



CNR: KAHC010389502015

NC: 2026:KHC:52227
CRL.A No. 882 of 2015

**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. 882 OF 2015 (A)**

BETWEEN:

1. STATE OF KARNATAKA
BY PUBLIC PROSECUTOR
UDUPI.

...APPELLANT

(BY SRI. K. NAGESHWARAPPA, HCGP)

AND:

1. RAVI KUMAR
AGED ABOUT 37 YEARS,
SON OF SHIVARAM
SASIGOLI, KODLAMOGRA,
MANJESHWARA, KASARGOD-671121.

...RESPONDENT

(RESPONDENT SERVED AND UNREPRESENTED.)

CRL.A. FILED U/S.378(1) AND (3) CR.P.C BY THE S.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 OF ACQUITTAL DATED 02.03.2015 PASSED BY THE PRL. S.J., UDUPI DIST., UDUPI IN CRL.A.NO.102/2012 WHEREBY REVERSING THE FINDING OF GUILT OF THE RESPONDENT/ACCUSED RECORDED BY THE PRL. CIVIL JUDGE AND J.M.F.C., KARKALA DATED 31.10.2012 IN C.C.NO.4/2009 OF THE OFFENCE P/U/S 279 AND 304-A OF IPC AND ETC.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE G BASAVARAJA



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ORAL JUDGMENT

1. The State has preferred appeal against the judgment of acquittal dated 02.03.2015 passed in Crl.A.No.102/2012 by the Principal Sessions Judge, Udupi (for short, 'the trial Court')
2. For the sake of convenience, the parties herein are referred to as per their rank before the trial Court.
3. Brief facts leading to the appeal are that, the Circle Inspector of Police, Karkala submitted the charge sheet against the accused for the offence on Sections 279 and 304A of IPC. It is alleged by the prosecution that, on 25.11.2018 at about 05.15 pm, in a junction situated near Sri Krishna Mandir in Kasba village of Karkala taluk, accused drove the lorry bearing Reg.No.KA-19B-6477 from Pulkeri towards Banglegudde side in a rash and negligent manner endangering human life and dashed against motor cycle bearing Reg.No.KA-20S-9034 which was coming from Anekere towards Doopadakatte and as a result of



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which, the pillion rider U.K.Mohammed sustained grievous injuries and succumbed to the injuries and thus, the accused has committed offences punishable under sections 279 and 304A of IPC.

4. After conclusion of trial, the statement under Section 313 of Cr.P.C was recorded. The accused has denied the evidence appearing against him. Having heard the arguments on both sides, the trial Court has convicted the accused for the offence under Sections 279 and 304A IPC and passed a sentence to undergo simple imprisonment for a period of 6 months and pay a fine of Rs.1,000/- for the offence under Section 279 IPC and shall undergo simple imprisonment for a period of 1 year and pay a fine of Rs.2,500/- for the offence under Section 304A of IPC. Being aggrieved by the judgment of conviction and order on sentence passed by the Principal Civil Judge and JMFC, Karkala in CC.No.4/2009, the appellant/accused had preferred an appeal before the Principal Sessions Judge, Udupi in Criminal Appeal No.102/2012. Same came to be



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allowed on 02.03.2015. Being aggrieved by the judgment of acquittal passed by the Appellate Court, State has preferred this appeal.

5. The learned HCGP Sri Nageshwarappa K, would submit that the judgment of acquittal passed by the learned Sessions Judge is contrary to law, facts and circumstances of the case and evidence on record. The learned Sessions Judge has failed to consider the evidence of prosecution in totality in its proper perspective, and has come to the conclusion that the prosecution case is doubtful without any basis which is against the canon of application. The learned Sessions Judge has failed to appreciate the fact that PW1 and PW2, in their evidence, have categorically deposed that, accused was the driver of the offending vehicle and was driving the vehicle in a rash and negligent manner. The trial Court rightly convicted the accused, however the Appellate Court relying upon minor discrepancies, in the evidence of PW1 and PW2, and also relying on minor technicalities in Ex.P3-Mahazar and



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Ex.P4-sketch and by holding that driver of the vehicle in great speed on the highway, will not amount to rash and negligent driving and reversed the finding of the trial Court and by allowing the appeal, acquitted the respondent. Hence, the findings of the Appellate Court are erroneous. On all these grounds, it is sought for allowing the appeal.

6. Despite service of notice to the respondent, he remained absent and unrepresented.

7. Having heard the arguments of learned HCGP and on perusal of the entire materials placed before this Court, the following points would arise for my consideration:

(1) *Whether the State has made out any grounds to allow the appeal?*

(2) *What order?*

8. My answer to the above points as under:

(1) *Negative*

(2) *As per final order.*



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Regarding Point No.1:

9. 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 RUDRAGOUDAR 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 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



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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; 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.



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10. In the case on hand, the trial Court has convicted the accused for the offence under Sections 279 and 304A IPC. The learned Sessions Judge has acquitted the accused assigning reasons in Paragraphs 11 to 15, which reads as under:

"11. Point Nos.1 & 2:- It is the case of the prosecution before the court below that on 25-01-2008 at about 5.15 p.m. in a junction situated near Sri Krishna Mandir in Kasba village of Karkala taluk, the appellant/accused drove his lorry bearing Regn.No.KA 19B-6477 from Pulkeri towards Banglegude in high speed and negligently and dashed to a motor cycle bearing Regn.No.KA-20S-9034 coming on road leading from Ankere to Doopadakatte and due to that, the pillion rider of the motor cycle Mohammed Asif sustained grievous injuries and died on the way to the hospital and committed offences punishable under sections 279 and 304A of I.P.C.

12. PW.1 is the complainant and eye witness. PW.2 is an eye witness and rider of the motor cycle involved in the accident. PW.3 is panch to the spot mahazar. PW.4 is Motor Vehicle inspector who examined the vehicles involved in the accident. PW.5 is the Head Constable who received the complaint



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and registered the case. PW.6 is the C.P.I who filed the charge sheet.

13. PW.1 has deposed that he knew deceased Mohammed Asif and on 25-11-2008 at 5.00 p.m. he was making enquiry pertaining Municipality near Anekere, Krishna Mandir, at that time, one cantor came from Moodbidri side going towards Agumbe and it was in high speed and at the same time, the motor cycle came from Anekere side going towards Padubidri and there were two persons on it and when both vehicles are in the junction at that time, cantor dashed to the motor cycle and dragged the motor cycle at a distance of 5 meters and he immediately went to the spot and the pillion rider of the motor cycle had sustained severe injuries and the rider of the motor cycle had not sustained any injuries and he has seen the driver of the cantor and he took the injured in goods vehicle to Karkala Nursing Home for treatment and subsequently, he was referred to Manipal Hospital for further treatment. He has further deposed that thereafter he went to the police station and filed the complaint as per Ex.P1. In the cross-examination, he has stated that Krishna Mandir is situated on the eastern side at a distance of 25 meter from the spot of accident. He has further deposed that he was talking with 5-6 persons and after 2-3 minutes of the accident, he went to the



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spot of accident and there were 10 persons gathered and they were trying to take the injured to the hospital. He has admitted the suggestion that road leading from Pulkeri to Banglegude is the State Highway and the road leading from Anekere to Padubidri is cross-road. He has admitted the suggestion that normally the vehicles coming on cross-road have to move after the vehicles going on the main road. He has admitted the suggestion that if the bike rider had taken care and if he had gone after the vehicle on the main road passed, then he would avoided the accident. He has further stated that when he went to the spot, he was not knowing the colour of the cantor and its registration number and its driver and he subsequently, came to know about the same through police at the time of filing the complaint.

14. PW.2 has deposed that he knew deceased Mohammed Asif who died in accident. He has further stated that on 25-11-2008 at about 5.15 p.m. he and the deceased were going on motor cycle from Karkala to Padubidri and he was riding motor cycle and when they reached Anekere a cantor came from Mangalore side in high speed, when their motor cycle was going towards Padubidri, the said cantor dashed to their bike and the accused was driving the cantor and they fell down and Mohammed Asif had



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sustained severe injuries and subsequently, he died in the hospital and the accident occurred due to fault of the accused as he drove his vehicle in high speed. In the cross-examination, he has stated that road in which they were going was cross-road and cantor was coming on the main road. He has further admitted the suggestion that after passing of the vehicle on the main road the vehicles on the cross-road have to pass the road. He has admitted the suggestion that there is speed breaker before the spot of accident on the road leading from Pulkeri to Banglegudde and there is no speed breaker on the road leading from Anekere to Padubidri. He has further stated that the accused at the time of accident has applied his brake to prevent the accident and there are brake marks on the road. The complaint is at Ex.P1. In Ex.P1 it is stated that one cantor Eicher was coming from Moodbidri towards Agumbe on the Highway near Krishna Mandir at that time, motor cycle was coming from Anekere going towards Doopadakatte junction, at that time cantor dashed to motor cycle. The manner in which the cantor was coming has not been stated in the complaint. PWs.1 and 2 have stated that the accused was driving cantor in high speed. The speed with which the vehicle is driven is not always deciding factor to come to a finding whether it was driven



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rashly and negligently. When the road is free and the road condition is perfect, rider is justified in driving his vehicle at normal speed. Merely because PWs.1 and 2 have stated that the accused was driving the vehicle in high speed it cannot establish that he was driving rashly and negligently.

15. In Ex.P3 spot mahazar it is stated that there are brake marks of the front wheels of the lorry to the extent of 60 feet. In Ex.P5 sketch also there is mention of brake marks to the extent of 60 feet prior to the spot of the accident. On seeing Ex.P5 sketch it is also clear as deposed by PWs.1 and 2 in the cross examination that the vehicle of the accused i.e., cantor was going on State Highway and PW.2 and the deceased were coming on the motor cycle on the cross-road leading from Anekere towards Padubidri and the accident occurred in the middle of the junction of the said roads. The brake marks to the extent of 60 feet prior to the spot of accident goes to show that the accused was driving his cantor has applied brake to prevent the accident and inspite of that, the accident occurred. There is no mention of any brake marks of the motor cycle driven by PW.2 on the road leading from Anekere to Padubidri. PWs.1 and 2 have admitted in the cross-examination that the vehicles coming on the cross-roads have to pass through junction only after vehicles on the main



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road pass on it. Merely because the appellant/accused drove his vehicle in speed will not amount to rash and negligent driving by him as he was on the State Highway. The appellant/accused has applied brake to prevent the accident and there are brake marks to the extent of 60 feet which goes to show that the accused/appellant has tried to prevent the accident by applying brake and therefore, he was not rash or negligent. The court below has not appreciated the said fact in the proper perspective. Therefore, I hold that the court below has erred in holding that the appellant/accused drove his cantor-lorry in rash and negligent manner and committed offences punishable under sections 279 and 304A of I.P.C. Accordingly, I answer point Nos.1 and 2 in the affirmative."

11. I have carefully examined the evidence of all the witnesses independently. On re-examination, re-appreciation and re-consideration of the entire evidence on record, I do not find any legal or factual error in the judgment passed by the learned Sessions Judge. Considering the facts and circumstances of the case and



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keeping in mind the aforesaid decisions of the Hon'ble
Supreme Court, I proceed to pass the following:

ORDER

Appeal is **dismissed**.

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

DHA
LIST NO.: 1 SL NO.: 57