



CNR: KAHC010460292017

NC: 2026:KHC:51807
CRL.RP No. 1155 of 2017

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE GEETHA K.B.

CRIMINAL REVISION PETITION NO. 1155 OF 2017

BETWEEN:

1. SRI MANJU
S/O LATE MAYEGOWDA,
AGED ABOUT 29 YEARS,
RESIDING AT BOPPANAHALLI VILLAGE,
H.D.KOTE TALUK,
MYSORE DISTRICT-572114.

...PETITIONER

(BY MS.ANANYA RAI, ADVOCATE FOR
SRI. MANJESH H M.,ADVOCATE)

AND:

1. STATE BY H D KOTE POLICE STATION
H.D.KOTE, MYSORE DISTRICT,
REPRESENTED BY SPP,
HIGH COURT OF KARNATAKA,
BANGALORE-560001

...RESPONDENT

(BY SRI.M.SRINIVAS KUMAR, HCGP)

THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING TO SET ASIDE THE JUDGMENT DATED 14.11.2014 PASSED BY THE JUDICIAL MAGISTRATE FIRST CLASS, H.D KOTE IN CRL.C.NO.291/2008 AND JUDGMENT DATED 12.07.2017 PASSED BY THE VIII ADDITIONAL DISTRICT AND SESSIONS JUDGE, MYSURU SITTING AT HUNSUR IN CRL.A.NO.226/2014.

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THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: HON'BLE MRS. JUSTICE GEETHA K.B.

ORAL ORDER

This Criminal Revision Petition is filed under Section 397 r/w.401 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C') by the revision petitioner/accused challenging the judgment of conviction and order of sentence dated 14.11.2014 passed in CC No.291/2008 on the file of JMFC, H.D. Kote, (in short 'the trial Court') and the appeal judgment in Criminal Appeal No.226/2014 dated 12.07.2017 on the file of VIII Addl. District and Sessions Judge, Mysuru, sitting at Hunsur (in short 'the appellate court').

2. Parties would be referred with their ranks, as they were before the trial court for the sake of convenience and clarity.

3. Charge-sheet is filed against the accused before the trial Court alleging the offences punishable under Sections

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279, 338, 304-A of IPC r/w. Section 134 (a), (b), 181, 196 of the Motor Vehicles Act, 1988 (for short the "M.V. Act").

4. The case of prosecution in nutshell is that on 31.12.2007 at about 10.00 p.m. on Mysore-Manandavadi road near the lands of one Somanna at Hommargalli Village, CW2 along with deceased-Ravindra Nikam coming in the motorbike bearing Reg.No.KA-11/R-5462 and at that time, the jeep bearing Reg.No.CNE-7707 came from opposite side and dashed against the motorbike and said jeep was being driven by the accused in a rash and negligent manner, so as to endanger human life and personal safety of others and because of this accident, the pillion rider sustained grievous injuries and died on the same day at about 11.15 p.m., in BGS Apollo Hospital, Mysuru; the rider of the motorcycle also sustained injuries and has taken treatment in the hospital.

5. It is the case of prosecution that accused stopped the jeep, came to the spot of accident, saw the rider and



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pillion rider sustaining injuries. However, without providing any first-aid treatment to them, he left the jeep at the spot and ran away from the spot. Hence, the case is lodged against the accused alleging the aforesaid offences.

6. At the time of framing accusation, accused pleaded not guilty and claimed trial before the trial Court.

7. After recording evidence of the witnesses i.e., PWs. 1 to 11, the trial Court recorded the statement of accused under Section 313 Cr.P.C.; after hearing arguments, came to the conclusion that accused has committed the offences alleged against him, convicted him of the offences punishable under Sections 379, 338, 304-A r/w Section 134 (a) (b) and 181 and 196 of M.V. Act as follows:

1. Acting U/s. 255 [2] of Cr.P.C., Accused is hereby convicted for the offence punishable U/s. 279, 338, 304[A] of IPC R/W Sec. 134[a] & [b], 181, 196 of IMV Act

2. Accused is hereby convicted for the offence punishable U/s 279 of IPC, sentenced him to pay a fine of Rs. 1,000/- or in default, he shall under go Simple Imprisonment for a period of 30 days.

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3. Secondly, Accused is hereby convicted for the offence punishable U/s. 338 of IPC, sentenced him to pay a fine of Rs. 1,000/- or in default he shall under go Simple Imprisonment for a period of 30 days.

4. Thirdly Accused is hereby convicted for the offence punishable U/s. 304[A] of IPC, he shall under go Simple Imprisonment for two years and shall pay fine of Rs. 10,000/- or in default payment of fine amount, Simple Imprisonment is extended additional 3 months, if the fine amount is paid out of the fine amount Rs.5,000/- shall pay to CW2 after lapse of appeal period, as compensation required U/s. 357 of Cr.P.C.

5. Fourthly Accused is hereby convicted for the offence punishable U/s. 134 [a] and [b] R/w Sec. 187 of IMV Act, sentenced him to pay fine of Rs. 1,000/- or in default he shall under go Simple Imprisonment for 3 months.

6. Fifthly Accused is hereby convicted for the offence punishable U/s. 181 of IMV Act R/w Sec. 3 of Motor Vehicle Act, Accused shall pay a fine amount of Rs. 500/- or in default he shall under go Simple Imprisonment for 3 months.

7. Finally Accused is hereby convicted for the offence punishable U/s. 196 of IMV Act, sentenced him to pay fine of Rs.1,000/- or in default he shall undergo Simple Imprisonment for 3 months.

8. Accused bail bond and surety bond stand cancelled.

9. Sentence of conviction shall run concurrently.

10. Supply Judgment copy to the Accused at free of cost forthwith."



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8. Aggrieved by the said judgment of conviction and order of sentence, accused has filed the criminal appeal before the appellate Court. The appellate Court after hearing arguments of both sides confirmed the judgment of conviction and order of sentence against accused.

9. Aggrieved by the same, accused is before this court.

10. Heard arguments of both sides.

11. Learned counsel for the revision petitioner Ms.Ananya Rai would submit that there are lots of contradictions between the complaint averments, evidence of prosecution witnesses; the panch witnesses have not supported the case of prosecution; the accused was not identified by the eyewitness properly and no Test Identification Parade was conducted immediately after the arrest of accused. According to the case of prosecution, the Jeep in question stands in the name of CW12, who sold it to CW13 who, in turn sold it to CW14. However, the documents at RTO were not changed into the name of



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CW14. It is the case of prosecution that CW.14 appointed the accused as driver. However, this fact is not admitted by CW14 in the evidence who was examined as PW8. Only in a spur of moment, when the rider and pillion rider of the motorbike were injured in night time, the person who was driving the jeep was seen by PW1, who was the rider of the motorcycle. No Test Identification Parade was conducted immediately after the arrest of accused. The I.O has deposed that based on the statements of the owners and the eye-witnesses, he came to the conclusion that accused was the driver of the offending vehicle as on the date of accident. The said fact is not established by producing cogent evidence as stated above. In this regard, learned counsel for the revision petitioner places reliance on the following judgments of Hon'ble Apex Court :

i) ***Rajesh Govind Jagesha Vs State of Maharashtra and Others*** reported in ***(1999) 8 Supreme Court Cases 428;***



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ii) ***Nazim and others Vs State of Uttarakhand***
reported in ***2025 SCC Online SC 2117***

The learned counsel for the accused would submit that the doctor who conducted postmortem and the doctor who issued wound Certificate of PW.1 were not examined. According to the postmortem report, deceased has consumed alcohol. All other witnesses were interested witnesses. Hence, prayed for allowing the revision petition.

12. Learned HCGP representing the State would submit that there is concurrent finding of the trial Court as well as the Appellate Court that accused has committed the offences alleged against him and it is proved beyond reasonable doubt. The jurisdiction under revision is very limited. Hence, there is no scope to interfere with the judgment of the trial Court confirmed by the appellate court. Hence, prays for dismissal of the revision petition.

13. Perused the revision petition papers, records of the trial Court as well as the appellate Court.

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14. The revision petition is filed challenging the judgment of conviction by the trial Court which is confirmed by the appellate Court. The revisional jurisdiction of this Court is very limited. In this regard, this Court places reliance on the Judgment of the Hon'ble Apex Court in the case of ***Kuntegowda v/s Thurubaiah (Arising out of Special Leave Petition (Criminal) No.2247 of 2024 dated 04.08.2026)***. In the aforesaid judgment, the Hon'ble Apex Court at paragraph Nos.7.1. to 7.3 has discussed the revisional jurisdiction of this Court, which reads as follows:

"7.1 This Court, in the State of Maharashtra vs. Jagmohan Singh Kuldip Singh Anand, (2004) 7 SCC 659 observed that the High Court, in exercise of its revisional jurisdiction, cannot embark upon an in-depth roving re-examination of the oral evidence and medical evidence and come to a conclusion contrary to the consistent one reached by two courts below. In the facts of the present case, in the impugned judgment, the High Court gravely erred in upsetting the concurrent findings of conviction of the trial court and the Appellate Court by substituting its own conclusions and reasoning on the merits of the case and thereby erred in setting aside the well-reasoned and correct

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judgement and orders of the trial and appellate courts.

7.2 Upon perusal of the impugned judgment and order dated 06.10.2023, it is apparent that the High Court went into great detail into each of the testimonies, documents and merits of the case which could have been avoided especially when the subject matter had come under its revisional jurisdiction. Instead, acting as an appellate Court, the High Court deemed it fit to go into the merits of the case, something which is generally impermissible unless a glaring contradiction is apparent on the face of record. In State of Kerala vs. Puttumana Illath Jathavedan Namboodiri, (1999) 2 SCC 452, while considering the scope of the revisional jurisdiction of the High Court this Court has laid down the following:

"5.... In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate court nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to reappreciate the evidence and come to its own conclusion on the same when the evidence has already been

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appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice. On scrutinizing the impugned judgment of the High Court from the aforesaid standpoint, we have no hesitation to come to the conclusion that the High Court exceeded its jurisdiction in interfering with the conviction of the Respondent by reappreciating the oral evidence...."

7.3. The contours for exercise of revisional jurisdiction has been well settled by the judicial dicta of this Court wherein time and again it has been observed that the High Court shall not interfere with the orders of the lower court unless:

- i. The order or finding of the lower court is perverse, grossly erroneous, glaringly unreasonable or wholly unreliable or untenable in law.*
- ii. The lower court has passed the impugned order after considering an immaterial or irrelevant material or no material at all.*
- iii. There is a non-consideration of any relevant material or the judicial discretion has been exercised arbitrarily or capriciously."*



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15. Thus, only if the judgment of the trial Court confirmed by appellate Court is perverse or grossly erroneous, are grossly unreasonable, or wholly unreliable, or wholly untenable, or the trial Court considered an immaterial or irrelevant, material or no material or not at all relevant material or judicial discretion has been exercised arbitrarily and capriciously, the revisional Court can interfere with such judgment.

With this background, the facts of the present case are to be analyzed.

16. The facts established before the trial Court, by producing cogent evidence were that PW1 is the rider of motorcycle and its pillion rider died in the accident that has taken place involving the offending jeep bearing Reg. No. 7707. Said jeep was seized from the spot of accident on next day of the accident. The spot panchanama as well as spot sketch as per Ex.P.3 and Ex.P.12 respectively were drawn at the spot. The I.O has categorically deposed

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about these facts in his evidence. His evidence is supported by PW 4, the witness, who had shown the spot. One of the panch witnesses has not supported the case of prosecution. However, the evidence of PW4 along with the evidence of PW11 is sufficient to hold that PW11 has drawn the panchanama at the spot on next day of the incident and seized motorbike and offending jeep from the spot of incident. Hence the argument of the learned counsel for the revision petitioner that panchanama is not proved cannot be accepted.

17. Another ground taken by the revision petitioner is that Test Identification Parade was not conducted. In this regard, learned counsel for the accused places reliance on the judgments of the Hon'ble Apex Court in **Rajesh Govind's** case cited supra wherein at paragraph No.4 it is held as under :

4. It was not for the defence to prove that the parade held was suffering from legal infirmities because, admittedly, the onus of proof in criminal case never shifts as the accused is presumed to be innocent till proved otherwise, beyond all

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reasonable doubts, by the prosecution. In cases where a person is alleged to have committed the offence and is not previously known to the witnesses, it is obligatory on the part of the investigating agency to hold identification parade for the purposes of enabling the witnesses to identify the person alleged to have committed the offence. The absence of test identification may not be fatal if the accused is known or sufficiently described in the complaint leaving no doubt in the mind of the court regarding his involvement. Such a parade may not be necessary in a case where the accused person is arrested on the spot immediately after the occurrence. The evidence of identifying the accused person at the trial, for the first time, is from its very nature, inherently of a weak character.

Learned counsel for the accused places reliance on another judgment of the Hon'ble Apex Court in ***Nazim's*** case cited supra at paragraph No. 42 wherein it is held as under:

"42. The Court further explained that TIP is only part of the investigative process and that the substantive evidence is dock Identification; however, where the accused is a stranger to the witness and no TIP is held, courts must exercise extreme caution in accepting such identification. The following paragraph of P. Sasikumar (supra) is indicative of the same:

"21. It is well settled that TIP is only a part of police investigation. The identification in TIP of an accused is not a substantive piece of evidence. The substantive piece of evidence, is only dock identification that is identification made by witness in court during trial.

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23. [...] In cases where an accused is a stranger to a witness and there has been no TIP, the trial court should be very cautious while accepting dock identification by such a witness.

24. [...] We are of the opinion that not conducting a TIP in this case was a fatal flaw in the police investigation and in the absence of TIP the dock identification of the present appellant will always remain doubtful. Doubt always belongs to the accused."

18. The aforesaid two judgments are rendered in respect of the case of murder. The gravity of the offence of murder is much higher than the gravity of the offences alleged in the present case. The standard of proof required depends on the seriousness/gravity of the crime. Except putting a suggestion to PW1 that he had not seen the accused at the spot and accused was not the driver of the offending jeep, which were denied by him, nothing was elicited in his cross-examination of PW1 to disbelieve that accused was not the driver of the jeep.

19. CW5 is the RC owner of the offending jeep. According to him, he sold the said jeep to CW13 who, in



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turn sold it to CW14. He admitted these facts in his evidence. These facts were not disputed by the accused by cross-examining this witness. Merely because PW8 (CW14) has not admitted these facts, it cannot be said that PW8 is not the purchaser of the vehicle in question. The offending vehicle was taken to the interim custody on behalf of CW14 by his GPA holder.

20. These facts establish that the accused was properly identified by the PW1 in his evidence. Merely because accused was not knowing to PW1 earlier to the incident, his evidence identifying the accused cannot be brush aside. It is his specific evidence that he had seen the accused at the time of incident because according to him after the accident, accused stopped his jeep, came back and saw the injured persons and then ran away from the said spot by leaving the jeep at that spot. This evidence is corroborated of PW1 is corroborated from other evidence. The fact that the offending vehicle is under the ownership/possession of PW8. PW8 got it released for his

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interim custody. Under these circumstances, the Test Identification Parade was not required. The Test Identification Parade was required in case of hit and run case because at that time, the vehicle would not be known and driver of the vehicle would also be not known because it was only in a spur of moment, there is chance of seeing the accused who was driving the offending vehicle when the accident would have taken place. However, it is not so in the present case because PW1 had seen the accused after the accident who came near PW1 and saw him and then went out from that spot. Hence, the aforesaid two judgments are not helpful for the revision petitioner to say that the accused was not the driver of the offending vehicle as on the date of accident.

21. There is no false accusation, or fabrication, alleged in the present case as submitted by the learned counsel for accused; under these circumstances, as discussed above, only when the available evidence is not considered by the trial Court and appellate Court and finding was

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grossly erroneous or not at all acceptable, the judgment of conviction passed by the trial court, confirmed by the appellate court, could be set aside. However, that is not so in the present case.

22. The accused was arrested within 3 days of the accident. The statement of witnesses was recorded prior to his arrest wherein they have specifically stated that they came to know that the driver of the offending vehicle is one Manju (the present accused). Hence, the revision petition is not maintainable in law. Hence, this Court passes the following:

ORDER

i) The revision petition is **dismissed** by confirming the judgment of conviction and order of sentence dated 14.11.2014 passed in CC No.291/2008 on the file of JMFC, H.D.Kote confirmed in the judgment of Criminal Appeal No.226/2014 dated 12.07.2017 on the file of

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sitting at Hunsur.

ii) The revision petitioner is hereby directed to
appear before trial Court and surrender before
the trial Court to undergo the sentence;

iii) Bail bonds of accused stands cancelled.

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(GEETHA K.B.)
JUDGE

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List No.: 1 Sl