HC-KAR

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 3RD DAY OF JULY, 2026

BEFORE

THE HON'BLE MRS JUSTICE RAJESHWARI N.HEGDE

CRIMINAL APPEAL NO. 100039 OF 2018 (A-)

BETWEEN:

THE STATE OF KARNATAKA
REPRESENTED BY THE CIRLCE POLICE INSPECTOR,
HONNAVAR CIRLCE, HONNAVAR.
THROUGH ADDL. STATE PUBLIC PROSECUTOR
ADVOCATE GENERAL OFFICE,
HIGH COURT BUILDING,
DHARWAD BENCH.

...APPELLANT

(BY SRI JAIRAM SIDDI, HCGP)

AND:

SAJU KANNANCHARA S/O. JOSEPH
AGED 51 YEARS, OCC: BUSINESS,
R/O. BEGODI, GERUSOPPA,
PRESENT ADDRESS: MATADIKARI,
KARKI, HONNAVAR.

...RESPONDENT

(BY SRI VISHWANATH HEGDE, ADVOCATE)

Digitally signed by MALLIKARJUN RUDRAYYA KALMATH
Location: HIGH COURT OF KARNATAKA DHARWAD BENCH
Date: 2026.07.04 12:50:26 +0530

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378 (1) AND (3) OF CR.P.C., PRAYING TO GRANT LEAVE TO APPEAL AND TO SET ASIDE THE JUDGMENT AND ORDER OF ACQUITTAL DATED 29.08.2017 PASSED BY THE SENIOR CIVIL JUDGE AND JMFC, HONNAVAR IN CRIMINAL CASE NO.23/2017 AND TO CONVICT THE RESPONDENT/ ACCUSED FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 279, 337, 338 AND 304(A) OF IPC, IN THE INTEREST OF JUSTICE.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 19.06.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS JUSTICE RAJESHWARI N.HEGDE

CAV JUDGMENT

1. This is an appeal challenging the judgment and sentence dated 29.08.2017, passed by the Senior Civil Judge and JMFC, Honnavar, in C.C. No.23/2017 (old C.C. No.637/2016), whereby the accused/respondent has been acquitted of the offences punishable under Sections 279, 337, 338 and 304A of the IPC.

2. For the sake of convince, the parties are referred as per their rankings before the trial Court. The appellant herein is the State and the respondent herein is the accused.

3. The prosecution case is that on 02.04.2016 at about 9.45 a.m., near Haladipura-Kadubailu Cross, the accused was riding a motorcycle bearing registration No., KA-47-K-5312 in a rash and negligent manner from Honnavar towards Kumta and dashed against the scooty rode by Sri.Sripad Bhat, bearing registration No.KA-47-J-0209. Due to which he sustained grievous injury resulted in his death. The pillion rider filed a complaint, which was registered at Honnavar Police Station in

Crime No.167/2016. After completion of the investigation, the Investigating Officer filed a charge sheet against the accused for the alleged offences.

4. The Trial Court took cognizance of the offences. The substance of the accusation was read over to the accused. The accused pleaded not guilty and claimed to be tried. Accordingly, the matter was posted for trial.

5. The prosecution, in order to prove the guilt of the accused, examined 7 witnesses as PWs.1 to 7 and got marked 13 documents as Exs.P1 to P13. After completion of the prosecution evidence, the accused was examined under Section 313 of the Cr.P.C. The accused denied all the incriminating circumstances appearing against him in the evidence of the prosecution witnesses case. He did not choose to adduce any oral evidence. However, documents at Exs.D1 to D4 were got marked on his behalf.

6. The learned Trial Judge, after appreciating the material on record, proceeded to pass the impugned judgment, whereby the accused was acquitted on the ground that the prosecution had failed to prove the guilt of the accused beyond

reasonable doubt. Being aggrieved by the impugned judgment of acquittal, the State has preferred the present appeal on the following grounds:

> *"1. That the Learned Trial Court ought to have taken into consideration, the statement of complainant PW -1 and who is said to be pillion rider of the Scooty vehicle and also injured witness, credibility of the injured eye witness would have taken into consideration wherein the Trial Court without appreciating above fact passed a Judgment and Order which is erroneous and bad in law.*
>
> *That the Learned Trial Court ought to have taken into consideration, the statement of PW-3 and PW-5 corroborating the statement of PW-1 wherein the Trial Court non appreciating the evidence on record which is erroneous and bad in law.*
>
> *That the Trial Court would have taken into consideration that the Accused gave a statement under Section 313 Cr.p.c and has not adduced any evidence with regard to non involvement in the incident. In the above fact is not appreciated by the Trial Court.*
>
> *That the Learned Trial Court ought to have taken in to consideration, the statement of PW-1 Complainant as per Section 134 of evidence Act is solitary witness wherein quality of statement to be taken into consideration not the quantity of the witnesses wherein Trial Court has not appreciated the above fact which is erroneous and bad in law.*
>
> *That the Learned Trial Court ought to have taken into consideration, the appreciation of evidence as cumulatively as per Section 3 of Indian Evidence Act wherein*

minor discrepancies cannot be a ground for dis-believing the evidence of eye witness which is not appreciated by the Trial Court is said to be erroneous and bad in law.

That the Learned Trial Court ought to have taken into consideration, the judgment passed by the Hon'ble Apex Court 2012 3 SCC (Criminal Page 1107) wherein Criminal Trial appreciation of evidence contradictions inconsistencies exaggerations or embellishments substantial and unsubstantial valiations / contradictions in statement of witnesses in case under Section 279, 337-338 304A of IPC are not fatal to the prosecution and the above fact is not noticed and observed by the Trial Court which is erroneous and bad in law."

7. The contention of the appellant is that the Trial Court ought to have taken into consideration the evidence of PW1, the complainant and injured witness. The credibility of the injured eyewitness ought to have been appreciated. However, the Trial Court, without properly appreciating the same, passed the impugned judgment.

8. It is further contended that the Trial Court ought to have taken into consideration the evidence of PWs.3 and 5, which corroborates the evidence of PW1, but failed to appreciate the said evidences. The Trial Court ought to have considered the statement of the accused recorded under

Section 313 of the Cr.P.C. but not adduced any evidence with regard to involvement of him in the alleged incident.

9. It is further contended that the Trial Court ought to have appreciated the evidence cumulatively as contemplated under Section 3 of the Indian Evidence Act and that minor discrepancies cannot be a ground to discard the evidence of eyewitnesses. The Trial Court failed to appreciate this aspect.

10. The trial Court ought to have taken into consideration the judgment passed by the Hon'ble Apex Court in the case of 2012 3 SCC (Criminal Page 1107), wherein criminal Trail appreciation of evidence contradictions inconsistencies, exaggerations or embellishments substantial and unsubstantial validations/contradictions in statement of witnesses in case under Section 279, 337, 338, 304A of IPC are not favourable to the prosecution case.

11. On these grounds, the State has prayed to set aside the impugned judgment and conviction of the accused.

12. Heard learned HCGP for appellant/State and Sri. Vishwanth Hegde, learned counsel for the respondent/accused.

13. Perused the records and the grounds urged in this appeal.

14. The following points arises for the consideration are:

> "(i) Whether the Trial Court has not properly appreciated the evidence on record, as contended in the grounds of appeal?
>
> (ii) Whether the impugned judgment is illegal, erroneous and calls for interference by this Court?"

15. The trial Court in order to bring up the guilt of the accused has relied upon the evidence of PWs.1 to 7. In the grounds of appeal, the appellant contended that the trial Court has not appreciated the Evidence of injured PW1.

16. The allegation against the accused is that he rode the vehicle in rash and negligent manner and dashed against the vehicle of the deceased and caused the accident and committed the offence punishable under section 279, 338, 304A IPC.

17. Offence under section 279 IPC relates to rash driving or riding on a public way. So as to prove the rash and negligent driving, as analyzed in Halsbury's Laws of England which stated,

> *"Negligence is a specific tort and in any given circumstances is the failure to exercise that care which the circumstances demand. What amounts to negligence depends on the facts of each particular case. It may consist in omitting to do something which ought to be done or in doing something which ought to be done either in a different manner or not at all. Where there is no duty to exercise care, negligence in the popular sense has no legal consequence…"*

> "In the case of ***Ravi Kapur Vs. State of Rajastan*** (2012) 9 SCC 284 Hon'ble Supreme Court highlighted the concept of "culpable rashness" and "culpable negligence". These concepts and consideration become relevant in the road accident cases to judge the negligence for becoming an offence in eye of law. The "culpable rashness" or "culpable negligence" amounts to acting with the consciousness that mischievous and illegal consequences may follow by such act, but with the hope that they will not, and often with the

belief, that the actor has taken sufficient precautions to prevent their happening."

18. In the present case, as per the prosecution, the accused rode the vehicle in rash and negligent manner and caused the death of the deceased. The Trial court not accepted and disbelieved the prosecution evidence and acquitted the accused.

19. Now, this court has to reanalyze the evidence of the prosecution witnesses.

20. PW1, the injured witness, has deposed that on 02.04.2016 at about 9.00 a.m., the deceased took him on his scooty to Haladipura to purchase electrical goods. PW1 was the pillion rider. When they reached Kudhabail Cross near Haladipura, the deceased intended to take a right turn towards Mallikarjun Electricals. According to PW1, the deceased applied the indicator, gave a signal and turned the scooty towards the right side. At that time, the motorcycle ridden by the accused came in a rash and negligent manner and dashed against the scooty, which causes both of them to fall. The rider of the

scooty, namely Sri. Sripad Bhat, sustained head injuries and later succumbed to the same.

21. Thus, on perusal of the evidence of PW1, he has deposed that the deceased had applied the indicator, given a signal and then taken a right turn. According to the learned High Court Government Pleader, this evidence has not been properly appreciated by the Trial Court. However, it is the argument of the respondent that the deceased neither applied the indicator nor gave any signal before taking the right turn.

22. In the cross-examination, PW1 admitted that the deceased did not notice the accused approaching from the opposite direction. He further admitted that the deceased was about 70 years old and that he was unaware as to whether the deceased possessed a valid driving licence.

23. The prosecution has examined PW3 projected as eye witness to the incident. PW3 deposed that one day in April 2016 at about 09.00 a.m. he and CW5 were standing near Haladipura-Navilagona Cross when the deceased came on his scooty, applied the indicator and turned towards the right side. At that time, the motorcycle ridden by the accused came from

the Kumta side in a rash and negligent manner and dashed against the scooty, resulting in the accident and thereby Sri. Sripad Bhat died. PW3 has identified the accused, stating that he was the person ride the motorcycle in rash and negligent manner.

24. However, in his cross-examination, PW3 stated that he had not seen the accused coming from the Kumta side and had not seen the manner in which he was riding the motorcycle. He further states that he came to the spot after the accident. Therefore, on a careful scrutiny of his evidence, it cannot be accepted that he had actually witnessed the accident and the manner in which the accused was riding the motorcycle.

25. Likewise, the prosecution has examined PW4 as an eyewitness. His evidence is substantially similar to that of PW3. In the cross-examination, he stated that he had seen the accused coming on the motorcycle and dashing against the scooty. He denied the suggestion that the accident was occurred due to the negligence of the deceased.

26. The learned Government pleader argues that, PW4 has clearly deposed regarding the occurrence of the accident and the rash and negligent riding of the accused. However, PW4 says that he is a friend of Subraya Bhat, who is none other than son of the deceased.

27. PW2 is a Mahazar witness in Ex.P2. He has witnessed the conduct of the mahazar and preparation of the sketch. In the cross-examination, he stated that he was not aware of the contents of the mahazar.

28. On a perusal of the sketch and the prosecution case, it emerges that the accused was proceeding to Kumta from Honnavar, whereas the deceased was proceeding towards Honnavar from Kumta and intended to take a right turn to reach a shop. Therefore, while taking the right turn, the deceased was required to take due caution.

29. Though PWs.3 and 4 have stated that the deceased applied the indicator and gave a signal before taking the turn, on careful reading of their evidence indicates that they appear to have been projected as eyewitnesses and that they had not

actually witnessed the incident in the manner sought to be projected by the prosecution.

30. Learned Government Pleader argued that there may be certain contradictions and variations in the evidence of the eyewitnesses. However, according to him, such contradictions are only minor in nature and do not affect the core of the prosecution case.

31. PW5 has also deposed regarding the incident and stated that he had seen the accused riding the motorcycle at a high speed and dashing against the vehicle of the deceased.

32. On a perusal of the judgment of the Trial Court, it is seen that the Trial Court has disbelieved the evidence of PWs.3, 4 and 5, who are projected as eyewitnesses to the incident.

33. The Trial Court has observed that the presence of PWs.3, 4 and 5 at the spot on the relevant day is itself doubtful. It has further observed that if the accused had ridden the motorcycle at a very high speed and in a rash and negligent manner, as alleged by the prosecution, both vehicles would have fallen at a greater distance from the point of impact.

34. In the present case, both vehicles were found very near the place of accident. This circumstance indicates that the accused was not riding the motorcycle at a very high speed, as contended by the prosecution. The evidence further discloses that PW3 is a neighbour of the deceased and is known to him. Likewise, PWs.4 and 5 are also known to the deceased.

35. Further, according to the evidence of the eyewitnesses, there was an autorickshaw stand on one side of the accident spot and shops on the other side. However, the prosecution has not examined any independent witnesses from the shop and auto rickshaw stand. Instead, the prosecution has relied upon PWs.3 to 5, who are admittedly known to the deceased. Therefore, doubt arises regarding their presence at the spot on the relevant point of time. The evidence also discloses that the deceased was about 70 years old. Further, the Investigating Officer has admitted that he was not aware as to whether the deceased possessed a valid driving licence.

36. On a careful scrutiny of the entire evidence on record, though PWs.3 to 5 are projected as eyewitnesses, the contradictions elicited in their cross-examinations render their

evidence unreliable and not worthy of acceptance for proving the guilt of the accused. The evidence does not suggest that the driver was negligent and whose negligence resulted into the accident.

37. Having regard to the facts and circumstances of the case and the evidence available on record, the Trial Court has rightly appreciated the evidence and arrived at the conclusion that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt. Holding that the accused in capacity of the driver of the motorcycle he is in high speed with negligence would not be justifiable conclusion in the facts of the case.

38. On re-appreciation of the evidence, this Court also finds that there is no clear, cogent and convincing evidence placed by the prosecution to establish the guilt of the accused beyond reasonable doubt. The grounds urged in the appeal are devoid of merit. Accordingly, the points for consideration are answered in the Negative.

39. In view of the aforesaid discussions, this Court proceeds to pass the following:

ORDER

i. The appeal is ***dismissed***.

ii. The judgment and order of acquittal dated 29.08.2017 passed by the Senior Civil Judge and JMFC, Honnavar, in C.C. No.23/2017 is confirmed.

iii. Registry is directed to send back the Trial Court records forthwith.

Sd/-
(RAJESHWARI N.HEGDE)
JUDGE

VB
Ct-cmu
List No.: 1 Sl No.: 2