



CNR: KAHC010173302016

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 22ND DAY OF SEPTEMBER, 2026
BEFORE**

**THE HON'BLE MR. JUSTICE G BASAVARAJA
CRIMINAL APPEAL NO.32 OF 2016 (A)**

BETWEEN:

THE STATE OF KARNATAKA
BY SINGATAGERE POLICE STATION,
REPRESENTED BY THE
STATE PUBLIC PROSECUTOR,
BENGALURU-577138

...APPELLANT

(BY SRI. K. NAGESHWARAPPA, HCGP)

AND:

1. SHAMIR
S/O KADAR KHAN
AGED ABOUT 46 YEARS
DRIVER, R/O KUVYTU VILLAGE,
BARAYAPALKE, GURUVAYANAKERE POST
BELTHANGADI TALUK
D.K. DISTRICT-574214
2. ESMAHIL M
S/O M AHAMED BARRY
AGED ABOUT 42 YEARS
BUSINESS AND PICKUP VEHICLE
OWNER, R/O NASIM MANZIL
HOUSE NO.10250, JYOTHINAGARA
BESIDE POLICE STATION, MUDUBIDRE,
MANGALORE TALUK AND DISTRICT-574227

...RESPONDENTS

(BY SRI. ISMAIL, ADV. FOR R2,
R1 - SERVED AND UNREPRESENTED.)



CNR: KAHC010173302016

CRL.A. FILED U/S.378(1) AND (3) CR.P.C BY THE STATE P.P. AND ADV. FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER DATED 05.09.2015 PASSED BY THE LEARNED II ADDL. CIVIL JUDGE AND J.M.F.C AT KADUR IN CRIMINAL CASE NO.668/2014 IN ACQUITTING THE RESPONDENTS - ACCUSED OF THE OFFENCES P/U/S 279 AND 304(A) OF I.P.C AND SEC.181,187 AND 180 OF I.M.V ACT AND ETC.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

State has preferred this appeal against the judgment of acquittal dated 05.09.2015 passed in CC No.668 of 2014 by the II Additional Civil Judge and JMFC at Kadur (for short 'the trial Court.)

2. For the sake of convenience, the parties herein are referred to as per their status and rank before the trial Court.

3. It is a case of the prosecution that Circle Inspector of Police, Kadur Circle filed a charge sheet against the accused for the offence punishable under Sections 279, 304-A of Indian



CNR: KAHC010173302016

Penal Code and Sections 181, 187 and 180 of Motor Vehicles Act.

4. It is alleged by the prosecution that on 24.03.2014, one Nagaraj K.S. has filed first information before Police stating that on 24.03.2014, when he was going to his village along with one Nitin on motorbike bearing No.KA-18/U-1473 being ridden by Nitin and when the vehicle was moving near Aladahalli, the informant was following him, and at about 7:30 pm when they reached Marvanji Road, at Y. Mallapura Gate, one pick up vehicle bearing registration No.KA-19/C-2325, coming from 9th Cross, being driven in a rash and negligent manner, dashed to the bike of Nitin. Resultantly, the said Nitin fell down, sustained bleeding injuries and died on the spot. The offending vehicle did stop for a while and the accused fled from the spot. One Babu, who was the owner of the shop near the spot, came and shifted the dead body to Government Hospital Mortuary, Kadur. Thus, the accused committed the alleged offence.

5. After filing charge-sheet, cognizance was taken by the Magistrate. Upon issuance of summons, accused appeared



CNR: KAHC010173302016

before the Court and was enlarged on bail. Substance of accusation was recorded. Accused pleaded not guilty and claimed to be tried.

6. To prove the guilt of the accused, the prosecution, in all, has examined 6 witnesses as PW1 to PW6, marked 16 documents as Exhibit P1 to P16 and one material object as MO1. On closure of prosecution side evidence, statement of accused under Section 313 was recorded. Accused has totally denied the incriminating evidence appearing against him. However, he did not choose to adduce any defence evidence on their behalf. Having heard the arguments on both sides, the trial Court has acquitted the accused. Being aggrieved by the judgement of acquittal, State has preferred this appeal.

7. Sri K. Nageshwarappa, learned High Court Government Pleader appearing for the appellant-State, would submit that the impugned judgement passed by the trial Court is contrary to facts and evidence on record. The trial Court has not appreciated evidence adduced by the prosecution to prove the guilt of the respondent. Further, the trial Court has not properly appreciated and analysed the evidence of PWs1 to 4



CNR: KAHC010173302016

who are witnesses to the incident. The trial Court has also not properly appreciated the evidence of PWs1 to 6 and the contents of the post-mortem report Exhibit P10. The trial court has not raised proper probability and inferences to the evidence on record. The trial Court has also failed to record the finding on all charges framed against the accused and to appreciate the evidence on record, while passing the judgment of acquittal. Hence the same is opposed to well-settled principles of law. The learned judge has not given any convincing or cogent reason while acquitting the accused. On all these grounds, it is sought to allow the appeal.

8. As against this, Sri Ismail, learned Counsel appearing for respondent No.2 has submitted that the trial Court has properly appreciated evidence on record and acquitted the accused. Absolutely, there are no materials to interfere with the impugned judgment of acquittal and accordingly sought for dismissal of the appeal.

9. Having heard the arguments on both sides and on perusal of material placed before the court, the following points would arise for my consideration:



CNR: KAHC010173302016

i) Whether the state has made out Ground to interfere with the judgement of conviction and order on sentence?

ii) What order?

10. My answer to the above points are:

Point No.1: in the negative;

Point No.2: as per final order.

11. Before appreciation of evidence on record, it is necessary to mention as to the judgments of the Hon'ble Apex Court in the case of CONSTABLE 907 SURENDRA SINGH AND ANOTHER v. STATE OF UTTARAKHAND reported in (2025)5 SCC 433; BABU SAHEBGOUDA RUDRAGAUDAR AND OTHERS v. STATE OF KARNATAKA reported in (2024)8 SCC 149; CHANDRAPPA v. STATE OF KARNATAKA reported in (2007)4 SCC 415; and H.D. SUNDARA v. STATE OF KARNATAKA reported in (2023)9 SCC 581. The principles governing exercise of appellate jurisdiction while dealing with an appeal against judgment of acquittal under section 378 of Code of



CNR: KAHC010173302016

Criminal Procedure are, the acquittal of the accused further strengthens the presumption of innocence; the appellate court, while hearing an appeal against acquittal, is entitled to re-appreciate the oral and documentary evidence; the appellate court, while deciding an appeal against acquittal, after re-appreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record; if the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and the appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible. The interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised only if the judgment of acquittal suffers from patent perversity; the same is based on a misreading/omission to consider material evidence on record;



CNR: KAHC010173302016

and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

12. I have examined the materials before this Court. PW1 is the complainant and the eye-witness. PWs2 and 3 are the neighbours of the deceased and are Mahazar Witnesses. PW4 is the hear-say witness. PWs5 and 6 are the investigating officers, who speak about their respective investigation.

13. The material witness PW1-Nagaraj, has deposed that on 24.03.2014, both deceased and himself were proceeding on motorcycle to Kunkanadu from Kadur. PW1 was following deceased-Nithin was riding the bike. Near Y. Mallapura gate, the offending vehicle came in a rash and negligent manner and dashed to the bike. Resultantly, Nitin fell down, sustained injuries. Then CW11 and himself shifted the body to the Government Hospital Kadur. Then he came to know about the death of Nitin. Then he lodged complaint as per Exhibit P2. FIR is not registered against the accused. It is registered against the driver of vehicle bearing number KA-19/C-2325.



CNR: KAHC010173302016

14. PW1 has deposed that he has not seen the accused during the course of cross-examination. PW1 has clearly admitted that he cannot say the exact speed of the offending vehicle. Further, he has admitted that at the time of accident, it was dark, and hence he could not tell the speed of the vehicle.

15. PWs2 and 3 have deposed as to mahazar conducted by the police as per Exhibit P2 and also as to seizure mahazar Exhibits P7 and 8.

16. PW4-Baba Sab has not supported the case of the prosecution.

17. PW5 is an attester to inquest panchanama and he has deposed as to the panchanama conducted as per Exhibit P12.

18. PW6 is an investigating officer who speaks about his investigation.

19. Admittedly, the case is registered against unknown accused. However, same is registered against the driver of the



CNR: KAHC010173302016

vehicle bearing number KA-19/C-2325. Under the given set of circumstances, it is the duty of the investigating officer to issue notice to the owner of the offending vehicle to ascertain as to who was driving the vehicle as on the date of accident as required under Section 133 of Motor Vehicles Act. The same is not complied with. The investigating officer has not explained anything as to non-application of mandatory provisions of Section 133 of Motor Vehicles Act. PW1 has not deposed anything as to the rash and negligent act on the part of the accused. The trial Court, after appreciation of entire evidence in its proper perspective, has acquitted the accused which does not call for interference by this Court.

20. Considering the facts and circumstances of the case, I am of the opinion that the appellant has not made out any ground for interference with the impugned judgment of acquittal. Accordingly, in the fact and circumstances of the case and also in view of the aforestated judgments of Hon'ble Supreme Court, I answer point number one in the Negative.



CNR: KAHC010173302016

NC: 2026:KHC:52428
CRL.A No. 32 of 2016

Recording Point No.2:

19. For the reasons aforestated and discussions, I
proceed to pass the following:

ORDER

Appeal is dismissed.

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

Inn
LIST NO.: 1 SL NO.: 78