



CNR: KAHC010460632019

NC: 2026:KHC:39577
CRL.P No. 8147 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO. 8147 OF 2019

BETWEEN:

VIVEK SHETTY
S/O N.VITAL SHETTY,
AGED ABOUT 53 YEARS,
RESIDING AT NO.4-46,
NAGRIGUTHU MANE,
SAJIPANADU VILLAGE,
BANTWALA TALUK - 574 231,
D.K. DISTRICT.

...PETITIONER

(BY SRI KETHAN KUMAR, ADVOCATE)

AND:

1. STATE BY
BANTWALA TRAFFIC POLICE STATION,
BANTWALA,
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BANGALORE - 560 001.
2. MOHAMMED ATTAULLA
S/O D.MOHAMMED KASIM,
AGED ABOUT 32 YEARS,
RESIDING AT
BOGODI MANE,
PANEMANGALURU VILLAGE,

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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BANTWALA TALUK,
D.K. DISTRICT - 574 231.

...RESPONDENTS

[BY SRI MAHESHA P., HCGP FOR R1;
SRI GURUPRASAD B.R., ADVOCATE FOR R2 (AB)]

THIS CRL.P IS FILED U/S 482 CR.PC PRAYING TO QUASH THE PROCEEDING IN C.C.NO.334/2019 PENDING BEFORE THE FILE OF HONBLE ACJ AND JMFC AT BANTWALA, D.K., IN RESPECT OF CR.NO.181/2018 FILED BY BANTWALA TRAFFIC POLICE FOR THE OFFENCE P/U/S 279,304A OF IPC AND SECTION 5(1) R/W 180 OF MOTOR VEHICLE ACT AS PER ANNEXURE-C.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Seeking for quashing of proceedings in CC no.334/2019 on file of Additional Civil Judge and JMFC at Bantwala, Dakshina Kannada District in Crime no.181/2018 registered by Bantwala Traffic Police for offences punishable under Sections 279, 304A of Indian Penal Code, 1860, (**IPC**) and Section 5(1) read with Section 180 of Motor Vehicles Act, this petition is filed.

2. Sri Kethan Kumar, learned counsel for petitioner submitted that petitioner was accused no.2 in Crime no.181/2018 registered by Bantwala Police Traffic Police,



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alleging that on 03.12.2018, at 8.00 p.m., when Smt.Ruksana was standing by the side of road at Gudde Angadi in Panemangaluru village, private Bus bearing registration no.KA 19 MH 09 driven by its driver in rash and negligent manner came from Marnabailu side and dashed against Ruksana, resulting in her death. Driver of Bus was accused no.1. After completion of investigation, charge sheet was filed, arraigning petitioner as accused no.2. It was submitted though petitioner was RC owner of Bus, at time of accident, Bus was under control of one Sri B Devi Prasad Poonja. It was submitted that during course of investigation, Investigating Officer had in fact issued notice to B. Devi Prasad Poonja for furnishing details such as name of driver and his driving licence, insurance, permit, fitness certificate etc., Same would indicate that petitioner was not in charge of Bus at time of incident. Relying on decision of this Court in CrI.P.no.201549/2022 [2023:KHC-K:8266) (**Vidhesh's case**) and High Court of Kerala in CrI.MC no.3474/2020 [2022:KER:76498] (**Dibin MV's case**). It was admitted that under similar circumstances on finding from prosecution material that vehicle that had caused accident in



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question was in control of some other person than RC owner, arraignment of RC owner of vehicle was set at naught. Relying on same, learned counsel sought for quashing of proceedings against petitioner.

3. On other hand, Sri Mahesha P, learned HCGP appearing for respondent State opposed petition. There is no representation for respondent no. 2.

4. It was submitted by learned HCGP that even as per petitioner and prosecution records, incident occurred on 03.12.2018 referring to copy of GPA produced before police by B. Devi Prasad Poonja. It was submitted that GPA had come into existence after date of incident and as per Section 180 of Motor Vehicles Act, liability would be on owner or person in charge of motor vehicle. In instant case since petitioner had not disputed fact that he was RC owner, merely on above ground, RC owner could not escape liability. It was submitted that in **Dibin MV's** case (supra), High Court had observed that if there were material to show that vehicle was in control of any other person, he could also be held responsible and same would indicate that if vehicle was in control of any other person, then



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said person could also be held liable, but would not be a ground for RC owner to escape liability. It was submitted, conviction would be based only on establishing person who was responsible for allowing vehicle to be driven by an unlicensed driver and that would be matter for trial. On said grounds sought for dismissal.

5. Heard learned counsel and perused material on record.

6. This petition is by accused no.2 challenging registration of FIR and proceedings against him for offences punishable under Sections 279 and 304A of IPC read with Sections 5 and 180 of Motor Vehicles Act. Main ground of challenge is that petitioner though was RC owner, he is a Businessman at Maharashtra and had executed power of attorney in favour of his cousin B. Devi Prasad Poonja to look after affairs of Bus and if at all there was any suspicion of offence under Section 5(1) read with Section 180 of Motor Vehicles Act, arraignment of petitioner would not be justified as B Devi Prasad Poonja was in charge of vehicle at time of incident in terms of GPA.



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7. However, as rightly pointed out by learned HCGP appearing for State, GPA copy of which was produced by B Devi Prasad Poonja during investigation is dated 04.12.2018, which would be a day after incident in question. Merely on ground that B Devi Prasad Poonja had stated that he was managing Bus under authorization from authorized owner would not be a ground for discharging petitioner as it would be a matter for evidence and trial as to who actually was in charge at time of assignment of Bus to an unlicensed driver. Based only on GPA it cannot be held that petitioner was not in charge of Bus or B Devi Prasad Poonja was in fact in charge of Bus at time of incident. In **Vidhesh** as well as in **Dibin MV's case**, prosecution material itself indicated that some person other than RC owner was in charge of vehicle. Such a unmistakable conclusion cannot be arrived at on basis of prosecution material at this stage. Keeping open contentions to be urged at appropriate stage, petition is **dismissed**.

Sd/-
(RAVI V HOSMANI)
JUDGE

YKL
List No.: 1 Sl No.: 22