



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION NO. 1384 OF 2023

(397(Cr.PC) / 438(BNSS))

BETWEEN:

SRI. NAGARAJ G H
S/O LATE SUBBARAYAPPA
AGED ABOUT 40 YEARS
DRIVER BADGE NO. 1047
CHIKKABALLAPURA DEPOT
R/AT GANIGALA VILLAGE
TUMAKUR TALUK
TUMAKURU - 572 138.

...PETITIONER

(BY SRI. VIVEK S., ADVOCATE)

AND:

STATE OF KARNATAKA
BY TRAFFIC POLICE CHIKKABALLAPURA
CHIKKABALLAPUR TALUK 562 101
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU - 560 001.

...RESPONDENT

(BY SMT. WAHEEDA M. M., HCGP)

THIS CRL.RP IS FILED U/S 397 R/W 401 CR.PC PRAYING THAT TO ALLOW THE REVISION PETITION AND SET ASIDE THE ORDER OF CONVICTION AND SENTENCE FOR THE ALLEGED OFFENCE P/U/S 279 AND 304-A OF THE IPC, INCLUDING THE PAYMENT OF FINE DATED 09.08.2023 PASSED BY THE HON'BLE I ADDL. DISTRICT AND SESSIONS JUDGE, CHIKKABALLAPURA IN CRL.A.NO.17/2023 CONFIRMING THE



ORDER DATED 28.02.2023 PASSED BY THE PRL. CIVIL JUDGE AND J.M.F.C, CHIKKABALLPURA IN C.C.NO.206/2020.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

Heard Sri.Vivek.S learned counsel for the revision petitioner and Smt.Waheeda.M.M learned High Court Government Pleader for the respondent.

2. Revision petitioner is the accused who suffered an order of conviction in CC.No.206/2020 confirmed in CrI.A.No.17/2023.

3. Facts of the case are as under:

3.1 On 27.11.2019, Chitrashekharappa at about 08.15 a.m., along with PW2 had proceeded to KSRTC bus stand at Chikkaballapura and they were in search of a bus which would go to Hanagal. At that juncture, accused being the driver of the bus bearing No.KA-40-F-1028 drove the bus inside the bus station in a rash and



negligent manner and dashed against Chitrashekarappa whereby he sustained injury on the head and on the right elbow. He was shifted to District Hospital, Chikkaballapura. Later on he was advised to take further treatment at NIMHANS, Bengaluru. As such, Chitrashekharappa was being shifted in an ambulance and enroute to NIMHANS, he lost his life. In that regard, Veerappa being the son of deceased lodged the complaint with the Chikkaballapura traffic police, which was registered for the offence punishable under Sections 279 and 304A IPC in Cr.No.69/2019 on 27.11.2019.

3.2 Police after thorough investigation, filed a charge sheet against the accused.

3.3 Learned Trial Magistrate took cognizance of the offence punishable under Sections 279 and 304A of IPC. Recorded the plea. Accused pleaded not guilty. Therefore, trial was held.



3.4 In order to bring home the guilt of the accused, prosecution proceeded to examine 6 witnesses namely complainant Veerappa, Kariyamma, Lingaraju, Manjunatha, Venugopal and Sudarshan. Prosecution placed reliance on 18 documents which are exhibited and marked as Ex.P1 to Ex.P18, comprising of the complaint, spot mahazar, photographs of the offending bus, inquest mahazar, post-mortem report, indemnity bond, FIR, IMV report, rough sketch of the place of incident, notice issued and reply received and also the duty report of the accused.

3.5 Learned Trial Magistrate after concluding the recording of evidence has culled out the incriminatory circumstances available in the case of the prosecution and put it across to the accused seeking his explanation to the such incriminatory materials while recording the accused statement as is contemplated under Section 313 Cr.P.C.



3.6 Accused has denied all the incriminatory circumstances but failed to place his version about the incident on record either by examining himself or furnishing written submissions or at least examining any of the witnesses on his behalf.

3.7 Thereafter, Trial Magistrate heard the arguments of the parties in detail and on cumulative consideration of the oral and documentary evidence placed on record, convicted the accused for the offence punishable under Sections 279 and 304A of IPC and sentence to undergo one year simple imprisonment and Rs.5,000/- fine for the offence under Section 304A IPC with default sentence of one month simple imprisonment. For the offence under Section 279 IPC, Trial Magistrate imposed 1 month simple imprisonment and Rs.1,000/- fine amount with a default sentence of one month simple imprisonment.



3.8 Being aggrieved by the same, accused filed an appeal before the District Court in Crl.A.No.17/2023.

3.9 Learned District Judge, after securing the records, heard the arguments of the parties in detail and on re-appreciation of the matter on record, dismissed the appeal of the accused by considered judgment dated 09.08.2023.

3.10 Thereafter, petitioner is before this Court in this revision petition.

4. Learned counsel for the revision petitioner Sri.Vivek.S, reiterating the grounds urged in the revision petition, would vehemently contend that the case of the prosecution is not established by placing such required cogent and convincing evidence on record and conductor of the bus who is examined as PW4, has not supported the case of the prosecution by stating that he has not seen the incident as he was sitting in the hind side of the bus but identified the offending bus. Therefore, there is no other



material evidence on record which would establish the rash and negligent act of the accused, which is a *sine qua non* for recording an order of conviction under Section 304A of IPC and thus, sought for allowing the revision petition.

5. Sri.Vivek.S would also contend that in the event this Court upholding the order of conviction, taking note of the fact that the incident is an isolated incident and petitioner is having an unblemished career of driving, and by impugned order he would lose his job, which affects his family and thus, sought for enhancing the fine amount by setting aside the imprisonment.

6. Per contra, Smt.Waheeda.M.M, learned High Court Government Pleader, would support the impugned judgment.

7. Insofar as alternate submission is concerned, Smt.Waheeda.M.M would contend that petitioner being the professional driver, should have taken such necessary



precautions that to while driving the bus inside the bus station expecting the passengers to move here and there in search of their buses or to reach their respective buses and thus, sought for dismissal of the revision petition in toto.

8. Having heard the arguments of both sides, this Court perused the material on record meticulously. On such perusal of the material on record, admittedly, there was an accident inside the precincts of Chikkabalapura KSRTC bus stand wherein the bus bearing No.KA-40-F-1028 driven by the accused has dashed against Chitrashekharappa who is the father of PW1.

9. Immediately, he was taken to Chikkaballapura Government Hospital. Having noted the nature of injury, doctors after for providing first aid to Chitrashekharappa directed the dependents of Chitrashekharappa to shift him to NIMHANS for higher medical care. However, enroute



to NIMHANS Hospital at Bengaluru, in the ambulance Chitrashekharappa breathed his last.

10. Thereafter, complaint came to be lodged by Veerappa being the son of deceased Chitrashankarappa with the Chikkaballapura traffic police station.

11. There is no dispute that the petitioner was the driver of the offending bus. Only on the ground that the conductor has not supported the case of the prosecution, it cannot be said that there was no negligence on the part of the petitioner. In a matter of this nature, the oral evidence coupled with the documentary evidence placed on record, the prosecution was successful in establishing its case by placing cogent and convincing evidence on record.

12. After the prosecution establishes its case by placing cogent evidence on record, the incriminatory circumstances available on record must be put to the accused, calling for his explanation and to provide an



opportunity for him to place his version about the incident. It is a mandatory duty which has been carried out by the Trial Magistrate by calling out the incriminatory circumstances and put it across to the accused. Instead of offering explanation, accused went to the extent of denying the very accident itself while answering the questions put to him under Section 313 Cr.P.C. He failed to place any version of his on record so as to establish that he drove the bus in a diligent manner, but the accident has occurred beyond human control.

13. In the absence of such explanation, learned Trial Magistrate was justified in convicting the accused for the offence under Sections 279 and 304A IPC.

14. Learned judge in the First Appellate Court on re-appreciation has rightly affirmed the reasoning recorded by the learned Trial Magistrate.

15. This Court having regard to the limited revisional powers, did reconsider the material on record in



the light of the arguments put forth on behalf of the revision petitioner. On such reconsideration of the material, this Court did not find any grounds whatsoever much less good grounds to interfere with the well reasoned orders of both the Courts in recording an order of conviction for the offence under Sections 279 and 304A IPC.

16. Firstly, accused was required to exercise extra diligence when he was driving the bus inside the precincts of KSRTC bus stand at Chikkaballapura inasmuch as there would be movement of the passengers inside the bus station. Further, the accused being the professional driver was expected to drive the bus by expecting unexpected things to occur within the precincts of the bus station at bus station.

17. Further, since the bus was moving inside the bus station, if the accused had driven the bus in a required speed and with diligence, he could have applied the brake



so as to avoid dashing against Chitrashekharappa. Such an explanation is not forthcoming in the accused statement. Pertinently, in the spot mahazar there is no brake marks noticed.

18. All these factors would go to show that accused has failed to place his version on record about the incident and therefore, conviction needs to be maintained.

19. View of this Court in this regard is supported by the principles of law enunciated by the Hon'ble Apex Court in the case of **RAVI KAPUR vs. STATE OF RAJASTHAN** reported in **(2012) 9 SCC 284**.

20. Thus, the order of conviction recorded by Trial Magistrate confirmed by the First Appellate Court needs no interference. Having said thus, it is to be noticed that offence under Section 279 merges with the offence punishable under Section 304A of IPC. Therefore, there could not have been a separate sentence of one month



imprisonment for the offence punishable under Section 279 of IPC.

21. Learned Trial Magistrate erred in recording a separate sentence for the offence punishable under Section 279 of IPC which was mechanically upheld by the learned judge in the First Appellate Court.

22. Therefore, separate sentence ordered by the Trial Magistrate confirmed by the First Appellate Court for the offence punishable under Section 279 of IPC needs interference by this Court in these revisional powers.

23. Accordingly, the separate sentence ordered by the Trial Magistrate for the offence punishable under Section 279 of IPC as one month simple imprisonment needs to be set aside.

24. No other mitigating circumstances are found to reduce the punishment for the offence punishable under Section 304A of IPC. This Court cannot lose sight of the



fact that accused has gone to the extent of denying the very accident itself while recording the accused statement under Section 313 Cr.P.C.

25. Merely on the ground that accused would lose the job if the conviction is upheld cannot be treated as a mitigating circumstances to set aside the sentence of imprisonment either.

26. Accordingly, following:

ORDER

- (i) Revision petition allowed in part.
- (ii) While maintaining the conviction of the accused for the offence punishable under Sections 279 and 304A of IPC, sentence ordered by Trial Magistrate confirmed by the First Appellate Court is modified by setting aside the order of Trial Magistrate of one month simple imprisonment ordered for the offence punishable under Section 279 of IPC.
- (iii) The rest of the sentence stands unaltered.



- (iv) The revision petitioner is directed to surrender before the trial Court on or before 31.05.2026 to serve the remaining part of the sentence.
- (v) Office is directed to return the Trial Court Records with copy of this order forthwith for issue of modified conviction warrant.

Sd/-
(V SRISHANANDA)
JUDGE

DS
List No.: 2 Sl No.: 42