

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION No.1290 OF 2018

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

BETWEEN:

SRI K NAGARAJA
S/O KRISHNAPPA
AGED ABOUT 43 YEARS
R/AT THATTANAKUNTE (V)
MULBAGAL TALUK,
KOLAR DISTRICT-563 101.

...PETITIONER

(BY SRI M R NANJUNDA GOWDA, ADVOCATE)

AND:

STATE OF KARNATAKA BY
MULBAGAL POLICE,
KOLAR DISTRICT,
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDINGS,
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 AND ORDER OF CONVICTION AND ORDER ON SENTENCE DATED 02.04.2014 PASSED IN C.C.No.134/2009 ON THE FILE OF THE ADDITIONAL CIVIL JUDGE AND JMFC, MULBAGAL FOR THE OFFENCE PUNISHABLE UNDER SECTION 279, 337, 338, 304A OF IPC AND ACQUIT THE PETITIONER FOR THE AFORESAID OFFENCES AND SET ASIDE THE JUDGMENT AND ORDER DATED 26.09.2018 PASSED IN CRL.A.No.33/2014 ON THE FILE OF THE I ADDITIONAL SESSIONS JUDGE, KOLAR.



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

Heard Sri M.R.Nanjunda Gowda, learned counsel for the revision petitioner and Sri K.Nageshwarappa, learned High Court Government Pleader.

2. Accused who suffered an order of conviction in C.C No. 134/2009 confirmed in Criminal Appeal No.33/2014 is the revision petitioner.

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

3.1 In respect of road traffic accident that occurred on 13.10.2008 at about 1.35 am on National Highway near Mallapanahalli gate which runs from Bengaluru to Chennai, involving KSRTC Bus bearing registration No.KA-07/F-1177 and yet another KSRTC Volvo bus bearing registration No.KA-01/F-7383, a complainant came to the lodged by one Venkataramu, resident of Bommanahalli, Hassan District.

3.2 The complainant was one of the inmates of Volvo Bus which was proceeding from Bengaluru to Chennai. Complainant was travelling along with his two friends in the said bus.

3.3 It is his specific case that when the bus reached near Mallapanahalli gate, driver of the KSRTC Bus bearing registration No.KA-07/F-1177 came from opposite side from Tirupathi to Bengaluru, in a rash and negligent manner and there was a head on collision with Volvo bus.

3.4 According to the complainant, because of the impact, he sustained injuries to his left leg. His friends viz., Appajigowda, Somashekar and Nagaraj also sustained injuries to various parts of the body. All of them were taken to R.L.Jalappa Hospital, Kolar, for treatment.

3.5 It is further stated that on account of the impact of the accident, about ten persons died and several other passengers sustained injuries.

4. Based on the said complaint, Mulabagilu Police registered a case in Crime No.339/2008 for the offences punishable under Sections 279, 337, 338 and 304A of the Indian Penal Code. Revision petitioner/accused is the driver of the bus bearing No.KA-07/F-1177.

5. Names of the persons who lost their lives and in which bus they were travelling is culled out hereunder:

1) Kum. Rekha D/o. Bangara Naika, 10 years,	KA-07-F-1177
2) Lakshmaiah S/o. Late Ramaiah, R/o. Hosakot Taluk,	KA-01-F-7383
3) Vishnupriya D/o. Jagadish, Software Engineer, 28 years,	KA-01-F-7383
4) Amit Kumar Sinha S/o. Ajay Kumar, 28 yrs, Software Engineer, R/o. Jharkand State.	KA-01-F-7383
5) Jagannath Sai S/o. Janma Sai, A/a. 28 years, R/o. Orissa State, Software Engineer	KA-01-F-7383
6) Sachin Rao S/o. Sadananda Rao, R/o. Bantwal Taluk.	KA-01-F-7383
7) Nagaraju S/o. Sonnegowda, R/o. Nagalapura, Holenarasipura Taluk.	KA-01-F-7383
8) Smt. Asha Hoogar D/o. B.P. Hoogar, R/o. Tumakuru Town.	KA-01-F-7383
9) Sri. Balaji S/o. Prabhakar Shastry, major, R/o. Ananthapura, A.P.	KA-01-F-7383
10) Smt. Pankaja W/o. Shivaraj, A/a. 28 years, R/o. Gayathripurm, Mysore.	KA-01-F-7383.

6. Police after investigation filed the charge sheet. Presence of the driver of the bus bearing No.KA-07/F-1177 was secured

by the learned Trial Magistrate after taking cognizance. Plea was recorded. Accused pleaded not guilty therefore trial was held.

7. In order to prove the case of the prosecution, in all 18 witnesses were examined as P.Ws.1 to 18, of which PW-1 is the complainant. Majority of others are, injured witnesses, doctor who issued the wound certificates, postmortem reports and the investigation officers.

8. Prosecution placed on record as many as 42 documents which were exhibited and marked as Exhibits P-1 to P-42 comprising of complaint, spot mahazar, wound certificates, indemnity bonds, inquest reports, IMA reports, postmortem reports.

9. On conclusion of recording of evidence of prosecution witnesses, accused statement as is contemplated under Section 313 of the Code of Criminal Procedure was recorded.

10. Accused has denied all the incriminating circumstances adduced against him. For question No.21, he has answered that on the day of incident he was not the driver of the bus, but he was the conductor. Therefore he is not responsible for the

alleged offence and it is Anjaneya Prasad who was the driver of the bus.

11. On record, there is defense evidence in the form of accused getting himself examined as DW-1, wherein he has stated that on the day of the incident, he was the conductor of the offending bus and Anjaneya Prasad was the driver of the bus.

12. In his cross-examination on behalf of the prosecution, he admits that original of Exhibit D-1/log sheet is in Divisional Office. He denies that Exhibit D-1 is a concocted document.

13. He further admits that Exhibit D-2/route copy is given by the Depot Manager. He has answered that he has been appointed as driver cum conductor. He further admits that the date mentioned in Exhibit D-2 as 11.10.2008 which is the same date as mentioned in Exhibit D-1.

14. He further admits that he has sustained injury on his right hand, head, nose and fingers of the legs. He has further answered that on 13.10.2008 the incident has occurred.

15. He has also answered that he was also admitted to R.L.Jalappa Hospital, Kolar. But driver of the bus namely Anjaneya Prasad did not sustain any injury.

16. He has further answered that right side of the offending bus has dashed against the opposite bus and he has not informed either the higher officials or the police that it is Ajaneya Prasad who was the driver of the offending bus.

17. In his further examination-in-chief, he has stated that between 11.10.2008 to 13.10.2008, he was the conductor of the offending bus. He admits in his further cross-examination that he has not produced any documents from the higher officials to establish that he was working as conductor.

18. Above evidence on record was appreciated by the learned Trial Magistrate. Accepting the prosecution case, convicted the accused and sentenced as under:

"Having committed an offence u/Sec.279 of IPC the accused shall undergo simple imprisonment of one year and shall pay fine of Rs.5,000/-. In default of payment of fine amount he shall further undergo simple imprisonment of 4 months.

Having committed an offence u/Sec.337 & 338 of IPC the accused shall undergo simple imprisonment of 3

months each and shall pay fine of Rs.5,000/- each. In default of payment of fine amount he shall further undergo simple imprisonment of 1 month each.

For having committed an offence u/Sec.304A of IPC he shall undergo simple imprisonment of one year and shall pay fine of Rs.5,000/-. In default of payment of fine amount he shall further undergo simple imprisonment of 6 months.”

19. Being aggrieved by the same, accused filed an appeal before the District Court which came to be dismissed after re-appreciation of the material on record.

20. Thereafter accused is before this Court in this revision petition.

21. Sri M.R.Najunda Gowda, learned counsel for the petitioner reiterating the grounds urged in the revision petition, contented that both the Courts have not taken into consideration the probative value of Exhibits D-1 and D-2 and sought for allowing the petition.

22. He would further contend that in a matter of this nature, prosecution is expected to prove the case beyond reasonable doubt and expecting the accused to place the material evidence

that he is innocent is incorrect and sought for allowing the petition.

23. *Per contra*, learned High Court Government Pleader supports the impugned judgments by contending that none of the inmates of both the bus nurtured any enmity or animosity against the accused to falsely implicate him in the case and therefore, sought for dismissal of the petition.

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

25. On such perusal of the material on record, the incident wherein two KSRTC buses having head-on collision on 13.10.2008 at 01.35 a.m. stands established by placing necessary material evidence on record.

26. Admittedly, one of the inmates of Volvo bus namely PW-1 by name Venkataramu has set criminal law into motion.

27. He was taken to R.L.Jalappa Hospital at Kolar. So also, other injured were taken to said hospital. In the incident about ten persons died as referred to supra.

28. The Sole defence that has been taken by the accused is that he was not the driver of the offending bus and it is the Anjaneya Prasad who was driving the bus at the time of accident.

29. Pertinently, Anjaneya Prasad has not sustained any injuries and it is the present petitioner who has sustained the injuries. If Anjaneya Prasad was to be the driver of the offending bus, when there is a head-on collision where the right side of the offending bus dashed the Volvo bus on its right side, it is the driver who has to sustain the injury and not the conductor.

30. Moreover, Anjaneya Prasad is examined as PW-5. In his evidence, a suggestion is no doubt made on behalf of the accused that he was driving the offending bus on the date of the incident. However, in his cross-examination, he has denied that the accused was deputed as conductor of the bus. He also denied that he was deputed as driver of the bus.

31. To establish that petitioner is driver of the bus, Ex.D.1/log sheet and Ex.D.2/route copy are placed on record.

32. Admittedly, authors of Exhibit D-1 and Exhibit D-2 are not examined by the petitioner. Moreover, custody of Exhibit D-1 and Exhibit D-2 is not properly established by the petitioner.

33. Therefore, contentions urged on behalf of the petitioner that he was only a conductor of the bus, stands not established not only from the documentary evidence that has been placed on record, but also by the fact that he has sustained injuries and Anjaneya Prasad has not sustained injuries.

34. Therefore, the Trial Magistrate and learned Judge in the First Appellate Court were justified in holding that petitioner has failed to prove that he was not the driver of the offending bus.

35. Moreover, other material evidence placed on record would go to show that petitioner was the driver of the bus.

36. Admittedly none of the injured witnesses nurtured any previous enmity or animosity, including Anjaneya Prasad to falsely implicate the accused in the incident.

37. Accordingly, the order of conviction recorded by the learned Trial Magistrate confirmed by the learned Judge in the First Appellate Court needs no interference.

38. So also the sentence, having regard to the fact that ten persons have lost their lives in the incident and there are no mitigating circumstances.

39. Hence, the following:

ORDER

Revision Petition is meritless and is hereby ***dismissed***.

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

kcm