



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 27<sup>TH</sup> DAY OF APRIL, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE V SRISHANANDA**

**CRIMINAL REVISION PETITION NO.1154 OF 2017**

**BETWEEN:**

SRI B NAGARAJU  
S/O BASAVARAJU  
AGED ABOUT 37 YEARS  
R/AT POST OFFICE ROAD,  
SRIRANGAPATTANA  
MANDYA DISTRICT.

...PETITIONER

(BY SRI SHRIDHARA K, ADVOCATE)

**AND:**

STATE OF KARNATAKA  
BY DEVARAJA TRAFFIC POLICE, MYSORE  
REP. BY PUBLIC PROSECUTOR  
HIGH COURT BUILDING  
AMBEDKAR VEEDHI,  
BANGALORE - 560 001.

...RESPONDENT

(BY SMT.WAHEEDA.M.M, HIGH COURT GOVERNMENT PLEADER)

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397 R/W 401 CODE OF CRIMINAL PROCEDURE PRAYING TO SET ASIDE THE JUDGMENT AND ORDER OF CONVICTION PASSED AGAINST THE PETITIONER ON 14.02.2017 ON THE FILE OF III ADDITIONAL SENIOR CIVIL JUDGE AND C.J.M., MYSURU IN C.C.NO.619/2012 AND ALSO SET ASIDE THE JUDGMENT AND ORDER DATED 10.08.2017 PASSED BY THE II ADDITIONAL SESSIONS JUDGE, MYSURU IN CRL.A.NO.63/2017.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

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Location:  
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COURT OF  
KARNATAKA



CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

**ORAL ORDER**

Heard Sri Sridhara K., learned counsel for the revision petitioner and Smt. Waheeda M.M., learned High Court Government Pleader for the respondent/State.

2. Accused who suffered an order of conviction dated 14.02.2017 in C.C.No.619/2012, on the file of III Additional Senior Civil Judge and CJM., Mysuru, confirmed in Criminal Appeal No.63/2017, dated 10.08.2017, on the file of II Additional Sessions Judge, Mysuru, is the revision petitioner.

3. Facts in the nutshell which are utmost necessary for disposal of the present petition are as under:

3.1. A complaint came to be lodged with Devraja Traffic Police Station, Mysore District in respect of a road traffic accident that occurred on 06.05.2009 at about 05.00 p.m. on ring road, near Ganapathy Temple at Rajivnagar, Mysore, involving a goods tempo bearing registration No.K.A.09/3476, which dashed against a bicycle rider who fell down and sustained injuries.



4. PW4 is the eyewitness who was also proceeding on the same road in a two wheeler by name Veerabhadra witnessed the incident. He was examined by the police and charge sheet came to be filed as bicycle rider lost his life in the hospital.

5. On taking cognizance of the offence alleged against the accused, presence of the accused was secured and plea was recorded. Accused pleaded not guilty therefore trial was held.

6. In order to prove the case of the prosecution, prosecution in all examined seven witnesses namely, complainant Ramesh, Fairouz, Veerabhadra, Ramchandra B, Iliyas Ahmad and Kantharaju as P.Ws.1 to 7 and placed on record eight documents namely, complaint, spot mahazar, inquest, PM report, IMV report, FIR and sketch as Exs.P1 to P8.

7. On conclusion of recording of evidence, accused statement as is contemplated under Section 313 of Code of Criminal Procedure was recorded, wherein accused has denied all the incriminatory circumstances, but failed to place his version on record.



8. Thereafter, learned Trial Magistrate convicted the accused and sentenced as under:

*"Acting under section 255(2) of Cr.P.C., the accused is CONVICTED AND SENTENCED to pay fine of Rs.1,000/- for the offence punishable under section 279 of IPC and in default of payment of fine he shall undergo simple imprisonment for one month.*

*The accused is CONVICTED AND SENTENCED to undergo simple Imprisonment for six months and shall pay fine of Rs.500/- for the offence punishable under section 304(A) of IPC in default of payment of fine, he shall undergo simple imprisonment for two months.*

*The accused is CONVICTED AND SENTENCED to pay fine of Rs. 1,000/-for the offence punishable Under Section 146 R/w Section 196 of IMV Act. In default of payment of fine he shall undergo simple imprisonment for five days."*

9. Being aggrieved by the same, accused filed an appeal before the District Court, in CrI.A.No.63/2017.

10. Learned Judge in the First Appellate Court, after securing the records, heard the arguments of the parties in detail and on re-appreciation of the material on record, dismissed the appeal of the accused.



11. Being further aggrieved by same, accused is before this court.

12. Sri Shridhara K., learned counsel for the revision petitioner reiterating the grounds urged in the revision petition would contend that except the oral testimony of PW4, there is no other material on record which would establish that petitioner is responsible for the accidental death of the bicyclist by name Siddappa. Therefore, sought for allowing the revision of petition.

13. Alternatively, Sri Shridhara K., would content that in the event of this court upholding the order of conviction by enhancing the fine amount the imprisonment may be set aside.

14. Per contra, Smt. Waheeda M.M. learned High Court Government Pleader supports the impugned judgments.

15. She would further contend that admittedly, PW4 is a chance witness who was proceeding in the same direction that of the bicyclist and he has specifically deposed about the petitioner being the goods tempo driver having hit the bicyclist and later on shifting the injured in his tempo and he came to know that bicyclist later died in the hospital.



16. Therefore, order of conviction is just and proper, especially in the absence of any defence evidence placed on record.

17. Insofar as alternate submission is concerned, Smt. Waheeda M.M., would contend that because of the rash and negligent driving of the petitioner, a valuable human life has been lost and thus, sought for dismissal of the revision petition *in toto*.

18. Having heard the arguments of both sides, this Court perused the material on record meticulously.

19. On such perusal of the material on record, PW4 is the chance witness who has witnessed the incident at about 05.00 p.m. on 06.05.2009 on Mahadevapura - Bangalore ring road, bicyclist was moving ahead of PW4 and the tempo driver (accused), drove the tempo after overtaking PW4 dashed against the bicyclist.

20. Immediately, he stopped his two wheeler and noticed that there were injuries on the head and other parts of the body. The petitioner being the driver of the tempo, shifted the injured in the very same tempo to the hospital. Later on PW4 came to know that bicyclist died.



21. The detailed cross examination of PW4 did not yield any positive result so as to hold that he is interested in getting an order of conviction for the accused as there is no previous enmity or animosity nurtured by PW4 against the accused.

22. Taking note of these aspects of the matter, learned Trial Magistrate culled out the incriminatory circumstances and put it across to the accused while recording the accused statement as is contemplated under Section 313 of Code of Criminal Procedure.

23. Surprisingly, petitioner who shifted the injured in his own tempo to the hospital went to the extent of denying the very accident itself. Further, he failed to place his version about the incident on record either by examining himself or any witness about the incident.

24. Thus, learned Trial Magistrate rightly appreciated the material evidence on record and convicted the accused for the aforesaid offences and passed an order of sentence.

25. Learned judge in the First Appellate Court rightly re-appreciated the said material evidence on record and in the absence of any lacuna in the order of the Trial Magistrate, upheld the order of Trial magistrate.



26. This Court, having regard to the limited revisional jurisdiction, does not find any good reasons to interfere with the order of the learned Trial Magistrate, especially when the accused has denied the very accident itself.

27. In a matter of this nature, accused is bound to place his version on record after the prosecution establishes its case. But accused has deliberately failed to make use of such an opportunity in placing his version on record. More so, when he himself has shifted the injured in his own vehicle to the hospital.

28. Thus, order of conviction recorded by the learned Trial Magistrate, confirmed by the First Appellate Court needs no interference.

29. View of this Court in this regard is supported by the principles of law enunciated by the Hon'ble Supreme Court in the case of ***Ravi Kapur v State of Rajasthan*** reported in **2012 (9) SCC 284.**

30. This would take this Court to the alternate submission made on behalf of the petitioner that the imprisonment may be set aside by enhancing the fine amount reasonably.



31. To appreciate such a contention on behalf of the revision petitioner, no mitigating circumstances are found. Only ground that the incident has occurred in the year 2009 and at this distance of time, petitioner shall not be sent to the Jail.

32. Such a contention cannot be countenanced in law for more than one reason.

33. Firstly, the petitioner has denied the very accident itself even after shifting the injured in his own vehicle. Further, PW4 being the true and honest witness has been cross examined to portray that he is deposing falsely. Secondly, since the petitioner has not placed any version about the incident and because of his rashness a valuable human life has been lost. Thus, following the dictum of Hon'ble Apex Court in the case of ***State of Punjab v. Saurabh Bakshi*** reported in **(2015) 5 SCC 182**, order of imprisonment of six months for the offence punishable under Section 304A of Indian Penal Code is justified in the facts and circumstances of the case.

34. Accordingly, the following:

**ORDER**

(i) Criminal Revision Petition is ***dismissed***.



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CRL.RP No. 1154 of 2017

- (ii) Revision petitioner is granted time till **20<sup>th</sup> May 2026** to surrender before the Trial Court.

**Sd/-  
(V SRISHANANDA)  
JUDGE**

MR,  
List No.: 2 SI No.: 58