

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 03rd DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL REVISION PETITION NO. 1219 OF 2018

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

BETWEEN:

SHABBIR KHAN
S/O AMEER KHAN,
AGED ABOUT 43 YEARS,
RESIDENT OF SANJAYA GANDHI NAGAR,
ROBERTSONPET K.G.F.
TALUK: BANGARPET,
DISTRICT: KOLAR-563 113.

...PETITIONER

(BY SRI. VEERANNA G. TIGADI, ADVOCATE)

AND:

STATE OF KARNATAKA
REP BY SUB-INSPECTOR OF POLICE,
KOLAR RURAL POLICE STATION,
KOLAR DISTRICT,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENGALURU-560 001.

...RESPONDENT

(BY SRI. G S NAGHARISH, HCGP FOR RESPONDENT-STATE)

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THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397 READ WITH 401 OF CR.P.C PRAYING TO SETTING ASIDE THE IMPUGNED JUDGMENT OF CONVICTION AND ORDER OF SENTENCE DATED 03.04.2017 IN C.C.NO.545/2012 PASSED BY THE LEARNED 1ST ADDITIONAL SENIOR CIVIL JUDGE AND ACJM, KOLAR AND IMPUGNED JUDGMENT DATED 18.08.2018 IN CRIMINAL APPEAL NO.11/2017 PASSED BY THE LEARNED I ADDITIONAL SESSIONS JUDGE, KOLAR.

THIS CRIMINAL REVISION PETITION HAVING BEEN HEARD AND RESERVED ON 19.08.2026, COMING ON FOR PRONOUNCEMENT, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:



CORAM: HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV ORDER

Heard Sri. Veeranna G. Tigadi, learned counsel for the petitioner, and Sri G.S. Nagharish, learned High Court Government Pleader for respondent-State.

2. The petitioner 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 dated 03.04.2017 passed by the learned I Additional Senior Civil Judge and Addl. Chief Judicial Magistrate, Kolar, in Criminal Case No.545 of 2012, which is upheld by judgment dated 18.08.2018 passed by the learned I Additional District and Sessions Judge, Kolar, in Criminal Appeal No.11 of 2017 for the offences under Sections 279, 337 and 304A of the Indian Penal Code, 1860 (for short, 'IPC') and prays to acquit the petitioner for the aforesaid offences.

3. For the sake of convenience, the parties herein are referred to as per their rankings before the trial Court. The petitioner is the 'accused' and the respondent is the 'complainant-State'.

4. The case of the prosecution is that, on 24.03.2012 at about 4.00 p.m., accused No.1 Shabbir Khan being the driver of Innova Car bearing registration No.KA-05-MC-3083 drove the same in rash and negligent manner so as to endanger human life on NH-4 road, near the over bridge, in front of Belaganahalli Milk Dairy from Kolar to Mulabagal side and dashed the car against the Hero Honda Splendor Pro Motor Cycle bearing registration No.KA-08/Q-1259, due to which, the rider of the motor cycle Nagaraju and the pillion rider Ananda fell down and sustained severe injuries all over the body. They were shifted to R.L. Jalappa Hospital, Kolar, for treatment, where injured Nagaraju succumbed to the injuries sustained in the accident while undergoing treatment on 26.03.2012 at 1.45 p.m., whereas, Ananda sustained simple injury in the accident. Hence, PW.1 Byre Gowda lodged a complaint as per Ex.P1. Hence, the case has been registered and the investigation officer investigated the matter and filed the charge sheet for the offences punishable under Sections 279, 337 and 304A IPC against accused No.1 and under Section 196 of IMV Act against accused No.2. During trial, accused No.2 pleaded guilty to the charge under Section 196 of IMV Act, accordingly, the trial court sentenced him to pay fine of

Rs.1,000/- for the aforesaid offence. However, accused No.1 pleaded not guilty and claimed to be tried.

5. Soon after receipt of the charge-sheet, the trial Court took cognizance, recorded plea of accused No.1 and convicted the petitioner for the offences punishable under Sections 279, 337 and 304A of IPC and sentenced him to undergo simple imprisonment for six months with fine and with default sentence.

6. Aggrieved by the judgment of conviction and order on sentence passed by the trial Court, the accused preferred Criminal Appeal No.11 of 2017 before the First Appellate Court and in turn, the First Appellate Court dismissed the appeal and confirmed the judgment of conviction and order of sentence passed by the trial Court.

7. Aggrieved by the concurrent findings passed by the trial Court as well as the First Appellate Court, the accused preferred this revision petition.

8. Learned counsel for the petitioner/accused contends that the Courts below have erred in relying upon the oral testimony of PWs.1 to 9 without properly considering the material contradictions, omissions, improvements and

admissions elicited during cross-examination. Several witnesses have not supported the prosecution case, and the portions favourable to the defence have been ignored. It is contended that if the evidence of the prosecution, when considered as a whole, is neither consistent nor trustworthy and does not inspire confidence so as to sustain a conviction.

9. It is contended that the prosecution has failed to satisfactorily establish the identity of the offending vehicle and, more importantly, as to the identity of the petitioner as the person driving the vehicle at the relevant time. The alleged eyewitnesses did not have sufficient opportunity to observe the driver or identify the vehicle, and the essential link connecting the petitioner with the accident has therefore not been established beyond reasonable doubt.

10. Learned counsel further contends that the documentary evidence, read along with the admissions elicited from the prosecution witnesses, materially contradicts the alleged manner of occurrence. The defence version has also not been properly considered. It is therefore contended that the prosecution has failed to establish the essential ingredients of rashness and negligence beyond reasonable doubt and that the

findings of the Courts below are contrary to the cumulative effect of the evidence on record.

11. Learned counsel further contends that the conviction under Sections 279, 337 and 304A of the Indian Penal Code is legally unsustainable, particularly since the offences under Sections 279, 337 and 304A IPC arise out of the same alleged act and occurrence. It is also contended that the statement of the petitioner under Section 313 of the Cr.P.C. was not properly recorded and that he was not afforded an effective opportunity to explain the incriminating circumstances appearing against him in the evidence of the prosecution.

12. It is contended that the selective reliance upon portions of the prosecution evidence, coupled with the non-consideration of material evidence favourable to the defence, has resulted in findings that are contrary to the settled principles of criminal jurisprudence. The petitioner is therefore entitled to the benefit of doubt and acquittal and hence, he prays to allow the revision petition.

13. Per-contra, learned High Court Government Pleader appearing for the respondent State has contended that the trial Court as well as the First Appellate Court have given concurrent

findings, therefore, interference of this Court is not necessary to set aside the judgment of conviction and order on sentence passed against the accused. Hence, he justified the judgment of the trial Court as well as the First Appellate Court and prays to dismiss the revision petition.

14. On the basis of the submissions made by the parties to the *lis*, the following point would arise for consideration of this Court:

Whether the petitioner-accused proved that the judgment of conviction and order on sentence passed by the trial Court and confirmed by the First Appellate Court are perverse and calls for interference by this Court?

15. On perusal of the material available on record, the trial Court relied on the evidence of PW1, Sri. Bhyregowda, -first informant, who is an eyewitness to the incident and also elder brother of deceased Nagaraju has stated that on 24.03.2012, himself was travelling with PW.2 Shivanna on the motor cycle. PW.3 Ananda (injured eyewitness) and deceased Nagaraju were proceeding in another motor cycle. The motor cycle of Nagaraju was moving ahead of their vehicle, at that time, Innova car came from behind, over took them and dashed to the motor

cycle of Nagaraju, due to the said impact, both rider and pillion rider sustained severe injuries and they shifted injured Nagaraju and Ananda to Hospital for treatment, where PW.1 lodged the complaint to the police vide Ex-P1.

16. PW.2 Shivanna, who is another eye witness to the incident has reiterated the testimony of PW.1 and corroborated his testimony.

17. PW.3 Anand, an injured eye witness to the incident has stated that, on the day of the incident, he was proceeding on motor cycle alongwith deceased Nagaraju from Kolar, at that time, a car came from behind and dashed to their motor cycle, due to which, he sustained injuries all over his body and Nagaraju died on account of the injuries. According to PW.3, the accident took place near dairy on NH.4, Kolar.

18. PW4 and PW.5 are the witnesses to spot mahazar Ex-P2.

19. PW6 is wife of deceased Nagaraju, who is a *hearsay* witness has stated about the incident.

20. PW.7 to 9 are the Investigating Officers, who have stated about registration of the case, conducting investigation and submitting the charge sheet against the accused.

21. On perusal of the oral testimony of PW Nos.1 to 3, who are eyewitness to the accident, have categorically stated against the accused that the accused came in high speed in his Innova car and dashed against the motor cycle of the deceased. However, in the cross-examination, their presence at the scene of offence has not been disputed by the accused. In this case, the occurrence of accident is not disputed and the death of Nagaraju is also not disputed. Identity of the accused is also not disputed and only the manner of accident is disputed.

22. In the case of **RAVI KAPUR V. STATE OF RAJASTHAN** reported in **(2012) 9 SCC 284**, the Hon'ble Supreme Court held that rash and negligent driving must be evaluated based on the totality of circumstances, including the behavior and attention level of the driver.

23. Further, in the case of **STATE OF ARUNCHAL PRADESH V. RAM CHANDRA RABIDAS @ RATAN RABIDAS AND ANOTHER** reported in **(2019) 10 SCC 75**, the Hon'ble

Supreme Court emphasised that the Courts must take a strict view of vehicular accidents caused by blatant disregard for traffic rules and distracted driving, ensuring that deterrent punishments are not reduced without justification.

24. As per the contents of Ex.P2-spot mahazar and Ex.P8-sketch, there is no reference of any tyre mark to substantiate that the driver of the Innova car had applied brake before causing the accident. The testimony of PWs.1 to 3 corroborate the said aspect that the driver of Innova car was driving the vehicle in negligent manner and the accident occurred, while the driver of the car overtook the motor cycle of PW.1 and 2. Hence, it is just and necessary to analyse Section 279 of Indian Penal Code, 1860.

"279. Rash driving or riding on a public way.—

Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both."

25. To secure a conviction under Sections 279 and 304A IPC, the prosecution must prove the following specific essential ingredients, viz., :

- a. The prosecution must prove that the accused was the driver of car at the time of the incident.
- b. The prosecution must prove that the accident occurred on a public road or public way.
- c. The prosecution must prove that the car was driven with recklessness ("rashness"—doing an act knowing it is dangerous without intending harm) or lack of due care ("negligence"—failing to exercise standard precaution).
- d. The prosecution must prove that due to rash/negligent act of the driver of the car, accident occurred and as a result thereof, Nagaraju succumbed to the injuries.

26. The trial Court as well as the First Appellate Court have rightly held that Ex.P6-IMV report and Ex.P8-Rough sketch do not support the defence therein. Further, at the time

of the accident, the accused drove the car in a rash and negligent manner and dashed to the motor cycle of deceased Nagaraju. The perusal of entire evidence on record reveals that the accident was outcome of rash and negligent driving on the part of the accused, driver of the Innova car. Therefore, PWs.1 to 3 have clearly stated about the rashness on the part of the petitioner-accused. The trial Court and the First Appellate Court have rightly appreciated that if the vehicle of the petitioner had not overtaken the motor cycle of PW.1 and 2 in high speed, the accident would not have occurred.

27. As rightly pointed out by the learned HCGP, this petition is being filed against the concurrent findings of the trial Court as well as the First Appellate Court, as such, the scope of interference on the factual aspects is very limited. The evidence on record shows that the petitioner has not disputed the occurrence of the accident. He has also not disputed the death of Nagaraju and he has not disputed his identity before the trial Court. It was his defense that the deceased came in opposite direction and he was intoxicated.

28. The perusal of Ex-P5 post mortem report do not indicate any presence of alcohol in the abdomen of the

deceased. Moreover, Ex-P5 post mortem report was marked with consent. The accused ought to have summoned the Doctor and elicited the contents of Ex-P5. But, he has not done so and this contention has been taken in the revision petition. Further, the learned counsel for the accused has not suggested to any of the witnesses, more particularly, the Investigating Officer as to, it is the rider of the motor cycle (deceased and PW.3) came in opposite direction and they were in intoxicated condition.

29. The perusal of Ex-P7 wound certificate also do not indicate that, PW.3 injured Ananda was intoxicated at the time of accident. The further defence of the accused is that, PWs.1 to 3 are interested witnesses and are planted by the Investigating Officer, in order to help the family of the deceased and therefore, he is not responsible for the accident.

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** has held at paragraph No.16 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 of Cr.P.C., 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 PWs.1 to 3 ?.

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. Whereas, in this case, both, the trial Court as well as the First Appellate Court have correctly analysed the fact, evidence and law and had rightly convicted the petitioner for the aforesaid offences, which do not require any interference at the hands of this Court.

38. Learned counsel for the petitioner alternatively contended that, considering the age of the petitioner, who is aged about 50 years, the sole bread earner in the family and the fact that the matter is of the year 2012, and the petitioner has no criminal antecedents nor had any intention to cause the accident, thus a lenient view be taken by this Court by imposing only fine and set aside the sentence passed by the Courts below. The learned HCGP contended that, there was

sheer negligence on the part of the accused while driving the car and hence, a lenient view may not be taken in the matter.

39. Now, the only question that arises for the consideration of this Court is:-

"Whether imposition of sentence is tenable?"

40. In the instant case, the maximum sentence imposed by the trial court for the offence under section 304A IPC is six months. While dealing with the question "whether it is desirable to impose minimal or negligible sentence in a case of offence punishable under Section 304A of IPC", the Hon'ble Supreme Court in the case of **GURU BASAVARAJ @ BENNE SETTAPPA vs STATE OF KARNATAKA** reported in (2012) 8 SCC 734 at paragraph Nos.22, 28, 30 and 33, has held as under:

"22. In Dalbir Singh v. State of Haryana, this Court expressed thus:

"Bearing in mind the galloping trend in road accidents in India and the devastating consequences visiting the victims and their families, criminal courts cannot treat the nature of the offence under Section 304A IPC as attracting the benevolent provisions of Section 4 of the PO Act. While considering the quantum of sentence, to be imposed for the

offence of causing death by rash or negligent driving of automobiles, one of the prime considerations should be deterrence." Thereafter, the Court proceeded to highlight what is expected of a professional driver:

"A professional driver pedals the accelerator of the automobile almost throughout his working hours. He must constantly inform himself that he cannot afford to have a single moment of laxity or inattentiveness when his leg is on the pedal of a vehicle in locomotion. He cannot and should not take a chance thinking that a rash driving need not necessarily cause any accident; or even if any accident occurs it need not necessarily result in the death of any human being; or even if such death ensues he might not be convicted of the offence; and lastly, that even if he is convicted he would be dealt with leniently by the court. He must always keep in his mind the fear psyche that if he is convicted of the offence for causing death of a human being due to his callous driving of vehicle he cannot escape from jail sentence. This is the role which the courts can play, particularly at the level of trial courts, for lessening the high rate of motor accidents due to callous driving of automobiles."

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28. *In Alister Anthony Pareira v. State of Maharashtra, it has been laid down that sentencing is an important task in relation to criminal justice dispensation system. One of the prime objectives of the criminal law is imposition of appropriate, adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no straitjacket formula for sentencing an accused on*

proof of crime. The courts have evolved certain principles: twin objective of the sentencing policy is deterrence and correction. What sentence would meet the ends of justice depends on the facts and circumstances of each case and the court must keep in mind the gravity of the crime, motive for the crime, nature of the offence and all other attendant circumstances. It has been further opined that the principle of proportionality in sentencing a crime-doer is well entrenched in criminal jurisprudence. As a matter of law, the proportion between crime and punishment bears the most relevant influence in the determination of sentencing the crime-doer. The court has to take into consideration all aspects including the social interest and conscience of the society for award of appropriate sentence.

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30. From the aforesaid authorities, it is luminous that this Court has expressed its concern on imposition of adequate sentence in respect of commission of offences regard being had to the nature of the offence and demand of the conscience of the society. That apart, the concern has been to impose adequate sentence for the offence punishable under Section 304-A of the IPC. It is worthy to note that in certain circumstances, the mitigating factors have been taken into consideration but the said aspect is dependent on the facts of each case. As the trend of authorities would show, the proficiency in professional driving is emphasized upon and deviation therefrom that results in rash and negligent driving and causes accident has been condemned. In a motor accident, when a number of people sustain injuries and a death occurs, it creates a stir in the society; sense of fear prevails all around. The negligence of one shatters the tranquility of the collective. When such an accident occurs, it has the effect potentiality of making victims in many a layer and creating a concavity in the social fabric. The agony and anguish of the affected persons, both direct and vicarious, can have nightmarish effect. It has its

impact on the society and the impact is felt more when accidents take place quite often because of rash driving by drunken, negligent or, for that matter, adventurous drivers who have, in a way, no concern for others. Be it noted, grant of compensation under the provisions of the Motor Vehicles Act, 1988 is in a different sphere altogether. Grant of compensation under Section 357(3) with a direction that the same should be paid to the person who has suffered any loss or injury by reason of the act for which the accused has been sentenced has a different contour and the same is not to be regarded as a substitute in all circumstances for adequate sentence.

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33. *There can hardly be any cavil that there has to be a proportion between the crime and the punishment. It is the duty of the court to see that appropriate sentence is imposed regard being had to the commission of the crime and its impact on the social order. The cry of the collective for justice which includes adequate punishment cannot be lightly ignored. In *Siriya alias Shri Lal v. State of M.P.*, it has been held as follows:-*

"Protection of society and stamping out criminal proclivity must be the object of law which must be achieved by imposing appropriate sentence. Therefore, law as a corner-stone of the edifice of "order" should meet the challenges confronting the society. Friedman in his "Law in Changing Society" stated that, "State of criminal law continues to be – as it should be – a decisive reflection of social consciousness of society". Therefore, in operating the sentencing system, law should adopt the corrective machinery or the deterrence based on factual matrix. By deft modulation sentencing process be stern where it should be, and tempered with mercy where it warrants to be."

41. On perusal of the material available on record, in the instant case, the factum of rash or negligent driving has been established. Further, in view of the ratio laid down in the case of **GURU BASAVARAJ @ BENNE SETTAPPA**, wherein the Hon'ble Supreme Court has imposed maximum imprisonment of six months for the offence punishable under Section 304A of IPC and having regard to the facts and circumstances of the case, considering the fact that the trial court as well as appellate court have imposed sentence of six months against the accused, which is just and proper and the same does not require interference by this Court, accordingly, the revision petition is liable to be dismissed.

42. The learned counsel for the petitioner relied upon the decision in the case of **MATHUPANDI v. STATE THROUGH THE INSPECTOR OF POLICE, NILAKOTTAI STATION**, reported in **2024 SCC Online SC 3686**, **MOHAMMED AYNUDDIN v. STATE OF A.P.** reported in **(2000) 7 SCC 72** and **STATE OF KARNATAKA v. SATISH** reported in **(1998) 8 SCC 493**. These judgments are not aptly applicable to the case on hand and the above judgments were rendered under

different context and the principles laid down in those cases are rather different.

Hence, I proceed to pass the following:-

ORDER

1. The Criminal Revision Petition is ***dismissed.***

In view of the dismissal of the revision petition, pending interlocutory applications, if any, stand dismissed.

**Sd/-
(VENKATESH NAIK T.)
JUDGE**

MN/-