



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL REVISION PETITION NO.500 OF 2020

BETWEEN:

HARISH H. @ HARISH
S/O. HALESHAPPA
AGED ABOUT 22 YEARS
OCCUPATION: COOLIE WORK
RESIDENT OF THIMMAPURA BADAVANE
ANAVATTI
SORABA.

...PETITIONER

(BY SRI AMIT DESHPANDE, ADVOCATE)

AND:

STATE OF KARNATAKA
BY ANAVATI POLICE, SORABA
REPRESENTED BY STATE PUBLIC PROSECUTOR
DR. AMBEDKAR VEEDHI
HIGH COURT UNIT
BENGALURU-560 001.

...RESPONDENT

(BY SRI TEJESH P., H.C.G.P.)

* * *

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397 READ WITH SECTION 401 OF THE CR.P.C., PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION AND ORDER ON SENTENCE DATED 7-1-2019 IN CRIMINAL CASE NO.35 OF 2017 BY THE COURT OF SENIOR CIVIL JUDGE & J.M.F.C., SORABA, AND JUDGMENT DATED 31-10-2019 IN CRIMINAL APPEAL NO.10029 OF 2019 BY THE V ADDITIONAL DISTRICT AND SESSIONS JUDGE, SHIVAMOGGA, SITTING AT SAGAR, AND ACQUIT HIM OF THE OFFENCES.



THIS CRIMINAL REVISION PETITION IS COMING ON FOR FRUTHER ARGUMENT, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE VENKATESH NAIK T

ORAL ORDER

The petitioner-accused has filed this petition under Section 397 read with Section 401 of the Code of Criminal Procedure 1973 (for short, 'Cr.P.C.') praying to set aside the judgment of conviction and order on sentence passed by the Senior Civil Judge and Judicial Magistrate First Class, Soraba, in Criminal Case No.35 of 2017 dated 07.06.2019 and confirmed by the judgment dated 31.10.2019 passed by the V Additional District and Sessions Judge, Shivamogga, Sitting at Sagar, in Criminal Appeal No.10029 of 2019 and consequently, to acquit the petitioner for the offences under Sections 279 and 304A of the Indian Penal Code, 1860, and under Sections 3, 181, 186 and 196 of the Indian Motor Vehicles Act, 1988.

2. The brief facts of the prosecution case are as follows:



On 22.12.2015 at 03.45 p.m. in front of Renukamba Dhaba on the main road of Anavatti-Soraba, one Santhosh (hereinafter referred to as the 'deceased') was proceeding on Bajaj Pulsar motorcycle, bearing Registration No.KA-15 TR-9832, at that time, the accused came from Anavatti side on his Hero Honda Splendor motorcycle, bearing Registration No.KA-15 U-3190, in high speed, rash and negligent manner and dashed against the motorcycle of Santhosh. As a result, Santhosh sustained severe injuries on his head and on various parts of the body. Immediately, he was shifted to the Government Hospital, Anavatti, for treatment, later he was taken to Mc.Gann Hospital and Narayan Hospital, Shivamogga, where he succumbed to the injuries on the same day at 7.00 p.m. Hence, PW1, cousin of Santhosh, lodged a complaint vide Ex.P2 on 23.12.2015 at 10.00 a.m.

3. On the basis of the complaint-Ex.P2, PW6-Sri Hanumanthappa registered a case in Crime No.241 of 2015 and submitted an First Information Report to the



Court. In turn, PW6 handed over further investigation of the case to PW2-Sri G.V. Ganeshappa, Circle Inspector of Police, Soraba, who in turn, visited the spot, drew mahazars, recorded the statement of the witnesses and after collecting all material, he filed the charge-sheet against the accused for the aforesaid offences.

4. After filing of the charge-sheet, the trial Court took cognizance of the offences against the accused and after securing the accused, his plea was recorded, for which, he pleaded not guilty and claimed to be tried.

5. The prosecution, in order to prove its case, examined six witnesses as per PWs.1 to 6 and marked fifteen documents as Exs.P1 to P15. For defence, Exs.D1 and D2-photographs were marked. After closure of the prosecution evidence, the trial Court recorded the statement of the accused under Section 313 of Cr.P.C. by explaining the incriminating material available in the prosecution case. The case of the accused was of total



denial. The accused did not enter the witness box and has not produced any defence evidence.

6. The trial Court, based on oral and documentary evidence on record, convicted the accused for the aforesaid offences and sentenced him to undergo simple imprisonment for a period of six months for the major offence punishable under Section 304A of IPC.

7. Being aggrieved by the judgment of conviction and order on sentence passed by the trial Court, the petitioner preferred an appeal in Criminal Appeal No.10029 of 2019 before the First Appellate Court assailing various grounds to acquit him for the aforesaid offences. The First Appellate Court, considering the oral and documentary evidence on record, dismissed the appeal filed by the petitioner by confirming the judgment passed by the trial Court.



8. Aggrieved by the judgment of the trial Court and the First Appellate Court, the accused has filed this revision petition.

9. Heard Sri Amit Deshpande, learned counsel for the petitioner, Sri Tejesh P., learned High Court Government Pleader for the respondent-State, and perused the material available on record.

10. Learned counsel for the petitioner-accused has contended that the judgment of conviction and order on sentence passed by the trial Court and confirmed by the First Appellate Court are illegal, arbitrary, perversity and contrary to law. He contended that the trial Court as well as the First Appellate Court have not properly appreciated the evidence on record and found the accused guilty on the basis of interested witness, PW1, who is none other than the cousin of the deceased. He further contended that oral testimonies of PW1-cousin of the deceased and PW2-Investigating Officer are not consistent to establish



the rash and negligent riding of the accused at the relevant point of time, date and place. He further contended that the very presence of so called eyewitness at the scene of occurrence is doubtful, as in the cross-examination, he admitted that, he was not aware about who shifted the injured to the Hospital. He further contended that the evidence of PWs.1, 3 and 4 speak different version as to the manner of the accident. Except the evidence of PW1, none of the eyewitnesses has supported the case of the prosecution. PW3 and PW4, eyewitness and spot-cum-seizure mahazar witness, respectively, have turned hostile to the case of the prosecution. He further contended that the accused was falsely implicated in order to get compensation from the Tribunal. He further contended that attending circumstances do not support the story of the case of the prosecution. Based on these grounds, the learned counsel prays for acquittal of the accused.



11. *Per contra*, the learned High Court Government Pleaders for the respondent-State has contended that the judgment of conviction and order on sentence passed by the trial Court and confirmed by the First Appellate Court are in accordance with law. He further contended that the death of the deceased in the accident and the identity of the accused are not disputed. In so far as the offences under Sections 276 and 304A of IPC, the evidence of PW1-cousin of the deceased, PW2-Investigating Officer and PW6-Head Constable, who registered the case, are available. Hence, he prayed for dismissal of the revision petition.

12. Based on the submissions made by the learned counsel for the revision petitioner, the learned Government Advocate for the respondent-State and material available on record, the following points would arise for consideration of this Court:



- i. Whether the revision petitioner has made out any ground to prove that the judgment of conviction and order on sentence passed by the trial Court and confirmed by the First Appellate Court are not in accordance with law and thus, call for interference at the hands of this Court?*
- ii. Whether the prosecution proved its case beyond reasonable doubt that the revision petitioner has committed the offences punishable under Sections 279 and 304A of the Indian Penal Code, 1860, and under Sections 3, 181, 186 and 196 of the Indian Motor Vehicles Act, 1988?*

Reg. Point Nos.1 and 2:

13. The case of the prosecution is that on 22.12.2015 at 03.45 p.m., Santhosh (deceased) was proceeding in his Bajaj Pulsar motorcycle from Soraba towards Anavatti, at the same time, the petitioner-accused came on his Hero Honda Splendor motorcycle from Anavatti towards Soraba and dashed against the motorcycle of Santhosh. As a result, Santhosh sustained



severe injuries, he was shifted to the Government Hospital, Anavatti, for treatment. However, Santhosh succumbed to the injuries on the same day at Narayana Hospital, Shivamogga. Thus, PW1, cousin of Santhosh, lodged the complaint vide Ex.P2.

14. The prosecution, in order to prove its case, examined PW1-Sri Puttappa, complainant. He has stated that on 22.12.2015, when he was standing in front of Renukamba Dhaba, after having his lunch at about 03.45 p.m., a motorcycle came in a rash and negligent manner from Anavatti and dashed against the motorcycle of Santhosh. Hence, he has stated that he has seen the incident and in the incident, his cousin sustained severe injuries. Thus, he shifted the injured to the Government Hospital, Anavatti. Later, the injured was shifted to Mc.Gann Hospital, Shivamogga, and again to Narayana Hospital, Shivamogga, where Santhosh succumbed to injuries, on the same day at 7.00 p.m. He further stated that due to rash and negligent riding of the motorcycle of



the accused, the incident occurred. Thus, he lodged the complaint as per Ex.P2 on 23.12.2015 at 10.00 a.m.

PW1 was cross-examined. In the cross-examination, he admits that he does not know to read and write and he only knows to sign and he does not know the contents of mahazars. He is not aware about the registration number of the motorcycle of the deceased.

He specifically admitted that he did not shift injured-Santhosh to the Hospital for treatment.

15. PW2-G.V. Ganeshappa, Inspector of Police, has stated that on 24.12.2015, he received further investigation of this case from Sri Yallappa, Assistant Sub-Inspect of Police (who has not been examined in this case). Hence, he visited the spot, drew spot mahazar in between 05.00 p.m. and 06.00 p.m. vide Ex.P1., prepared rough sketch as per Ex.P3, seized two motorcycles under Ex.P4 in the presence of the witnesses, recorded the statement of witnesses, obtained Post-Mortem



examination report-Ex.P5 from the Hospital, received IMV report-Ex.P9, completed investigation and filed charge-sheet against the accused for the aforesaid offences.

As per the evidence of PW2, Investigating Officer, the prosecution has not elicited the vital aspect that due to rash and negligent act of the accused alone, the incident occurred and there is no mention in Column No.17 of the charge-sheet to the effect that due to rash and negligent act of the accused, the incident occurred.

16. PW3-Hanumanthappa, an eyewitness to the incident, turned hostile to the case of the prosecution. Hence, his evidence is not available to the case of the prosecution.

17. PW4-Moulani, a witness to seizure mahazar-Ex.P4. He also turned hostile to the case of the prosecution.



18. PW5-Irfan, a witness to inquest mahazar-Ex.P12, has stated that the Investigating Officer conducted inquest mahazar on the dead body of the deceased, in his presence at Mc.Gann Hospital, Shivamogga.

19. PW6-Hanumanthappa, Head Constable, who received the complaint and registered a case in Crime No.214 of 2015 and submitted First Information Report to the Court. He has stated that since the offences involved were grave, investigation was handed over to PW2. In the cross-examination, he admits that he did not conduct any investigation as to delay in lodging the complaint.

20. Insofar as rash and negligence act of the petitioner is concerned, the plea was that when the deceased came from Soraba towards Anavatti, the petitioner being the rider of the motorcycle, came from Anavatti towards Soraba in rash and negligent manner and dashed to the motorcycle of the deceased and hence, both of them sustained severe injuries.



21. Perusal of Section 279 of IPC makes it clear that to constitute an offence under Section 279 of IPC, there should be rashness or negligence on the part of rider of the offending vehicle so as to endanger human life in a public road. Reading of Section 304A of IPC also shows that in causing death of the person, the act of driving or riding should be covered under Section 279 of IPC. Whether that was made out by the prosecution was the question?

22. The complaint Ex.P1 was filed soon after the incident. In Ex.P1, PW1, an eyewitness to the incident has stated that while he was standing in front of the dhaba, the accident occurred and soon after the accident, he shifted the injured/deceased to the hospital. Keeping in mind the fact that the incident occurred in a State highway and PW.1 was standing in front of the dhaba, this Court has to examine whether the evidence of PW.1-an eye witness was sufficient to hold that the petitioner rode the motorcycle in rash and negligent manner in high speed.



PW.1 has stated only that the petitioner rode the motorcycle in high speed and he did not speak about the rashness or negligence in riding the motorcycle, so as to endanger human life. A perusal of cross-examination of PW.1 clearly demonstrates that soon after the accident, he did not shift the injured to the hospital. On one hand, he states that he is cousin of the deceased and on the other hand, he expressed his inability that he did not shift the injured to the hospital. Thus, it creates doubt with regard to his presence at the scene of offence, and moreover, the evidence of PW.1 eyewitness did not satisfy the requirements of Section 279A IPC. In order to establish rashness or negligence on the part of the petitioner, except the evidence of PW.1, no other evidence in proof of such charge or plea, is available in the prosecution case.

23. Section 184 of the MV Act stipulates driving in the context of different conditions i.e., road-wise, traffic-wise etc. Infact, Section 184 of the MV Act was much comprehensive than Section 279 of IPC.



24. PW.1 has failed to mention about the role played by him and the accused, while the accident occurred. PW.1 appears to be a chance witness and moreover he expressed his inability to depose before the Court as to the contents of FIR, complaint and mahazar. Therefore, his evidence is little shaky. Thus, his evidence requires corroboration. In the absence of such corroboration, the trial Court as well as the First Appellate Court convicted the petitioner, which is an irregularity committed by both the Courts. Admittedly, a shaky or inconsistent eyewitness does not automatically have their evidence thrown out, but Courts require corroborating evidence. To secure a conviction, the prosecution must prove the guilt beyond reasonable doubt. Further, the Courts can convict based on a single eyewitness but only, if that witness is considered "wholly reliable" or "sterling" quality. A shaky witness does not meet this standard. Therefore, when PW.1 only eyewitness fails to establish his presence and his version suffers serious contradictions, the Court cannot



assume that, he was very much present at the scene of offence. The Hon'ble Apex Court in the case of **Rai Sandeep Alias Deepu v. State (NCT of Delhi)** reported in **(2012) 8 SCC 21**, at paragraph No.22 held as under:

22. In our considered opinion, the 'sterling witness' should be of a very high quality and caliber whose version should, therefore, be unassailable. The Court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the Court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as, the sequence of it. Such a version should have co-relation with each and everyone of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of



such a witness qualifies the above test as well as all other similar such tests to be applied, it can be held that such a witness can be called as a 'sterling witness' whose version can be accepted by the Court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the Court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged".

25. Further, the fact that, who took the injured to the hospital is concerned, the narrative is fluctuated as to the persons who shifted to the Hospital. PW1, being the cousin of the deceased, did not shift injured to the hospital, thus, this inconsistency has to be treated as symptomatic of an unreliable prosecution witness. Further, the other eyewitnesses to the incident have not supported the case of the prosecution.

26. Further, the incident has occurred on 22.12.2015 at 03.45 p.m., whereas the complaint was registered on 23.12.2025 at 10.00 a.m., but the delay has not been



properly explained by either PW.1-eyewitness or the officer, who registered the case. The investigation officer also has not explained the delay aspect. Insofar as delay is concerned, in a road traffic accident, a day's delay in lodging the First Information Report (FIR) or complaint is generally not fatal to the case of the prosecution. The Courts has to recognise that the victim's families priority would be medical treatment rather than rushing to the police station. However, the legal effects depends on hearing on whether the delay is adequately explained.

27. Further, the doctor who conducted the post mortem examination of the deceased has not been examined. The Motor Vehicle Inspector, who inspected the damaged motorcycle is also not examined. The post-mortem examination report and IMV report were marked with consent. But the trial Court has not assigned any reasons as to dropping of important witnesses, more particularly, other eyewitnesses to the incident.



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28. In ***Mohammed Aynudhin @ Miyam v. State of Andhra Pradesh*** reported in **(1998) 8 SCC 493** and ***S. N. Hussain v. The State of Andhra Pradesh*** reported in ***AIR 1972 SC 685***, the Hon'ble Apex Court, while considering the case under Section 304A of Indian Penal Code held that mere speed on the part of the driver of the vehicle is not sufficient to convict the accused for the offence under Section 304A of Indian Penal Code. In convicting and sentencing the petitioner, the trial Court and the First Appellate Court acted contrary to the ratio rendered in the aforesaid judgments of the Hon'ble Supreme Court and the evidence on record, which has led to miscarriage of justice. Under the circumstances, the impugned order of conviction and sentence warrants interference by this Court under the revisional jurisdiction.

29. The present revision petition has been filed by the petitioner challenging the concurrent findings of the trial Court as well as the first Appellate Court.



30. The scope of revision refers to the limited authority of a higher Court to review the judgments of the trial Court and the First Appellate Court, focusing on correcting errors of jurisdiction or gross legal or factual flaws rather than re-examining the merits of the case. This power is exercised sparingly and is intended to set right a patent defect, and not to function as an automatic second appeal. The specific grounds and limitations vary between civil and criminal proceedings. Revision can address situations where the decision is grossly erroneous, not supported by evidence, or where relevant evidence has been ignored. Therefore, the revision is not a fresh trial, and there is a bar on re-examining the evidence and substituting the revision Court's own findings for those recorded by the Courts below.

31. The Hon'ble Apex Court in the case of **MUNNA DEVI v. STATE OF RAJASTHAN AND ANOTHER** reported in **(2001) 9 SCC 631** while discussing the scope



of Section 397 of the Cr.P.C. held at paragraph No.3 as under:

"3. xxx xxx xxx. The revision power under the Code of Criminal Procedure cannot be exercised in a routine and casual manner. While exercising such powers the High Court has no authority to appreciate the evidence in the manner as the trial and the appellate courts are required to do. Revisional powers could be exercised only when it is shown that there is a legal bar against the continuance of the criminal proceedings or the framing of charge or the facts as stated in the first information report even if they are taken at the face value and accepted in their entirety do not constitute the offence for which the accused has been charged."

32. The Hon'ble Apex Court in the case of **STATE OF TAMIL NADU v. R. SOUNDIRARASU AND OTHERS** reported in **(2023) 6 SCC 768** at paragraph No.79 held as under:

"79. Thus, the revisional power cannot be exercised in a casual or mechanical manner. It can only be exercised to correct manifest error of law or procedure which would occasion injustice, if it is not corrected. The revisional power cannot be equated with appellate power. A Revisional Court cannot undertake meticulous examination of the material on record as it is undertaken by the trial court or the appellate court. This power can only be exercised if there is any legal bar to the



continuance of the proceedings or if the facts as stated in the charge-sheet are taken to be true on their face value and accepted in their entirety do not constitute the offence for which the accused has been charged. It is conferred to check grave error of law or procedure."

33. Further, the Hon'ble Apex Court in the case of **STATE OF MAHARASHTRA v. SUJAY MANGESH POYAREKAR** reported in **(2008) 9 SCC 475** at paragraph No.16 held as under:

"16. xxx xxx xxx. Now it is well settled that revisional jurisdiction can be exercised sparingly and only in exceptional cases. A Revisional Court cannot convert itself into a regular court of appeal."

34. This Court is aware that while exercising jurisdiction under Section 397 CrPC, that too, when there are concurrent findings, the scope of interference in the orders of the courts below is very limited. However, Section 397 of CrPC itself states that on examining the records of the trial Court and the first appellate Court, if the Revisional Court is satisfied that there is any incorrectness, illegality or impropriety in the findings,



sentence or order passed by such courts or irregularity in the proceedings of such courts, the Revisional Court may suspend sentence or may reverse the said order or judgment. The same principle is reiterated in ***Dulichand v. Delhi Administration*** reported in ***AIR 1975 SC 1960*** and ***State of Karnataka v. Appa Balu Ingale*** reported in ***AIR 1993 SC 1126***.

35. The fact remains that on examination of the records of the courts below, if the High Court finds that the impugned orders passed by the courts below suffers from illegality, impropriety or incorrectness leading to miscarriage of justice, hands of the Revisional Court are not fettered.

36. Therefore, what is to be examined in this case is whether the trial Court and the first appellate court committed any error, illegality, impropriety or incorrectness in holding that the charges brought out



against the petitioner were proved by the evidence of PW.1 to PW.6.

37. Therefore, the revisional jurisdiction should be exercised in exceptional cases, when there is a glaring defect in the proceedings or there is a manifest error of point of law and consequently, there has been a flagrant miscarriage of justice.

Accordingly, I pass the following:

ORDER

- i) The Revision Petition is ***allowed***.
- ii) The judgment of conviction and order of sentence dated 07.06.2019 passed in Criminal Case No.35 of 2017 by the learned Senior Civil Judge and JMFC Soraba and the judgment dated 31.10.2019 passed in Criminal Appeal No.10029 of 2019 by the V Additional District and Sessions Judge, Shivamogga, sitting at Sagar are hereby set-aside.



- iii) The petitioner is acquitted of the charges under Sections 2791, 304A IPC and Sections 3, 181 and 196 of IMV Act.
- iv) Registry is directed to send the Trial Court Records to the trial Court along with a copy of this order forthwith.

Pending interlocutory applications, if any, stand disposed of.

Sd/-
(VENKATESH NAIK T)
JUDGE

KVK: Paragraph Nos.1 to 19
MN: Paragraph Nos.20 till end.
List No.: 1 Sl No.: 12