HC-KAR

NC: 2026:KHC:29553
CRL.RP No. 1534 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL REVISION PETITION NO.1534 OF 2022

BETWEEN:

1. ALLABAKASH
   S/O LATE HYDER SAB
   AGED ABOUT 47 YEARS
   RESIDING AT 3RD CROSS
   OLD TOWN, KOTE BEEDHI
   SHIVAMOGGA TOWN
   SHIVAMOGGA DISTRICT.

…PETITIONER

(BY SRI. A.N.RADHAKRISHNA, ADVOCATE)

AND:

1. STATE OF KARNATAKA
   BY ARASIKERE POLICE
   PAVAGADA TALUK
   REPRESENTED BY THE
   STATE PUBLIC PROSECUTOR
   HIGH COURT BUILDING
   BENGALURU-560001

…RESPONDENT

(BY SRI. DIVAKAR MADDUR, HCGP)

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Location: HIGH COURT OF KARNATAKA

THIS CRL.RP IS FILED U/S.397 R/W 401 OF CR.P.C PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION AND SENTENCE PASSED BY THE LEARNED PRINCIPAL CIVIL JUDGE AND JMFC PAVAGADA IN C.C.NO.376/2016 DATED 09.10.2019 CONVICTING THE PETITIONER/ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 279, 304-A OF IPC UNDER

SECTION 187 OF I.M.V. ACT AND CONFIRMED IN CRIMINAL APPEAL BY THE LEARNED IV ADDITIONAL DISTRICT AND SESSIONS JUDGE, TUMKURU SITTING AT MADHUGIRI IN CRL.A.NO.5019/2019 DATED 09.09.2022 AND ACQUIT THE PETITIONER/ACCUSED.

THIS PETITION COMING ON FOR ADMISSION THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

This matter is listed for admission. I have heard learned counsel for the petitioner and learned High Court Government Pleader for the respondent-State.

2. The factual matrix of case of the prosecution before the Trial Court is that on 03.07.2016 at 7.30 p.m., when P.W.1 and P.W.2 were proceeding along with the deceased Shivanna near Thipperudraswamy Temple on the side of the road, at that time, a lorry bearing registration No.KA-27-A-286 came from Pavagada towards Chitradurga and driver/accused drove the vehicle in a rash and negligent manner endangering to human life and dashed to said Shivanna and caused the accident. In the said accident, Shivanna sustained grievous injuries to head and he succumbed to the injuries.

3. Based on the complaint-Ex.P1, the Police have registered the case, investigated the matter and filed the charge sheet against the petitioner/accused. The accused was secured before the Trial Court and he did not plead guilty and claims trial.

4. Hence, the prosecution examined seven witnesses as P.Ws.1 to P.W.7 and particularly, P.W.1 and P.W.2, who were along with the deceased are the eyewitnesses to the incident and other witnesses are I.O. and mahazar witnesses and got marked the documents as Exs.P1 to P12.

5. Having considered both oral and documentary evidence, except denial in 313 statement by the accused, not led any defence evidence. Hence, the Trial Court comes to the conclusion that there was negligence on the part of the revision petitioner which has led to death of Shivanna. Therefore, convicted the accused for the offence punishable under Sections 279 and 304-A of IPC and so also, Section 187 of IMV Act for not shifting the injured to the hospital and the accused is also sentenced for all the offences and the maximum

sentence imposed is for the offence punishable under Section 304-A of IPC for a period of one year with fine of Rs.8,000/-.

6. The same is challenged before the First Appellate Court in Criminal Appeal No.5019/2019. The First Appellate Court having reassessed both oral and documentary evidence available on record, particularly taking note of the evidence of P.W.1 in paragraph No.22 comes to the conclusion that evidence of P.W.1 is very clear that accused after causing accident did not stop the vehicle and ran away from the spot and vehicle was subsequently stopped near Nagappanahalli Gate which is stated by P.W.1 and P.W.2 and the circumstances show that he was negligent, careless and was irresponsibly driving the vehicle. The First Appellate Court also having considered both oral and documentary evidence comes to the conclusion that accused has not taken reasonable care while driving the lorry and confirmed the conviction and sentence. Being aggrieved by the said conviction and sentence, present revision petition is filed before this Court.

7. Learned counsel for the revision petitioner would vehemently contend that, admittedly, P.W.1 and P.W.2 are the

eyewitnesses to the accident. But, they have not deposed that they have seen the driver of the lorry. According to P.W.1 and P.W.2, the driver of the lorry went away without stopping the vehicle after the accident. But, according to them, lorry was stopped at Nagappanahalli Gate and after three days, driver was shown to them in the police station. The counsel would vehemently contend that when they did not witness the accused/driver at the spot, identifying them after three days in the police station is doubtful and they have not spoken that they witnessed the accused at the time of the accident and they identified the accused. The counsel also would submit that under the said circumstances, the Trial Court ought not to have convicted the accused and the First Appellate Court also ought not to have confirmed the same, since there is no corroborative evidence before the Court. Under the circumstances, the Court has to take note of the same and it requires interference at the hands of this Court.

8. The counsel also produced photographs of the petitioner and would submit that the petitioner is suffering from

ailment and he under treatment. Hence, the Court has to take note of pathetic condition of the petitioner.

9. Per contra, the learned High Court Government Pleader for the respondent-State would submit that the evidence of P.W.1 and P.W.2 is very clear that both of them were along with the deceased at the time of the accident and driver/accused did not stop the vehicle and immediately, they gave intimation and the vehicle was stopped at Nagappanahalli Gate and referred the name of the person, who stopped the vehicle. He would also submit that evidence of P.W.1 and P.W.2 is consistent and the accused was also apprehended and he was identified by P.W.1 and P.W.2. Apart from that, accused did not deny that he was not driving the vehicle on the particular date and no such cross-examination in the evidence of P.W.1 and P.W.2. Under the circumstances, it does not require any interference by exercising revisional powers and the scope of revision is very limited.

10. Having heard learned counsel for the revision petitioner and the learned High Court Government Pleader for the respondent-State and also considering the material on

record, the points that would arise for consideration of this Court are:

(i) Whether both the Courts have committed an error in appreciating the evidence of P.W.1 and P.W.2, who are the eyewitnesses and other witnesses and whether it requires interference of this Court by exercising revisional powers and the orders of both the Trial Court as well as the First Appellate Court suffers from its legality and correctness?

(ii) What order?

Point No.(i)

11. Having heard learned counsel for petitioner and the learned High Court Government Pleader for the respondent-State, the first limb of argument of learned counsel for the revision petitioner is that P.W.1 and P.W.2 never stated or deposed before the Court that they witnessed the accused at the time of the accident and that they identified the accused. Hence, question of conviction does not arise and this aspect has not been considered by the Trial Court as well as the First Appellate Court.

12. Having perused the evidence of P.W.1 and P.W.2, no doubt, this Court cannot re-appreciate the evidence available on record, however, for the limited purpose, whether the order suffers from its legality and correctness, the Court can look into the records. But, the fact is that the driver did not stop the vehicle at the spot and he dashed the deceased when he was going along with P.W.1 and P.W.2 and when the driver proceeded, immediately they gave information and based on the said information, the vehicle was stopped at Nagappanahalli Gate and the same is not disputed by revision petitioner and the fact that he did not stop the vehicle at the spot is also not disputed and penal provision is also invoked to that effect. Apart from that, P.W.2 also in his evidence categorically stated and given the vehicle number i.e., the vehicle which caused the accident and based on the said information itself, the vehicle was stopped at Nagappanahalli Gate. In the cross-examination of P.W.2, he categorically deposed that he found the vehicle number with the help of the car light which was coming from rear side and the same was also not disputed during the course of cross-examination. Under the circumstances, the first limb of argument that accused was not identified by P.W.1 and P.W.2

cannot be accepted and the Court has to take note of facts and circumstances of each case. If the vehicle is stopped at the spot and P.W.1 and P.W.2 have noticed and witnessed the driver at the spot, then with regard to identification is concerned, there is a force in the contention of learned counsel for the revision petitioner and that is not the case, but he caused the accident and proceeded without stopping the vehicle and ultimately, the vehicle was stopped at Nagappanahalli Gate and the same is also not disputed and it is also not the case of the accused that he did not drive the said vehicle on the particular day. Under the circumstances, I do not find any ground to accept the first limb of argument of learned counsel for the petitioner.

13. The other contention of learned counsel for the petitioner is that the Court has to take note of ailment of the petitioner and the same cannot be considered in the revision when sufficient material is available before the Court, particularly, the evidence of P.W.1 and P.W.2, who are the eyewitnesses to the incident and both of them were there along with the deceased at the time of the accident. The evidence of the eyewitnesses is not disturbed during the course of cross-

examination that both of them did not witness the accident and nothing is elicited to disbelieve the evidence of P.W.1 and P.W.2. Under the circumstances, I do not find any error on the part of Trial Court in convicting and sentencing the accused. However, the Trial Court and the First Appellate Court failed to take note of the fact that ingredients of offence under Section 279 of IPC merges with the serious offence under Section 304A of IPC and the Trial Court ought not to have invoked Section 279 of IPC when the ingredients of offence under Section 279 of IPC merges with the offence under Section 304-A of IPC with regard to driving the vehicle in a rash and negligent manner and causing death of a person. Hence, the offence invoked under Section 279 of IPC requires to be set aside. With regard to other offence under Section 187 of IMV Act is concerned for not stopping the vehicle at the time of the accident, I do not find any error on the part of the Trial Court. However, the Trial Court taking note of the material available on record, sentenced the accused for a period of one year for the offence under Section 304-A of IPC. This Court has to take note that accident has occurred in the year 2016 and almost a decade has elapsed and it is an accident and not an intentional act.

14. Under the circumstances, in a case of death of a person, who has died at the age of 58 years in the accident and also taking note of the fact that revision petitioner is working as a driver of the lorry and not the owner and that too for Wages, instead of sentencing him for a period of one year, it is appropriate to reduce the same for a period of six months. Hence, it requires interference only with regard to modification of sentence.

Point No.(ii)

15. In view of the discussion made above, I pass the following:

ORDER

(i) The criminal revision petition is allowed in part.

(ii) The conviction and sentence for the offence under Section 279 of IPC is set aside.

(iii) The conviction for the offence under Section 304-A of IPC is confirmed. However, the sentence is modified from one year to six months. The conviction and sentence for the

offence under Section 187 of IMV Act is confirmed.

Sd/-
(H.P.SANDESH)
JUDGE

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List No.: 1 Sl No.: 20