



CNR: KAHC010503212016

NC: 2026:KHC:41447
CRL.A No. 34 of 2016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S RACHAIAH

CRIMINAL APPEAL NO. 34 OF 2016 (A)

BETWEEN:

STATE BY CIRCLE INSPECTOR OF
POLICE, KARKALA POLICE
REP. BY STATE PUBLIC PROSECUTOR
BENGALURU-574 104

... APPELLANT

(BY SMT. PUSHPALATHA B. SPP.)

AND:

ARIF
AGED 29 YEARS, S/O DILIWAR ALI
DILUSH MANZIL, BANGLEGUDDE
KUKKUNDOOR, KASABA VILLAGE
KARKALA TALUK, UDUPI DIST-574 104

... RESPONDENT

(BY SRI. H PAVAN CHANDRA SHETTY., ADV.)

THIS CRL.A. IS FILED UNDER SECTION 378(1) AND (3) CR.P.C BY THE STATE P.P. AND ADV. PRAYING TO: a)GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 05.06.2015 PASSED BY THE LEARNED PRL.SSESSIONS JUDGE, AT UDUPI DISTRICT, UDUPI IN CRL.A.NO.87/2013, SETTING ASIDE THE JUDGMENT OF CONVICTION AND ORDER OF SENTENCE DATED 31.07.2013 IN CRL.A.NO.384/2010 PASSED BY THE LEARNED PRL.CIVIL JUDGE AND J.M.F.C., KARKALA, CONVICTING THE RESPONDENT - ACCUSED OF THE OFFENCES P/U/S 279, 337, 338, 304(A) OF I.P.C. AND ETC.

THIS APPEAL, COMING ON FOR HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:



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CORAM: HON'BLE MR JUSTICE S RACHAIAH

ORAL JUDGMENT

1. This appeal is filed by the appellant - State seeking to set aside the acquittal judgment dated 05.06.2015, passed in CrI.A.No.87/2013 on the file of the learned PrI. Sessions Judge, Udupi District at Udupi for the offences punishable under Sections 279, 337, 338 and 304-A of IPC.

Factual matrix of the case:

2. The case of the prosecution is that on 23.05.2010 at about 12:20 p.m., the accused, being the driver of a Maxi Cab bearing Registration No. KA-20-B-5062, drove the same at Thavaregate of Miyaru Village, Karkala Taluk from the Karkala side towards Borkatte in a rash and negligent manner, and dashed to the autorickshaw. Consequently, the driver of the said autorickshaw- Pradeep Kumar and Kumari Niriksha, who was traveling in the said autorickshaw sustained grievous injuries whereas, C.Ws.4 to 7 who were the inmates of the



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autorikeshaw had sustained simple injuries. One Mr. Raghu Shetty, who was also traveling in the said autorickshaw, sustained grievous injuries and lost his life on 08.06.2010. Hence, the complaint.

3. Based on the said complaint, the respondent police have registered a case and conducted an investigation. After the completion of the investigation, the charge sheet was submitted against the accused for the aforesaid offences.
4. The Trial Court, after appreciating both oral and documentary evidence on record, convicted the accused for the aforesaid offences. Being aggrieved by the said order, the accused filed an appeal before the Appellate Court. The appellate Court allowed the appeal acquitted the accused. Being aggrieved by the order of acquittal, the appellant-State filed this appeal.
5. Heard Smt. Pushpalatha B, learned Addl. SPP for the appellant - State and Sri. H. Pavan Chandra Shetty, learned counsel for the respondent.



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6. The learned Addl. SPP for the appellant-State submitted that the impugned judgment and order of acquittal passed by the Appellate Court are contrary to the law, facts, and evidence on record. Hence, the same is liable to be set aside.
7. It is further submitted that the learned Sessions Judge did not appreciate the evidence properly. P.Ws.1 to 9, who are material witnesses, supported the case of the prosecution; however, the Appellate Court failed to take note of the fact, which is erroneous and improper.
8. It is further submitted that P.W.3, who sustained grievous injuries in the said accident along with other injured persons namely P.Ws. 4 to 7, are consistent in their evidence that the accused was driving the vehicle in a rash and negligent manner and caused accident. As a result, the inmates including the driver of the Autorikshaw sustained injuries. Such being the fact, rendering acquittal by the appellate Court without appreciating the evidence of the eye witnesses appears to



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be erroneous and not proper. Therefore, the appeal may be allowed and conviction passed by the Trial Court may be upheld.

9. *Per contra*, learned counsel for the respondent justified the order passed by the appellate Court and prays to dismiss the appeal.
10. It is further submitted that the appellate Court has rightly pointed out that as per Ex.P.21, the appellant has been recognized and identified as driver of the Maxi-cab. However, even P.Ws. 2, 3 and 5 to 7 have not identified the accused as the driver of the bus which involved in the accident. In fact, P.Ws.5 and 7 who are stated to be eye witnesses have deposed that the accused was not the driver of the bus. Therefore, the benefit of doubt had been extended to the accused. Hence, the appeal filed by the appellant – State deserves to be dismissed. Having said thus, the learned counsel for the respondent prays dismiss the appeal.



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11. Having heard learned counsel for the respective parties and also on perusal of the averments of the findings of the appellate Court, it appears that the appellate Court has appreciated the evidence of all the witnesses in detail and arrived at a conclusion that the prosecution has failed to prove the case beyond reasonable doubt.
12. The appellate Court opined that the evidence of P.Ws.2, 3 and 5 to 7 did not support the case of the prosecution in respect of identity of the accused. Further opined that, P.Ws.5 and 7 stated before the Court that the person who was present before the Court was not the driver of the Maxi-cab which involved in the accident. Such being the fact, interference with the said findings, in my considered view, is not warranted. Therefore, the appeal filed by the State is liable to be dismissed.
13. In the light of the observation made above, I proceed to pass the following:



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ORDER

The Criminal Appeal stands **dismissed**.

Sd/-
(S RACHAIAH)
JUDGE

JS
List No.: 2 Sl No.: 2