

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL REVISION PETITION NO.1063 OF 2017

BETWEEN:

SUKESH
S/O MUNIVENKATAPPA
AGED ABOUT 39 YEARS
MADIDAL
KOLAR TAUKE & DISTRICT-563101

...PETITIONER

(BY SRI. R.S.RAVI, SENIOR COUNSEL FOR
SRI. SRINIVAS RAO S.S., ADVOCATE)

AND:

THE STATE
BY ULSOOR GATE TRAFFIC POLICE
BENGALURU-560001

...RESPONDENT

(BY SRI. M. DIVAKAR MADDUR, HCGP)

THIS CRL.RP FILED IS UNDER SECTION 397 R/W 401 OF CR.P.C PRAYING TO SET ASIDE THE JUDGMENT DATED 29.08.2012 PASSED BY THE V ADDL. METROPOLITAN MAGISTRATE TRAFFIC COURT, BENGALURU IN C.C.NO.1060/2011 AND SET ASIDE THE JUDGMENT DATED 09.08.2017 PASSED BY THE LXI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU IN CRL.A.NO.601/2012 AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 28.07.2026 THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

CAV ORDER

This revision petition is filed against the judgment of conviction and sentence dated 29.08.2012 passed in C.C.No.1060/2011 by the Trial Court and also against the judgment of confirmation dated 09.08.2017 passed in Crl.A.No.601/2012 by the Appellate Court.

2. Heard the learned counsel appearing for the revisional petitioner and also the learned High Court Government Pleader appearing for the State.

3. The factual matrix of case of the prosecution before the Trial Court while invoking the offences punishable under Sections 279 and 304A of IPC against the revision petitioner is that on 02.11.2011 at about 7.50 a.m., at N.R. Road, the driver of the BMTC bus Reg. No.KA01-FA-444, drove the same in a rash and negligent manner and dashed to the Honda Activa Motorcycle No.KA01-EC-6626 which was coming on the same side. Due to the said impact, the rider of said motorcycle - Inbanathan Sameel fell down and sustained severe injuries and he succumbed to the injuries in the hospital at about 09.00

a.m. Hence, complaint was registered by PW1 at Ex.P1 and investigation is conducted and after completion of investigation, charge sheet was filed. The accused was secured and he did not plead guilty and claims the trial.

4. The prosecution mainly relies upon the evidence of PW1 to PW7 and also the documents of Ex.P1 to P9. The accused did not choose to lead any defence evidence and he was subjected to 313 statement and denied his negligence in 313 statement. The Trial Court having considered the evidence available on record accepted the evidence of PW1 and comes to the conclusion that while taking the turn, the driver of the bus drove the same in a rash and negligent manner and was not observed the motorcycle which was coming in the right side of bus and dashed against the said motorcycle. Thus, an accident was occurred due to negligence on the part of the driver of the bus. The said observation is found in paragraph 20 of the judgment of the Trial Court. Hence, the Trial Court comes to the conclusion that prosecution has proved its case beyond reasonable doubt and convicted and sentenced the revision petitioner.

5. Being aggrieved by the judgment of conviction and sentence passed by the Trial Court, an appeal was preferred by the revision petitioner before the Appellate Court. The Appellate Court on re-appreciation of both oral and document evidence available on record also accepted the evidence of PW1 holding that he being the complainant and eye-witness to the alleged incident, set the law in motion and his evidence is consistent and extracted the admission of PW1 in paragraph 16 of its judgment. The Appellate Court also taken note of the evidence of other witnesses and spot mahazar at Ex.P2 and also independently assessed the evidence of PW1 and PW3 and comes to the conclusion that accident was occurred on account of negligence on the part of revision petitioner and confirmed the judgment of the Trial Court.

6. Being aggrieved by the concurrent finding of both the Courts, the revision petitioner filed the present revision petition before this Court.

7. The main contention of the learned counsel appearing for the revision petitioner is that there is no dispute with regard to the accident. But none of the witnesses speak about the negligence on the part of the driver of the bus i.e.,

petitioner herein. The counsel would contend that accident was occurred at the circle and witnesses categorically depose that there was a green signal and vehicle was moving after giving the green signal. Hence, the question of rash and negligent driving on the part of petitioner does not arise. The answer elicited from the mouth of PW1 who claims to be the police constable who witnessed the incident, is contrary to the case of the prosecution since he has admitted in the cross-examination that the two wheeler was dragged by the bus for some distance and the same is not mentioned either in the complaint or in the statement recorded by the Investigating Officer. Thus, PW1 evidence is not corroborated with other evidences.

8. The counsel further would vehemently contend that PW2 is a hearsay witness. The evidence of PW3 who is a Conductor of the bus is that only he has heard the sound when he was inside the bus. His evidence is very clear that vehicle was not moving in a speed. The other witness is PW6 who was alleged to an eye-witness to the incident. He deposed that he was riding his vehicle behind the two wheeler which was involved in the accident. He was at the distance of 4 feet from two wheeler which met with the accident. He deposes that he noted down the register number of both the vehicles involved in

the accident. But in the cross-examination, the evidence of this witness not inspires the confidence of the Court since he says that he did not notice the green signal. The Trial Court fails to take note of the evidence available on record in a proper perspective since there are contradictions and none of the witnesses have witnessed the accident and there was no negligence on the part of this petitioner. The counsel would vehemently contend that the spot sketch at Ex.P3 clearly depicts the place of the accident wherein four roads intersect at the said place. Thus, the question of turning the bus in a rash and negligent manner does not arise. The Trial Court also fails to take note of the IMV report which clearly depicts that no damage caused to the bus and only scratch mark was found on the motorcycle and said motorcycle itself fell on the victim. Merely because that there was an accident, this petitioner cannot be convicted for the alleged offences when there are no ingredients as well as there is no evidence. Hence, the counsel for the petitioner prayed this Court to acquit the petitioner.

9. Per contra, the learned High Court Government Pleader appearing for the State in his arguments would vehemently contend that evidence of PW1 and PW6 who claim to be the eye-witnesses is consistent. The counsel also would

vehemently contend that PW3 is the Conductor of the bus and he was also heard the sound of accident. Though, he has not spoken anything about negligence on the part of petitioner, but evidence available on record is sufficient to convict the petitioner. Hence, the Trial Court and Appellate Court have rightly accepted the case of the prosecution. Thus, it does not require any interference of this Court.

10. Having heard the learned counsel appearing for the respective parties and also on perusal of the material on record, the Point that would arise for the consideration of petition is:

1. Whether the judgment of Trial Court and Appellate Court suffers from its legality and correctness? Whether this Court can exercise the revisional powers?

2. What order?

Point No.1:

11. Heard the arguments of the learned counsel appearing for the respective parties and perused the material on record. The scope of revision is very limited and this Court

has to take note only whether there is any miscarriage of justice in accepting the evidence of the witnesses and whether the judgments of both the Courts suffer from its legality and correctness or not. The prosecution mainly relies upon the evidence of PW1, who is a complainant and eye-witness to the incident. In his evidence, he says that accident took place at 07.50 a.m. The driver of the bus suddenly drove the bus towards left side and at that time, the rider of the motorcycle was coming from the right side and bus came in contact with the motorcycle, as a result, motorcyclist fell down and motorcycle also fell on him. Immediately, he himself and other public were taken the injured to the St.Marthas hospital and driver of the bus also accompanied him and he identifies the driver. In his evidence, he says that the accident was occurred due to rash and negligent driving on the part of the bus driver. When he himself and public screamed at the spot, bus was taken 30 feet ahead from the place of accident and he gave the complaint in terms of Ex.P1.

12. PW1 was subjected to cross-examination. In the cross-examination, he admits that the complaint was written by the writer of the police station. But he has not given any document as he was on duty. He categorically admits that at

the place of accident, 4 roads intersect and also he admits that in Hudson circle, there is a movement of more vehicles. He admits that there was a green signal at the time of the accident at Hudson circle and behind the bus as well as both the sides of the bus, other vehicles were also moving. He further admits that he went to spot within 20 to 30 seconds. He admits that at the time of accident, driver of the bus and motorcyclist were taking right turn. But in his chief evidence, he says that when bus driver took the bus on the left side suddenly, accident was taken place. Having taken note of this evidence, it is very clear that PW1 was not at the spot at the time of accident since, in one breath, he says in his chief evidence that driver of the bus taken the bus on the left side and in another breath, he says that the rider of the motorcycle was on the right side. He categorically admits that in the complaint, he did not mention that without any signal, the driver took the bus towards the right side and admits that in the bus there were passengers. However, he states that the right side of the rear portion of the bus came into contact with the two-wheeler and he categorically admits that the same was also not mentioned in the complaint. He also categorically admits that he has not

mentioned in his complaint that bus dragged the motorcycle. These admissions take away the case of prosecution.

13. The very evidence that when the driver taken the bus on the left side, the accident was taken place on the right side. In this regard, this Court has to take note of the sketch at E.P3 which clearly depicts the place of accident. Having perused Ex.P3, it is very clear that both the bus and also the rider of the motorcycle were proceeding in the same direction and accident was taken place in front of the Hudson Church. It is very clear that driver of the bus taking the bus on the right and proceeding in his direction. It is also very clear that motorcyclist who took the right turn, instead of going in the same direction he himself went towards the bus and dashed against the bus. It is very clear that there was a 15 feet distance in front of Hudson Circle to the place of accident and sketch prepared by the IO itself goes against the rider of the motorcycle who went and dashed against the bus.

14. It is important to note that on perusal of IMV report which is marked as Ex.P9, it discloses that there was no any damages to the bus but, only in the motorcycle front left side

shield, scratches were noticed. Hence, it is very clear that front left side two wheeler came in contact with the bus.

15. The Court has to take note of the evidence of PW7 who categorically says that when BMTC bus passes from the Corporation signal, rider of the motorcycle, due to vibration, fell down. But bus was not stopped at the spot. This evidence of PW7 is very clear that the motorcyclist fell down on his own. It is also important to note that though PW2 is examined but he says that he learnt about the accident and hence, he is hearsay witness. PW3 who is the Conductor of the bus, in his evidence, he says that when the bus driver driving the bus on the left side of the road towards Majestic, he heard the sound and peeping through the window, he noticed that the motorcyclist had fallen on the ground and police came to spot after the accident. Hence, his evidence is very clear that PW1 was not present at the spot at the time of accident. This witness also reiterates that there was a green signal at the spot when suggestion was made in the cross-examination. He also admits that at the time of the accident he was issuing the ticket. Thus, he was not an eye-witness to the incident to say that how the accident has taken place.

16. Prosecution relies upon the evidence of PW6 who is also an eye-witness to the incident. In his chief evidence, he says that ahead of his vehicle, motorcyclist who met with an accident was proceeding. He says that bus driver dashed against the motorcycle while turning and thereafter, traffic police came to the spot. His evidence also clear that traffic police came to the spot after the accident. This witness also pointed out the place of accident. In the cross-examination he admits that he was proceeding in his two wheeler. When suggestion was made to this witness that four roads intersect at the place of accident, he says that accident was not taken place in the said spot. But the evidence of PW1 is very clear that four roads intersect at the place of accident. PW6 further admits that due to green signal, vehicles were proceeding. All the witnesses i.e., PW1, PW3, PW6 says that there was a green signal and vehicles were moving and accident was taken place immediately after the green signal changed. Hence the very question of driving the bus in a rash and negligent matter does not arise. PW6 also admits that other vehicles were also moving. It is suggested that at the time of green signal, all vehicles were moving suddenly but the said suggestion was denied. Once, he admits that there was a green signal for

movement of vehicle and again he denies the same. He cannot tell after how many minutes of green signal, the alleged accident was occurred.

17. Having reassessed both oral and documentary evidence placed on record, the very presence of PW1 at the place of accident is doubtful since he says that driver of the bus taken the bus towards the left side immediately after the signal. But place of accident shown in Ex.P3 is contrary to the evidence of PW1. Ex.P3 depicts that motorcyclist went towards the bus and bus not came towards the right side as deposed by the witnesses and sketch at Ex.P3 is not disputed. The evidence of PW6 that he was present at the time of the accident, but this witness presence also doubtful since he says that there was no four roads intersect at the place of accident. But the sketch is very clear that four roads intersect at the place of accident. PW6 says that the accident was not near to said place. But it is very clear that from the place of accident, there was Halasoor Gate Police Station and N.R. Circle side, vehicles goes directly towards the K.G. road and vehicles coming from Hudson Circle, moves in front of Hudson Church. The bus and motorcycle were moving in the same direction and accident was taken place at the distance of 15 feet from the place of Hudson Church. The

sketch is very clear that BMTC bus was proceeding towards the right side in the same direction. But motorcyclist himself went towards the bus and accident was occurred. Hence, both the Courts fail to take note of evidence available on record i.e., oral evidence as well as documentary evidence and also fail to take note of IMV report marked at Ex.P9 which discloses that there was no damages to the bus and damage was caused only to the motorcycle. Evidence of PW7 is very clear that due to vibration, the rider of the motorcycle fell down and motorcycle also fell on him. As a result, he has sustained injuries. Both Courts fail to take note of these materials available on record. When the benefit of doubt goes in favour of the accused/petitioner, ought to have extended the same in his favour. Thus, the judgments of both the Courts suffer from its legality and correctness. Hence, this Court has to exercise the revisional jurisdiction since there is a miscarriage of justice in appreciating both oral and documentary evidence by the Trial Court as well as the Appellate Court. Hence, I answer the point as affirmative holding that the judgments of both the Courts require interference of revisional jurisdiction.

Point No.2:

18. In view of the discussions made above, I pass the following:

ORDER

The revision petition is allowed.

The impugned judgment of conviction and sentence dated 29.08.2012 passed in C.C.No.1060/2011 by the Trial Court and also the judgment of confirmation dated 09.08.2017 passed in Crl.A.No.601/2012 by the Appellate Court are set aside.

Consequently, the accused is acquitted for the offences punishable under Sections 279 and 304A of IPC.

If fine amount is deposited, the same is ordered to be released in favour of the revision petitioner on proper identification.

The bail bond executed by the petitioner stands cancelled.

Sd/-
(H.P.SANDESH)
JUDGE

SN