



CNR: KAHC010523702016

NC: 2026:KHC:54943
CRL.A No. 1806 of 2016

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 1ST DAY OF OCTOBER, 2026
BEFORE**

**THE HON'BLE MR. JUSTICE G BASAVARAJA
CRIMINAL APPEAL NO. 1806 OF 2016 (A)**

BETWEEN:

1. STATE OF KARNATAKA
BY VENUR POLICE STATION,
REP BY SPP,
HIGH COURT BUILDING,
BANGALORE - 560 001.

...APPELLANT

(BY SRI. K. NAGESHWARAPPA, HCGP)

AND:

1. SRI CHUKENDRA
AGED ABOUT 36 YEARS,
S/O VENKATAPPA POJARY,
R/AT MANIMANJULU HOSE,
GOTHAMANJALU VILLAGE,
BELTHANGADY TALUK - 574 214.

...RESPONDENT

(BY SRI. DEEPAK WAGLE, ADV. FOR
SRI. A. KESHA BHAT., ADV.)

CRL.A. FILED U/S.378(1) AND (3) CR.P.C BY THE S.P.P.
FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY
BE PLEASED TO GRANT LEAVE TO APPEAL AGAINST THE
JUDGEMENT AND ORDER OF ACQUITAL DATED 28.06.2016
PASSED IN C.C.NO.711/2013 ON THE FILE OF THE ADDL. CIVIL
JUDGE AND JMFC, BELTHANGADIY, D.K., AS ACQUITTING THE
RESPONDENT-ACCUSED OF THE OFFENCES P/U/S 279,304A OF
IPC.



CNR: KAHC010523702016

NC: 2026:KHC:54943
CRL.A No. 1806 of 2016

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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

1. The State has preferred this appeal against the judgment of acquittal dated 28.06.2016 passed in CC.No.711/2013 by the Addl. Civil Judge and JMFC, Belthangady (for short, 'the Trial Court')
2. For the sake of convenience, the parties herein are referred to as per their rank before the Trial Court.
3. Brief facts leading to this appeal are that, the P.S.I. of Venur Police Station submitted the charge sheet against the accused for the offence under Sections 279 and 304A IPC. It is alleged by the prosecution that, on 04.04.2013 at about 08:00 am in Venur-Moodbidri State Highway, opposite to main entrance of Padyarabettu temple of Hosangadi village of Belthangady Taluk, the accused being the driver of a crane bearing No.KA-19-Z-0150, drove the same in a rash and negligent manner and dashed to a



CNR: KAHC010523702016

cyclist from back side, who was riding his bicycle in front of the crane. As a result, the rider of the bicycle-Obayya succumbed to injuries on the way to hospital. Thus, accused has committed the offences.

4. After filing the charge sheet, case was registered against the accused. In response to summons, accused appeared before the Trial Court. Substance of plea was recorded. Accused pleaded not guilty and claimed to be tried.

5. To prove the guilt of the accused, in all, 10 witnesses were examined as PW1 to PW10; 15 documents were marked as Exs.P1 to P15. On closure of prosecution side evidence, statement under Section 313 of Cr.P.C. was recorded. Accused has totally denied the evidence of prosecution witnesses. However, he has adduced evidence as DW1 and 2 documents were marked as Exs.D1 and D2.



CNR: KAHC010523702016

6. Having heard the arguments on both sides, the Trial Court has acquitted the accused. Being aggrieved by the judgment of acquittal, State has preferred this appeal.

7. The learned HCGP Sri. Nageshwarappa K, would submit that the judgment and order of acquittal passed by the trial Court is contrary to the evidence and material on record. Same is not in accordance with law. The trial Court has not properly appreciated the evidence of PW1 complainant-cum-eye witness, PW3 and PW4 other eye-witnesses, PW5 and PW6 mahazar witnesses and PW7-MV Inspector. Accordingly, it is sought to allow the appeal.

8. As against this, the learned counsel for the respondent would submit that the trial Court has properly appreciated the evidence of prosecution witnesses in accordance with law. Absolutely, that there are no grounds to interfere with the impugned judgment of acquittal and sought for dismissal of the appeal.



CNR: KAHC010523702016

9. I have examined the materials placed before this Court. Having heard the arguments on both sides and on perusal of materials placed before this Court, the following points would arise for my consideration:

- (1) Whether the state has made out grounds to interfere with the impugned judgment of acquittal?
- (2) What order?

10. My answers to the above points as under:

Point No.1: In Negative.

Point No.2: As per final order.

Regarding Point No.1:

11. Before appreciation of evidence on record, it is necessary to mention as to the judgments of the Hon'ble Apex Court in the case of CONSTABLE 907 SURENDRA SINGH AND ANOTHER v. STATE OF UTTARAKHAND reported in (2025)5 SCC 433; BABU SAHEBGOU DA RUDRAGOUDAR AND OTHERS v. STATE OF KARNATAKA reported in (2024)8 SCC 149; CHANDRAPPA v. STATE OF



CNR: KAHC010523702016

KARNATAKA reported in (2007)4 SCC 415; and H.D. SUNDARA v. STATE OF KARNATAKA reported in (2023)9 SCC 581. The principles governing exercise of appellate jurisdiction while dealing with an appeal against judgment of acquittal under section 378 of Code of Criminal Procedure are, the acquittal of the accused further strengthens the presumption of innocence; the appellate court, while hearing an appeal against acquittal, is entitled to re-appreciate the oral and documentary evidence; the appellate court, while deciding an appeal against acquittal, after re-appreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record; if the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and the appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record



CNR: KAHC010523702016

NC: 2026:KHC:54943
CRL.A No. 1806 of 2016

was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible. The interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised only if the judgment of acquittal suffers from patent perversity; the same is based on a misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

12. I have examined the materials placed before this Court. This case arises out of the complaint filed by PW1- Hariprasad, as per Ex.P1 in which it is stated as under:

"ವಿಷಯ: ಕೈನ್ ಅಪಘಾತದಿಂದ ಸೈಕಲ್ ಸವಾರ ಮೃತ ಪಟ್ಟ ಬಗ್ಗೆ.

ನಾನು ಮೇಲ್ಕಾಣಿಸಿದ ವಿಳಾಸದಲ್ಲಿ ವಾಸವಾಗಿರುವುದು. ನನಗೆ ಕೃಷಿ ಕೆಲಸ ಹಾಗೂ ಹೊಸಂಗಡಿಯಲ್ಲಿ ಅಂಗಡಿ ವ್ಯಾಪಾರ ಮಾಡುತ್ತಿದ್ದೇನೆ. ಈ ದಿನ ದಿನಾಂಕ: 04-04-2013 ರಂದು ಬೆಳಿಗ್ಗೆ ಹೊಸಂಗಡಿಯಲ್ಲಿರುವ ನನ್ನ ಅಂಗಡಿಗೆ ಹೋಗಿ ವಾಹಾನ್ ನನ್ನ ಸ್ವಂತದ ಕೆಲಸದ ಬಗ್ಗೆ ವೇಣೂರಿಗಂದು ಹೊಸಂಗಡಿಯ ನನ್ನ ಅಂಗಡಿಯಿಂದ ನನ್ನ ಬಾಬು ಮೋಟಾರ್ ಬೈಕ್ ನಲ್ಲಿ



CNR: KAHC010523702016

ಕುಳಿತು ಚಲಾಯಿಸಿಕೊಂಡು ವೇಣೂರು ಕಡೆಗೆ ಹೋಗುತ್ತಾ ಪಡ್ಯಾರಬೆಟ್ಟ
ದೈವಸ್ಥಾನದ ಮುಖ್ಯ ದ್ವಾರದ ಬಳಿ ಬೆಳಿಗ್ಗೆ ೦೮-೦೦ ಗಂಟೆಗೆ ನಾನು
ತಲುಪಿದಂತೆಯೇ ನನ್ನ ಎದುರಿನಿಂದ ಅಂದರೆ ವೇಣೂರು ಕಡೆಯಿಂದ
ಹೊಸಂಗಡಿ ಕಡೆಗೆ ನನಗೆ ಪರಿಚಯದ ಒಬ್ಬಳು ಪೂಜಾರಿ ಎಂಬವರು ಅವರ
ಬಾಬ್ಬ ಸೈಕಲನ್ನು ಚಲಾಯಿಸಿಕೊಂಡು ಹೋಗುತ್ತಿದ್ದು, ಅದೇ ಮಾರ್ಗವಾಗಿ
ಅಂದರೆ ಸೈಕಲ್ ಸವಾರ ಹಿಂದುಗಡೆಯಿಂದ, ಕ್ರೈನ್ ವೊಂದನ್ನು ಅದರ
ಆಪರೇಟರ್ ಹೊಸಂಗಡಿ ಕಡೆಗೆ ನಿರ್ಲಕ್ಷ್ಯತನ ಹಾಗೂ ಅಜಾಗರೂಕತೆಯಿಂದ
ಚಲಾಯಿಸಿಕೊಂಡು ಬಂದು ಕ್ರೈನ್ ನ ಎದುರಿನಿಂದ ಸೈಕಲನ್ನು ಸವಾರಿ
ಮಾಡಿಕೊಂಡು ಹೋಗುತ್ತಿದ್ದ ಒಬ್ಬಳು ಪೂಜಾರಿಯವರಿಗೆ ಹಿಂಬಿನಿಂದ
ಒಮ್ಮೇಲೆ ಟಿಕ್ಕಿ ಹೊಡೆಸಿದನು. ಪರಿಣಾಮ ಸೈಕಲ್ ಸವಾರ ಒಬ್ಬಳು ಪೂಜಾರಿ
ಡಾಮಾರು ರಸ್ತೆಗೆ ಎಸೆಯಲ್ಪಟ್ಟರು. ನಾನು ಕೂಡಲೇ ಮೋಟಾರ್ ಬೈಕನ್ನು
ನಿಲ್ಲಿಸಿ ಇದ್ದಲ್ಲಿಂದ ನಾನು ಮತ್ತು ನನ್ನ ಜೊತೆಗಿದ್ದ ರಮೇಶ್ ಸೇರಿ ಎಷ್ಟು
ಆರೈಕೆ ಮಾಡಿದೆವು. ಒಬ್ಬಳು ಪೂಜಾರಿಯವರ ಕಾಲುಗಳಿಗೆ, ಹೊಟ್ಟೆಗೆ,
ತಲೆಗೆ, ತೀವ್ರ ತರಹದ ಗಾಯವಾಗಿತ್ತು. ಕೂಡಲೇ 108 ಅಂಬುಲೆನ್ಸ್ ಗೆ ಕರೆ
ಮಾಡಿ ಸ್ಥಳಕ್ಕೆ ಬರಮಾಡಿಕೊಂಡೆನು. ಅದೇ ಸಮಯ ಅಲ್ಲಿ ಅಟೋರಿಕ್ವಾ
ಪಾರ್ಕಿಂಗ್ನಲ್ಲಿದ್ದ ಚಂದ್ರಶೇಖರ ರವರು ಕೂಡ ಸ್ಥಳಕ್ಕೆ ಬಂದರು. ವಿಚಾರವನ್ನು
ಒಬ್ಬಳು ಪೂಜಾರಿಯವರ ಮನೆಗೆ ಕೂಡ ತಿಳಿಸಿದೆವು. ಕೂಡಲೇ
ಗಾಯಗೊಂಡ ಒಬ್ಬಳು ಪೂಜಾರಿಯವರನ್ನು 108 ಅಂಬುಲೆನ್ಸ್ ನಲ್ಲಿ
ಮೂಡಬದ್ರೆ ಸರಕಾರಿ ಆಸ್ಪತ್ರೆಗೆ ಕರೆದುಕೊಂಡು ಹೋದಲ್ಲ ಆಸ್ಪತ್ರೆಯಲ್ಲಿ
ಒಬ್ಬಳು ಪೂಜಾರಿಯವರನ್ನು ಪರೀಕ್ಷಿಸಿದ ವೈದ್ಯರು ೦೮-3೦ ಗಂಟೆಗೆ ಮೃತ
ಪಟ್ಟಿರುವುದಾಗಿ ತಿಳಿಸಿದರು. ಸೈಕಲ್ ಸವಾರ ಒಬ್ಬಳು ಪೂಜಾರಿಗೆ ಟಿಕ್ಕಿ
ಹೊಡೆಸಿದ ಕ್ರೈನ್ ನಂಬ್ರ ಕೆಎ 19 ರುಡ್ 150 ಆಗಿದ್ದು, ಅದರ ಆಪರೇಟರ್ ನ
ಹೆಸರು ಚುಕೇಂದ್ರ ಎಂದು ತಿಳಿಯಿತು.



CNR: KAHC010523702016

NC: 2026:KHC:54943
CRL.A No. 1806 of 2016

ಈ ಅಪಘಾತಕ್ಕೆ ಕಾರಣವೇನೆಂದರೆ ಕೈನ್ ನಂಬ್ರ ಕೆಎ 19 ರುಡ್ 150
ನೀಯದರ ಆಪರೇಟರ್ ಚುಕೇಂದ್ರ ಎಂಬವರು ಕೈನನ್ನು ವೇಣಾರು
ಕಡೆಯಿಂದ ನಿರ್ಲಕ್ಷ್ಯತನ ಹಾಗೂ ಅಜಾಗರೂಕತೆಯಿಂದ ಹೊಸಗಿರಿ ಕಡೆಗೆ
ಚಲಾಯಿಸಿಕೊಂಡು ಕೈನ್ ನ ಎದುರಿನಿಂದ ಸೈಕಲಿನಲ್ಲಿ ಸವಾರಿ
ಮಾಡಿಕೊಂಡು ಹೋಗುತ್ತಿದ್ದ ಸೈಕಲ್ ಸವಾರ ಒಬಯ್ಯ ಪೂಜಾರಿಯವರಿಗೆ
ಒಕ್ಕಿ ಹೊಡೆದಿರುವುದೇ ಆಗಿರುತ್ತದೆ. ಮೃತ ಶರೀರವು ಮೂಡಬಿದ್ರೆ ಸರಕಾಲಿ
ಆಸ್ಪತ್ರೆಯ ಶವಗಾರದಲ್ಲಿದ್ದು ಮುಂದಿನ ಕ್ರಮ ಜರುಗಿಸಬೇಕಾಗಿ
ಕೇಳಿಕೊಳ್ಳುತ್ತೇನೆ."

13. On the basis of complaint, the Sub Inspector of Police, Venur Police Station registered the case in Crime No.22/2013 against the accused for the offence punishable under Sections 279, 304A of IPC and submitted the FIR to the Court.

14. PW1-Hariprasad has deposed that on 04.04.2013 he was proceeding from Hosangadi to Venur in a motorcycle. On the way near Padyarabettu, one Obayya Poojary was proceeding on a cycle. One crane came from his backside and hit him. He fell in drainage. Then he and his friend tookout the injured from the drainage. Obayya had sustained injuries and was unconscious. He was shifted to



CNR: KAHC010523702016

Government Hospital, Moodabidiri in 108 Ambulance. The accused was the driver of the crane bearing Reg.No.KA-19 Z-150. The accident occurred due to rash and negligent act on the part of the accused. He had lodged a complaint to the police as per Ex.P1. Thereafter, police have conducted the mahazar as per Ex.P2 and prepared a sketch as per Ex.P3.

15. PW2-Koragappa Poojary, father of deceased, has deposed as to the death of his son in the accident.

16. PW3-Chandrashekara auto driver has deposed in his evidence that on 04.04.2013, he had parked his auto-rickshaw in front of the temple main door. At about 8:00 am, one crane came from Venur to Hosangadi. By that time one cycle rider was riding his bicycle in front of crane. The driver of the crane drove the same in high speed in a rash negligent manner and hit to cycle rider-Obayya Poojary. As a result, he fell on the road. Hariprasad and Ramesh came from Hosangadi to Venur on a two-wheeler.



CNR: KAHC010523702016

Then they shifted Obayya Poojary with the assistance of CW4 and CW1 in 108 ambulance. Obayya Poojary had sustained injuries on his right leg, abdomen and head and died in the hospital.

17. PW4-Ramesh has deposed in evidence that on 04.04.2013 he and Hariprasad were proceeding on a two-wheeler towards Venur. When they reached Padyarabettu junction, Obayya Poojary was coming on a cycle from Venur side. The crane vehicle came and hit the cycle rider towards back side. As a result, he fell from cycle. Then public gathered and Hariprasad called 108 ambulance and they shifted the injured to the Government Hospital, Moodbidri. The doctors declared that 'the injured brought dead'. Since the accused has drove the vehicle in a rash and negligent manner, the accident occurred and Obayya Poojary died in the said accident.

18. PW5-Nagesha and PW6-Rajesha have deposed as to the mahazar conducted by police as per Exs.P2 and P3.



CNR: KAHC010523702016

19. PW7-the Motor Vehicle Inspector has deposed as to the examination of the vehicle and also issuance of MV report as per Ex.P10.

20. PW8-Abdul Khader Sub-inspector of Police and PW9-Bhaskar Rai, Police Inspector and PW10-Sadanand S Naik have deposed as to their respective investigation.

21. On careful examination of the entire evidence on record, it is clear that admittedly PWs.1, 3 and 4 are the only eye-witnesses to the incident. The entire evidence rests upon evidence of PWs.1, 3 and 4. PW1 is the complainant-cum-eye witness and the person who showed the spot to the police has narrated about the accident. During the course of cross-examination, he has not deposed about witnessing the accident. But again, in his further cross-examination, has admitted that when he saw Obayya for the first time, he found the deceased Obayya in drainage. Likewise, another witness PW2 is also eye-witness, deposed about the deceased found in drainage.



CNR: KAHC010523702016

However, another eye-witness PW4 who contrarily deposed that accused Obayya was found under the crane on the tar road. He has also gone to the extent saying that deceased was fallen in front of the middle portion of the crane. PW1 has admitted that, he alone was driving his bike and after occurrence of the accident, he called PW4 who was 0.5 km away from the spot and on reaching the spot they tookout deceased Obayya from the drainage and telephoned 108 ambulance. If this is the case, then certainly the evidence of PW4 who deposed that he witnessed the accident, creates doubt. That apart, he has denied giving statement to the police about the deceased Obayya falling on tar road and the impact of the accident. The said statement is also marked as Ex.D1. Though, he has given statement as deceased falling on the tar road in consequence of accident, but during the course of cross-examination, he turns to his statement and deposes contradictory.

22. PW1 deposed that the crane being driven in a speed of 40 km/hr. PW3 also deposed that the speed of the



CNR: KAHC010523702016

crane was 50 to 60 km/hr. To prove the speed limit, the accused produced the video clip which is marked as Ex.D2. The trial Court has observed that, on perusal of the clippings it shows the speed meter of the crane maximum at 25 km/hr. The evidence of eye-witnesses is contrary to each other. Considering the evidence on record, the trial Court has acquitted the accused.

23. On re-examination / re-consideration / re-appreciation of the entire evidence on record, I do not find any legal or factual error in the impugned judgment of acquittal. Hence, considering the facts and circumstances of the case and keeping in mind the aforesaid decisions of the Hon'ble Supreme Court, I answer Point No.1 in Negative.

Regarding Point No.2:

24. For the aforesaid reasons and discussions, I proceed to pass the following:



CNR: KAHC010523702016

NC: 2026:KHC:54943
CRL.A No. 1806 of 2016

ORDER

Appeal is **dismissed**.

Sd/-
(G BASAVARAJA)
JUDGE

DHA
LIST NO.: 1 SL NO.: 52