.02.2012, which was confirmed by the IV Additional Sessions Judge at Kalaburagi, sitting at Sedam, in Criminal Appeal No.29/2012 dated 17.02.2021.

2. The parties herein are referred to as per their rank before the trial Court.

3. The brief facts leading to this revision petition are that the Circle Inspector of Police, Sulepeth has submitted the charge sheet against the accused for the offence under Section 279, 337, 338 and 304-A of the IPC and Section 187 of the M.V.Act. It is alleged by the prosecution that on 03.11.2008 at about 2-30 pm, the complainant Chandrashekhar, one Sanjappa S/o Tippanna took the grain grown in their land to Bidar in the Tractor

bearing No.KA-32-T-4778/79 belongs to one Sharanappa. The accused Revanasidedappa was the driver of the said vehicle. On the same night they were returning from Bidar to their village, at about 5-00 a.m., on Sulepeth-Sedam Road, near the land of one Sangappa Mastar the accused Revanasiddappa drove it in a rash and negligent manner i.e., in high speed, even though the inmates of the Tractor and Trailer requested him to drive slowly. On account of that the Tractor turtled on the left side of the road. On account of that the complainant sustained injuries on right foot, waist and thigh. The accused Revanasiddappa also sustained fracture of bone. Another inmate Nanjappa died on the spot since Trailer fell on him. The pedestrians i.e., Gulabchand, Sangamesh and Bhimrao Police Patil shifted the injured to Government Hospital, Sulepeth.

4. At about 8-30 p.m., CW-16 Varadaraju the PS1 Sulepeth P.S. on receipt of MLC, visited the hospital and recorded the complaint of CW-1 and registered the case in crime No.79/2008. Then he conducted inquest panchanama, cloths seizure panchanama and handed over further investigation to CW-17 S.M. Inamdar, CPI

Sulepeth, who after completion of investigation, submitted charge sheet.

5. After taking cognizance, the case was registered as C.C.No.82/2019, and a summons was issued to the accused. In pursuance of the summons, the accused appeared before the trial Court and was enlarged on bail. The substance of the plea was recorded. The accused pleaded not guilty and claimed to be tried.

6. To prove the case, the prosecution examined 11 witnesses as PW.1 to 11, and documents were marked as Exs.P1 to P11. On closure of the prosecution evidence, a statement under Section 313 of Cr.P.C. was recorded. The accused totally denied the evidence of the prosecution witnesses however, he did not choose to lead any defense evidence on his behalf.

7. Having heard the arguments on both sides, the trial Court has acquitted the accused of the alleged offence under Section 187 of the IPC convicted and passed the sentence.

8. Being aggrieved by this judgment of conviction and order on sentence, the appellant preferred an appeal before the IV Additional District and Sessions Judge at Kalaburagi, sitting at Sedam, in Criminal Appeal No.29/2012. The said appeal came to be dismissed by the Appellate Court on 17.02.2021. Hence, the revision petitioner has preferred this revision petition.

9. Heard the learned counsel for the petitioner and the learned HCGP for respondent-State.

10. The learned counsel appearing on behalf of the revision petitioner submits that both Courts failed to appreciate the oral and documentary evidence placed on record in its right perspective and has failed to consider the specific defence of the petitioner while dismissing the appeal. Therefore, the impugned order passed by the First Appellate Court requires to be set aside in limine. The name of the petitioner was invoked in the alleged crime based on the alleged further statement recorded on 24.11.2008, even though the accused was claimed to be the driver of the tractor and trailer known to the

complainant and the other occupants of the vehicle. Therefore, the name of the petitioner was wrongly invoked in the case based on the alleged further statement without any involvement of the petitioner in the alleged offence. None of the witnesses examined by the prosecution have stated about the involvement of the petitioner or his action leading to the cause of accident, and none of the witnesses have specifically identified the tractor and trailer in which the alleged incident had occurred. Therefore, both the trial Court and First Appellate Court have committed a serious error in convicting the petitioner for the offence charged against him, and the same call for interference by this Court.

11. He would further submit that from the complaint and the evidence produced by the prosecution, it is evident that the petitioner was allegedly brought to the police station on 26.11.2008 based on the alleged further statement recorded on 24.11.2008, after a lapse of 20 days from the date of alleged incident. The complaint lodged at the first instance does not reflect the name of the petitioner as an accused for the case registered as

Crime No.79/2008. Though the complainant and the accused were from the same village, the entire story built by the prosecution for the involvement of the petitioner in the alleged offence is without any basis, and the petitioner ought to have been acquitted. Hence, the impugned order passed by the courts below require to be set aside.

12. Further he would submit that PW.3 stated that the accident occurred due to brake failure, and PW.2 deposed that at the time of the alleged accident, the road was not properly maintained. Hence, both the Courts have failed to appreciate the evidence on record in a proper perspective and sought for allowing of the petition.

13. *Per contra*, the learned HCGP for respondent – State submits that both the Courts have properly appreciated the evidence on record in accordance with law and facts. Therefore, absolutely there are no grounds to interfere with impugned judgment of conviction and order of sentence passed by the trial Court which is confirmed by the First Appellate Court and sought for dismissal of the petition.

14. I have examined the materials placed before this Court.

15. Having heard the learned counsel on both sides and perusal of the materials placed before this Court, the following points would arise for my consideration;

(a) Whether the judgment of conviction and order of sentence passed by the Principal Civil Judge and JMFC Chincholi, which is confirmed by the First Appellate Court, is perverse, capricious, illegal and not sustainable under law?

(b) What order?

16. My answers to the above points;

Point No.1: In the affirmative:

Point No.2: As per Final order:

Regarding Point No.2:

17. It is the case of the prosecution that; on 03.11.2008 at about 2.00 p.m., the complainant Chandrashekhar, one Sanjappa S/o: Tippanna took the grain grown in their land in the Tractor of one Sharanappa

bearing registration No.KA-32/T-4778 to Bidar. The accused Revanasiddappa was the driver of the said vehicle. On the same night they were returning from Bidar to their village, at about 5.00 a.m., on Sulepeth-Sedam Road, near the land of one Sangappa Mastar the accused Revanasiddappa drove it in rash and negligent manner i.e., in high speed, even though the inmates of the Tractor and Trailer requested him to drive slowly. On account of that the Tractor tumbled down on the left side of the road. On account of that the complainant sustained injuries on right foot, waist and thigh. The accused Revanasiddappa also sustained fracture of bone. Another inmate Nanjappa died on the spot since Trailer fell on him. The pedestrians i.e., Gulabchand, Sangamesh and Bhimrao Police Patil shifted the injured to Government Hospital, Sulepeth. At about 8.30 p.m., CW.16-Varadaraju the PSI Sulepeth P.S., on receipt of MLC from Hospital, visited the Hospital and recorded the complaint of CW.1 and registered the case in Crime No.79/2008. Then, he conducted inquest panchanama, cloths seizure panchanama and handed over further investigation to CW.17-S.M.Inamdar, CPI Sulepeth

who after completion of investigation submitted charge sheet.

18. The trial Court has acquitted the accused for the offence under Section 187 of Motor Vehicles Act and convicted the accused for the offence under Section 279, 337 and 304(A) IPC. Further, the trial Court has acquitted the accused for the offence under Section 338 IPC. Though there is no conviction order against the accused, passed the order of sentence for the offence under Section 338 IPC to undergo simple imprisonment for a period of 6 months and to pay fine of Rs.500 with default sentence of two months. The First Appellate Court has also not observed the same and confirmed the judgment of conviction and order of sentence passed by the Trial Court.

19. The genesis of this case arise out of the complaint filed by PW.1, in which it is stated as under;

“ನಾನು ಮೇಲಿನ ವಿಳಾಸದಲ್ಲಿ ವಾಸವಾಗಿರುತ್ತೇನೆ. ನನ್ನ ತಂದೆ ತಾಯಿಯೊಂದಿಗೆ ಒಕ್ಕಲುತನ ಕೆಲಸ ಮಾಡಿಕೊಂಡು ಉಪಜೀವಿಸುತ್ತೇನೆ ಹೀಗಿದ್ದು ನಿನ್ನ ದಿನಾಂಕ 03.11.2008 ರಂದು ಮಧ್ಯಾಹ್ನ 02.00 ಗಂಟೆ ಸುಮಾರಿಗೆ ನಾನು ಮತ್ತು ನಮ್ಮ ಗ್ರಾಮದ ರೇವಣಸಿದ್ದಪ್ಪ s/o ಬಸವರಾಜ ಕೇಶ್ವರ ಮತ್ತು ಸಂಜಪ್ಪ s/o ತಿಪ್ಪಣ್ಣ ನಾವುಗಳು ಕೂಡಿ ನಮ್ಮ ಹೊಲಗಳಲ್ಲಿ ಬೆಳೆದು ರಾಶಿ ಮಾಡಿದ ಉದ್ದು ಮತ್ತು ಹೆಸರು ಕಾಳನ್ನು ಬೀದರಿನ ಗಂಜಿನಲ್ಲಿ ಮಾರಾಟ ಮಾಡುವ ಸಲುವಾಗಿ ನಮ್ಮ ಗ್ರಾಮದ ಶರಣಪ್ಪ s/o ನಿಂಗಪ್ಪ ಕೇಶ್ವರ ಇವರ ಟ್ರಾಕ್ಟರ್ ನಂಬರ್ KA 32 T 4778-79 ನೇ ದ್ವಾರ ಟ್ರ್ಯಾಲಿಯಲ್ಲಿ ಹಾಕಿಕೊಂಡು ಹೋಗಿದ್ದು, ಸದರಿ ಟ್ರಾಕ್ಟರನ್ನು ಅವರ ಚಾಲಕನಾದ

ರೇವಣಸಿದ್ದಪ್ಪ s/o ಬಸವರಾಜ ಕೇಶ್ವಾರ ಚಲಾಯಿಸುತ್ತಿದ್ದನು. ನಾವು ಬೀದರಕ್ಕೆ ಹೋಗಿ ಬೀದರಿನ ಗಂಜಿನಲ್ಲಿ ನಾವು ತೆಗೆದುಕೊಂಡು ಹೋದ ಉದ್ದು ಮತ್ತು ಹೆಸರು ಕಾಳುಗಳನ್ನು ಗಂಜಿನಲ್ಲಿ ಅಡತ ಅಂಗಡಿಗೆ ಮಾರಾಟ ಮಾಡಿ ಬೀದರದಿಂದ ರಾತ್ರಿ ವಾಪಸ್ ಚಿಂಚೋಳಿ ಸುಲೇಪೇಟ ಮಾರ್ಗವಾಗಿ ನಮ್ಮ ಕೊಂಡಪಳ್ಳಿಗೆ ಹೋಗುವಾಗ ನಾನು ಮತ್ತು ನನ್ನ ಸಂಗಡ ಸಂಜಪ್ಪ ಇಬ್ಬರೂ ಟ್ರಾಕ್ಟರ್ ಟ್ರಾಲಿಯಲ್ಲಿ ಕುಳಿತಿದ್ದು ಟ್ರಾಕ್ಟರ್ ಇಂಜಿನಲ್ಲಿ ರಾತ್ರಿ ಸಮಯವಾಗಿದ್ದರಿಂದ ರೇವಣಸಿದ್ದಪ್ಪ ಹಾಗೂ ನಾಗರಾಜ ಇವರು ಇಬ್ಬರೂ ಇದ್ದರು ಸುಲೇಪೇಟದಿಂದ ಸೇಡಂ ರಸ್ತೆಯಲ್ಲಿ ಸಂಗಪ್ಪ ಮಾಸ್ಟರ್ ಇವರ ಹೊಲದ ಹತ್ತಿರ ಬಂದಾಗ ಟ್ರಾಕ್ಟರ್ ಚಾಲಕನು ತನ್ನ ಟ್ರಾಕ್ಟರನ್ನು ಅತೀ ವೇಗ ಮತ್ತು ನಿಷ್ಕಾಳಜಿತನಿಂದ ಚಲಾಯಿಸುತ್ತಿದ್ದು ನಾವು ನಿಧಾನವಾಗಿ ಚಲಾಯಿಸು ಅಂತ ಹೇಳಿದರು ಕೇಳದೆ ಅತೀ ವೇಗದಿಂದ ಚಲಾಯಿಸಿದ್ದರಿಂದ ಟ್ರಾಕ್ಟರ್ ರಸ್ತೆಯ ಎಡಬದಿಗೆ ಪಲ್ಟಿಯಾಗಿದ್ದರಿಂದ ನನಗೆ ಎಡಗಡೆ ಪಾದದ ಹತ್ತಿರ ಗುಪ್ತಗಾಯ ಟೊಂಕಕ್ಕೆ ಮತ್ತು ಎರಡು ತೊಡೆಗೆ ಗುಪ್ತಗಾಯಗಳಾಗಿರುತ್ತೇವೆ. ನನ್ನ ಜೊತೆಯಲ್ಲಿದ್ದ ರೇವಣಸಿದ್ದಪ್ಪ ತಂದೆ ಬಸವರಾಜ ಕೇಶ್ವಾರ ಇತನಿಗೆ ಟ್ರಾಕ್ಟರ್ ಟ್ರಾಲಿ ಮೇಲೆಬಿದ್ದು ಎಡಗಾಲ ಮೊಳಕಾಲು ಮೇಲೆ ಭಾರಿ ಗುಪ್ತ ಗಾಯವಾಗಿ ಮೂಳೆ ಮುರಿದಿರುತ್ತದೆ ಮತ್ತು ಬಲಗಾಲ ತೊಡೆಗೆ ಗುಪ್ತಗಾಯವಾಗಿರುತ್ತದೆ ಹಾಗೂ ಎಡಗಣ್ಣಿನ ಬಾಜು ರಕ್ತಗಾಯವಾಗಿರುತ್ತದೆ ಹಾಗೂ ಜೊತೆಯಲ್ಲಿದ್ದ ಸಂಜಪ್ಪ ತಂದೆ ತಿಪ್ಪಣ್ಣ ತಿಪ್ಪ ಇತನ ಎದೆಯ ಮೇಲೆ ಮತ್ತು ಹೊಟ್ಟೆಯ ಮೇಲೆ ಟ್ರಾಕ್ಟರ್ ಟ್ರಾಲಿ ಬಿದ್ದಿದ್ದರಿಂದ ಮತ್ತು ಎಡಗಾಲ ಮೇಲೆ ಟ್ರಾಲಿಬಿದ್ದು ಮೊಳಕಾಲು ಮೇಲ್ಭಾಗದಲ್ಲಿ ಮೂಳೆ ಮುರಿದು ಸ್ಥಳದಲ್ಲಿಯೇ ಮೃತಪಟ್ಟಿರುತ್ತಾನೆ. ಟ್ರಾಕ್ಟರ್ ಇಂಜಿನದ ಮೇಲೆ ಕುಳಿತಿದ್ದ ಇಬ್ಬರಲ್ಲಿ ರೇವಣಸಿದ್ದಪ್ಪ ಇತನು ಟ್ರಾಕ್ಟರ್ ಕೆಳಗೆ ಇದ್ದ ನಾಗಪ್ಪ ಇತನಿಗೆ ಸಣ್ಣ ಪುಟ್ಟ ಗಾಯಗಳು ಆಗಿರುತ್ತವೆ. ನಾವು ಟ್ರಾಲಿಯಲ್ಲಿದ್ದು ರಾತ್ರಿ ಸಮಯವಾಗಿದ್ದರಿಂದ ಟ್ರಾಕ್ಟರನ್ನು ಯಾರು ಚಲಾಯಿಸುತ್ತಿದ್ದರು ಎಂಬ ಬಗ್ಗೆ ತಿಳಿದಿರುವುದಿಲ್ಲ. ಸದರಿ ಘಟನೆ ನಡೆದಾಗ 04.11.2008 ರಂದು ಬೆಳಗಿನ ಜಾವ 05.00 ಗಂಟೆಯಾಗಿತ್ತು ಆಗ ರಸ್ತೆಯಲ್ಲಿ ಹೋಗುತ್ತಿದ್ದ ಗುಲಾಬ್ ಚಂದ್ ಜೈನ್ ಸುಲೇಪೇಟ ಮತ್ತು ಸಂಗಮೇಶ್ s/o ಶಂಕರಾವ ಮತ್ತು ಭೀಮರಾವ s/o ಸಂಗಪ್ಪ ಪೋಲೀಸ್ ಪಾಟೀಲ್ ಇವರುಗಳು ಬಂದು ನೋಡಿ ಟ್ರಾಕ್ಟರ್ ಟ್ರಾಲಿಯನ್ನು ಎಬ್ಬಿಸಿ ಗಾಯಗೊಂಡ ನನಗೂ ಮತ್ತು ರೇವಣಸಿದ್ದಪ್ಪ ಇಬ್ಬರಿಗೂ ವಿಚಾರಮಾಡಿ ಒಂದು ಟಂಟಂ ದಲ್ಲಿ ಕೂಡಿಸಿ ಚಿಕಿತ್ಸೆ ಕುರಿತು ಸರಕಾರಿ ಆಸ್ಪತ್ರೆ ಚಿಂಚೋಳಿಗೆ ಕಳುಹಿಸಿ ಕೊಟ್ಟಿದ್ದು ಸ್ಥಳದಲ್ಲಿಯೇ ಮೃತಪಟ್ಟ ಸಂಜಪ್ಪ s/o ತಿಪ್ಪಣ್ಣ ತಿಪ್ಪ ಇತನ ಮೃತ ದೇಹವನ್ನು ವೈದ್ಯಕೀಯ ಪರೀಕ್ಷೆ ಕುರಿತು ಸರಕಾರಿ ಆಸ್ಪತ್ರೆ ಸುಲೇಪೇಟಕ್ಕೆ ತೆಗೆದುಕೊಂಡು ಹೋಗಿರುತ್ತಾರೆ. ಟ್ರಾಕ್ಟರ್‌ನಲ್ಲಿ ನಮ್ಮ ಜೊತೆ ಇದ್ದ ನಾಗಪ್ಪ ಇತನೂ ಎಲ್ಲಿಗೆ ಹೋಗಿರುತ್ತಾನೆ ತಿಳಿದಿರುವುದಿಲ್ಲ.

ಕಾರಣ ಟ್ರಾಕ್ಟರ್ ನಂಬರ್ KA 32 T 4778-79 ನೇದ್ದನ್ನು ಅತೀ ವೇಗ ಮತ್ತು ನಿಷ್ಕಾಳಜಿತನಿಂದ ಚಲಾಯಿಸಿ ಪಲ್ಟಿಮಾಡಿಸಿ ನಮ್ಮಿಬ್ಬರಿಗೆ ರಕ್ತಗಾಯ ಮತ್ತು ಗುಪ್ತಗಾಯ ಪಡಿಸಿದ್ದು ಮತ್ತು ಭಾರಿ ಗುಪ್ತಗಾಯವಾಗಿ ಸ್ಥಳದಲ್ಲಿಯೇ ಸಂಜಪ್ಪ ಇತನಿಗೆ ಮೃತಪಡಿಸಿದ ಟ್ರಾಕ್ಟರ್ ಚಾಲಕನ ವಿರುದ್ಧ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಜರುಗಿಸಲು ವಿನಂತಿಸಿಕೊಳ್ಳಲಾಗಿದೆ.”

20. To prove the case, the Prosecution has examined in all 11 witnesses as PWs.1 to 11 and 7 documents have been marked as Exs.P1 to P7.

21. PW.1-Chandrasekhar who is said to be the complainant has deposed in his evidence that he knows accused about 02-03 years back and he was proceeding in the tractor which was driven by accused from Kondampally village to Bidar along with Nagaraj, Sanjappa. When they came near Sulepeth, the driver of the tractor drove the same in a high speed due to which the tractor turtle. As, as a result, he sustained injuries on his left leg, thigh and waist. The trolley has capsized on the chest of Sanjappa. Hence, he died on spot. Thereafter, he shifted to Government Hospital Chandapur. He did not know the number of tractor and trolley. Accordingly, he lodged a complaint to the police as per Ex.P1. He has also given his further statement to the complainant.

22. PW.2-Sangamesh S/o: Shankar Rao has deposed in his evidence that about 3 years back, one day he was proceeding in a tractor driven by accused along with deceased Sanjappa and CW.1. When the tractor came near Sulepeth, due to failure of brake, the tractor was capsized. The accused drove the tractor in high speed and

CW.9 sustained injuries in this accident, CW.3 also sustained injuries, Sanjappa died on the spot.

23. PW.3-Nagaraj Ambanna has deposed in is evidence that, about 3 years back, one day, CW.1, deceased Sanjappa and CW.6-Chandrakanth, were proceeding in a tractor from Bidar to Kondampally Village. When the tractor came near Sulepeth, the driver of the tractor drove the same in a high speed. Due to which, the tractor turtle. As a result of the accident, Sanjappa died on the spot, CW.1 sustained injuries on his leg.

24. PW.4-Bheemrao S/o: Sangappa, said to be eye-witness to the attester has deposed with regard to the Panchanama.

25. PW.5-Gulab has also deposed with regard to the accident of the tractor.

26. PWs.6 and 7-Rachaiah S/o: Gurulingayya and Sharanappa S/o: Siddappa, PW6, stated to be attestor to Exs.P3 and P4, seizure panchanama and inquest panchanama respectively have not supported the case of the prosecution and both were turned hostile.

27. PW.8-Vaijinath said to be the identity attestor to the spot mahazar Ex.P2 has not supported the case of the prosecution.

28. PW.9-Sharanappa S/o: Ningappa, has deposed in evidence that the accused is his grand-son. The tractor bearing registration No.KA-32/T-4778-79 belongs to his son Basavaraj who passed away and he is looking after the supervision of the said tractor. The accused was the driver of the tractor and the doctor met with an accident prior to one year.

29. PW.10-Mallikarjun S/o: Sharanappa, the police constable has deposed in his evidence with regard to the submission of FIR to the Court.

30. PW.17-Shankar S/o: Madhavrao Inamdar, the Investigating Officer has deposed in his evidence with regard to his part of investigation.

31. On careful examination of the entire evidence on record, it is crystal clear that the PWs.1 to 3 have not whispered anything about the rash and negligent act on the part of accused. Even they have not deposed as to the

exact speed of the vehicle. On the contrary, PW.2 has stated in his examination-in-chief that the accident occurred due to failure of brake. This evidence of PW.2 is contrary to the evidence of other material witnesses and also the contents of complaint, IMV report at Ex.P5. Though PW.2 has specifically stated in his examination-in-chief that the accident occurred due to failure of brake, this witness has not treated as hostile witness and cross examined by the prosecution to ascertain the truth. Ex.P5, the IMV report reveals that this accident was not occurred due to any mechanical defect. However, the author of this document has not been examined by the prosecution.

32. Moreover, the contents of IMV report is contrary to the evidence of PW.2. The accident was occurred on 04.11.2008. The IMV report prepared by the concerned Inspector at Ex.P5 is on 14.11.2008, after lapse of 10 days. The Motor Vehicle Inspector has examined this vehicle in question, at the spot near Sulepeth Village. The IMV report further reveals that the Motor Vehicle Inspector has received the requisition from the PSI, Sulepeth on

12.11.2008. Ex.P2, mahazar dated 04.11.2008 reveals that as on the date of conducting spot panchanama, the Investigating Officer has taken possession of the vehicle to his custody and left the tractor on the spot. The PF No.52/2008 dated 04.11.2008 reveals that the Investigating Officer has seized the tractor and trailer bearing registration No. KA-32/T-4778/79 on 04.11.2008. In column No.5 of the property form, it is stated that this tractor and trailer was produced along by P.C.No.536 with Item Nos.2 to 5 properties shown in P.F.No.52/2008 before the Sub-Inspector of Police, Sulepeth Police Station on 04.11.2008. The prosecution has not adduced any evidence before the Court as to the mode of transfer/shifting the vehicle from the place of crime to the police station. Though in the P.F., the Investigating Officer has specifically stated that P.C.No.536 has produced the vehicle and other properties before him on 04.11.2008. The IMV Inspector has written in his IMV report that, he has inspected this vehicle on the spot near Sulepeth Village on 14.11.2008 at 01.00 p.m. The contents of Ex.P5 and P.F.No.52/2008 and the contents of spot panchanama

are not consistent with each other. The report of Motor Vehicle Inspector prima-facie reveals that he has not conducted the examination of this vehicle on the spot on 14.11.2008 as the vehicle was in police station as per P.F.No.52/2008. The Investigating Officer has also produced the P.F., before the learned Magistrate and he has taken permission from the learned Magistrate to retain this vehicle and other items shown in P.F., till filing of the final report. Additionally, though the Investigating Officer has seized this vehicle on 04.11.2008, he has taken permission from the learned Magistrate on 26.11.2008, there is 22 days delay in reporting the seizure of this vehicle to the learned Magistrate and this delay has not been explained by the prosecution. Accordingly, the Investigating officer has failed to comply the mandatory provisions of Section 102 of Code of Criminal Procedure.

33. For the aforesaid reasons, the opinion given by the Inspector of Motor Vehicles, who has given report as per Ex.P5, cannot be believed and he has issued this Motor Vehicle report without examination of the vehicle. The

Investigating Officer has mechanically filed requisition on 12.11.2008 after lapse of 8 days from the date of seizure of the vehicle and obtained the report on 14.11.2008 only for the purpose of filing this charge sheet against the accused. The evidence of PW.2 which is not questioned by the prosecution itself demolish the entire evidence of the prosecution that this was accident occurred due to mechanical defect i.e., failure of brake.

34. Viewed from any angle, I do not find any cogent, convincing, corroborative, credible and believable evidence to convict the accused for the alleged commission of offences. Therefore, both the Courts have not properly appreciated the evidence on record. Hence, the judgment of conviction and order of sentence passed by the Trial Court which is confirmed by the First Appellate Court is not sustainable under law. Accordingly, I answer point No.1 in the Negative.

35. For the aforesaid reasons and discussions, I proceed to pass the following:

ORDER

- ii) The revision petition is allowed.
- iii) Judgment of conviction and order on sentence dated 06th February, 2012 passed in C.C.No.82 of 2009 by the Principal Civil Judge & JMFC, Chincholi, which is confirmed by the IV Additional Sessions Judge, Kalaburagi sitting at Sedam, in Criminal Appeal No.29 of 2012 dated 17th February, 2021, is set aside;
- iv) Accused is acquitted for the offence punishable under Sections 279 337, 338, 304(A) of IPC.
- v) The Trial Court is directed to refund the deposited amount, if any, to the petitioner/accused after due identification.

Registry to send the copy of this judgment along with TCR to the concerned Court.

**Sd/-
(G BASAVARAJA)
JUDGE**

msr