

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL REVISION PETITION NO.1707 OF 2023

BETWEEN:

REKHA T S
D/O SHIVAKUMAR ARADYA T C,
AGED ABOUT 40 YEARS,
WORKING AT THEOREM,
RESIDING AT NO.1011/A, F-27A,
2ND MAIN, 4TH CROSS,
VIDYARANYAPURAM,
MYSURU-570 003.

...PETITIONER

(BY SMT. ARCHANA K.M., ADVOCATE)

AND:

STATE OF KARNATAKA
BY KRISHNARAJA TRAFFIC P S,
MYSURU, REPRESENTED BY S P P,
HIGH COURT OF KARNATAKA,
BENGALURU-560 001.

...RESPONDENT

(BY SRI CHANNAPPA ERAPPPA, H.C.G.P.)

* * *

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397 READ WITH SECTION 401 OF THE CODE OF CRIMINAL PROCEDURE, 1973, PRAYING TO SET ASIDE THE JUDGMENT AND ORDER DATED 28-11-2023 IN CRIMINAL APPEAL NO.195 OF 2023 PASSED BY THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE, MYSURU, CONFIRMING THE JUDGMENT AND ORDER DATED 3-5-2023 PASSED BY THE III ADDITIONAL SENIOR CIVIL JUDGE AND CHIEF JUDICIAL MAGISTRATE, MYSURU, IN CRIMINAL CASE NO.300 OF 2019 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 279 AND 304A OF IPC AND CONSEQUENTLY, ACQUIT THE PETITIONER.

THIS CRIMINAL REVISION PETITION HAVING BEEN HEARD AND RESERVED ON 17-8-2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

Digitally signed
by
NAGARATHNA
M
Location: High
Court of
Karnataka



CORAM: HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV ORDER

Heard Smt. Archana K.M., learned counsel for the petitioner, and Sri Channappa Erappa, learned High Court Government Pleader for the respondent-State.

2. The petitioner has filed this petition under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973, (for short, 'Cr.P.C.') praying to set aside the judgment of conviction and order on sentence dated 3-5-2023 passed by the learned III Additional Senior Civil Judge and Chief Judicial Magistrate, Mysuru, in Criminal Case No.300 of 2019, which is upheld by the judgment dated 28-11-2023 passed by the learned II Additional District and Sessions Judge, Mysuru, in Criminal Appeal No.195 of 2023 for the offences under Sections 279 and 304A of the Indian Penal Code, 1860 (for short, 'IPC') and prays to acquit the petitioner for the aforesaid offences.

3. For the sake of convenience, the parties herein are referred to as per their rankings before the trial Court. The petitioner is the 'accused' and the respondent is the 'complainant' before the trial Court.

4. The case of the prosecution is that, on 22-7-2019 at about 2:30 p.m., one Hanumanthaiah (physically handicapped, who can only crawl) was crossing the road by crawling at Ashokapuram, 13th Cross, Ambedkar Road Junction, Mysuru, at that time, the accused, being the driver of a Tata Bolt car, bearing Registration No.KA-09 MB-9152, drove the same in a rash and negligent manner, took a turn towards 13th cross and dashed against Hanumanthaiah. As a result, Hanumanthaiah sustained severe injuries and was taken to the Hospital, where he breathed his last. Hence, on the same day at 7.00 p.m., PW1-Jayalakshmi lodged a complaint vide Ex.P1. Hence, a case has been registered. The Investigating Officer, after investigation of the case, filed the charge-sheet against the petitioner-accused for the aforesaid offences.

5. Soon after receipt of the charge-sheet, the trial Court took cognizance, recorded plea and convicted the petitioner for the offences punishable under Sections 279 and 304A of IPC and sentenced him to undergo simple imprisonment for a period of six months with fine and with default sentence.

6. Aggrieved by the judgment of conviction and order on sentence passed by the trial Court, the accused preferred Criminal Appeal No.195 of 2023 before the First Appellate Court and in turn, the First Appellate Court, after re-appreciating the evidence, dismissed the appeal and confirmed the judgment of conviction and order on sentence passed by the trial Court.

7. Aggrieved by the concurrent findings passed by the trial Court as well as the First Appellate Court, the accused preferred this revision petition.

8. Learned counsel for the petitioner-accused has contended that the trial Court has not carefully perused the sketch, wherein on careful observation of the sketch, one can easily make out that from just 15 to 20 feet away from the alleged place of accident, there is a road hump before the accident spot, as such, when the driver of the vehicle applies brake in order to cross the hump, gradually, the speed of the vehicle would normally reduce. When such being the case, the petitioner, being driver of the car, dashed against a person crossing the road would not arise. She further contended that Hanumanthaiah was physically handicapped, unable to walk and was crawling, however, the Investigating Officer has not

collected any material to substantiate that Hanumanthaiah was physically handicapped and was crawling. In absence of such material, the trial Court wrongly jumped into the conclusion that the deceased was crawling and was crossing the road. She further contended that there is material omissions and contradictions in the testimonies of PWs.1 and 2. She further contended that the trial Court convicted the accused on uncorroborated testimonies of the prosecution witnesses. The trial Court and the First Appellate Court have unnecessarily given due weightage to the testimony of PW2, who has merely stated that the accused was driving the vehicle with high speed. However, there is no whisper about the rash and negligent driving of the accused in a public road so as to attract Section 279 of IPC. Further, the accident in question has not occurred in the manner as projected by the prosecution. Hence, on all these grounds, she prays to allow the revision petition.

9. Learned High Court Government Pleader for the respondent-State has contended that since the trial Court as well as the First Appellate Court have given concurrent findings, interference by this Court to set aside the judgment of conviction and order on sentence passed against the accused would not arise. He contended that the accident and the death

of the deceased in the accident are not disputed, the manner of accident and identity of the accused are also not disputed. Hence, he prays to dismiss the revision petition.

10. On the basis of the submissions made by the parties to the *lis*, the following point would arise for consideration of this Court:

Whether the petitioner-accused proved that the judgment of conviction and order on sentence passed by the trial Court and confirmed by the First Appellate Court are perverse and calls for interference by this Court?

11. On perusal of the material available on record, the trial Court relied on the evidence of PW1-complainant, a relative of the deceased. She has stated that on 22-7-2019, she came to know about the accident. Hence, she rushed to the accident spot and thereafter to K.R. Hospital, where Hanumanthaiah had succumbed to the injuries. Thus, she lodged a complaint vide Ex.P1.

12. PW2-Adarsh P., an eyewitness to the accident, has stated that on 22-7-2019 at about 2:30 p.m., he had been to

one mobile shop in order to recharge his mobile near 13th Cross, Ashokapuram, at that time, the driver of the car came in a high speed and dashed against Hanumanthaiah, who was crossing 13th Cross road towards north side by crawling. Hence, he rushed to the spot, the accused proceeded further. Thus, the public gathered and raised hue and cry and stopped the car and brought the accused to the scene of offence. Thereafter, he informed regarding the accident to the family of the injured. He has further stated that he took the injured to Vidyaranya Hospital in an auto rickshaw and later, to K.R. Hospital, where the injured succumbed to the injuries at 5:50 p.m. He has further stated that at the relevant time, the accused was driving the car by closing all windows, and she was also talking in mobile phone and thereby, dashed against Hanumanthaiah. He has identified the accused before the Court. He has further stated that he had shown the spot to the Police, where the Police drew spot mahazar vide Ex.P2 and prepared rough sketch vide Ex.P3.

13. PW3-Charles P.A., Inspector, who inspected the condition of the car and issued IMV report vide Ex.P6.

14. PW4-Dr. Kumar M.P., who conducted post-mortem examination on the dead body of the deceased and issued report vide Ex.P7.

15. PW5-Shantharaju, Police personnel, who received a complaint and registered a case.

16. PW6-Jagadisha R., Sub-Inspector of Police, who conducted investigation and filed the charge-sheet against the accused.

17. On perusal of the oral testimony of PW2, eyewitness to the accident, has categorically stated against the accused that the accused came in high speed in her car and dashed against the deceased. He also stated that at the time of accident, the accused was talking in mobile phone while driving the car. Further, in the cross-examination, his presence at the scene of offence has not been disputed by the accused.

18. In the present case, the occurrence of the accident, the death of Hanumanthaiah, and the identity of the accused are not in dispute. The only issue in dispute is the manner in which the accident occurred. Using a mobile phone establishes direct evidence of distracted and negligent behavior, which

overrides arguments that an accident was purely accidental or unavoidable.

19. In the case of ***Ravi Kapur v. State of Rajasthan*** reported in ***(2012) 9 SCC 284***, the Hon'ble Apex Court held that rash and negligent driving must be evaluated based on the totality of circumstances, including the behavior and attention level of the driver. Operating a phone distracts the driver and fulfills the criteria for criminal negligence/recklessness.

20. Further, in the case of ***The State of Arunachal Pradesh v. Ramchandra Rabidas @ Ratan Rabidas*** reported in ***(2019) 10 SCC 75***, the Hon'ble Apex Court emphasized that that the Courts must take a strict view of vehicular accidents caused by blatant disregard for traffic rules and distracted driving, ensuring that deterrent punishments are not reduced without justification.

21. As per the contents of Ex.P2-spot mahazar and Ex.P3-sketch, there is no reference to any tire mark to substantiate that the petitioner-accused had applied brakes before causing the accident. The testimonies of PWs.1 and 2 corroborate the same aspect that the driver was driving the car

in negligent manner. Hence, it is just and necessary to analyse Section 279 of Indian Penal Code, 1860.

"279. Rash driving or riding on a public way.—

Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both."

22. To secure a conviction under Sections 279 and 304A of IPC, the prosecution must prove specific essential ingredients:

- i. The prosecution must prove that the accused was the driver of the car at the time of the incident.*
- ii. The prosecution must prove that the accident occurred on a public road or public way.*
- iii. The prosecution must prove that the car was driven with recklessness ("rashness" - doing an act knowing it is dangerous without intending harm) or lack of due care ("negligence" - failing to exercise standard precaution).*

- iv. The prosecution must prove that due to rash/negligent act of the driver of the car, accident occurred and as a result thereof, Hanumanthaiah succumbed to the injuries.*

23. The trial Court as well as the First Appellate Court have rightly held that Ex.P6-IMV report and Ex.P3-sketch do not support the defence therein. Further, at the time of the accident, the petitioner-accused drove the car in a rash and negligent manner, took turn towards 13th Cross and thereby, caused the accident. A perusal of entire evidence on record reveals that the accident was outcome of rash and negligent driving on the part of the accused. Therefore, PWs.1 and 2 have clearly stated about the rashness on the part of the accused.

24. As rightly pointed out by the learned High Court Government Pleader that this petition is being filed against the concurrent findings of the trial Court as well as the First Appellate Court, as such, the scope of interference on the factual aspects is very limited. The evidence on record shows that the petitioner-accused has not disputed the occurrence of the accident, she has not disputed the death of Hanumanthaiah and she has also not disputed her identity before the trial Court. It was her defence that Hanumanthaiah suddenly

crossed the road and thereby, Hanumanthaiah contributed the negligence. The further defence of the accused is that, PWs.1 and 2 are interested witnesses and planted by the Investigating Officer in order to help the family of the deceased.

25. The "scope of revision" refers to the limited authority of a higher Court to review judgment of the trial Court and the First Appellate Court, focusing on correcting errors in jurisdiction or gross legal/factual flaws rather than re-examining the merits of the case. This power is exercised sparingly and is intended to set right a patent defect, not to function as an automatic second appeal. The specific grounds and limitations vary between civil and criminal proceedings. Revisions can address situations where the decision is grossly inaccurate, not supported by evidence, or where relevant evidence was ignored. The review is not a fresh trial. Courts are generally barred from re-examining evidence or substituting their own judgment for the lower Court's on matters of fact unless the findings are demonstrably perverse or arbitrary. The Hon'ble Apex Court has discussed the applicability and scope of revision in various decisions, which are highlighted hereunder:

A. The Hon'ble Apex Court in the case of **MUNNA DEVI v. STATE OF RAJASTHAN AND ANOTHER** reported in **(2001) 9 SCC 631**, while discussing the scope of Section 397 of the Cr.P.C., at paragraph No.3, has held as under:

"3. xxx xxx xxx. The revision power under the Code of Criminal Procedure cannot be exercised in a routine and casual manner. While exercising such powers the High Court has no authority to appreciate the evidence in the manner as the trial and the appellate courts are required to do. Revisional powers could be exercised only when it is shown that there is a legal bar against the continuance of the criminal proceedings or the framing of charge or the facts as stated in the first information report even if they are taken at the face value and accepted in their entirety do not constitute the offence for which the accused has been charged."

B. The Hon'ble Apex Court in the case of **STATE OF TAMIL NADU v. R. SOUNDIRARASU AND OTHERS** reported in **(2023) 6 SCC 768**, at paragraph No.79, has held as under:

"79. Thus, the revisional power cannot be exercised in a casual or mechanical manner. It can only be exercised to correct manifest error of law or procedure which would occasion injustice, if it is

not corrected. The revisional power cannot be equated with the appellate power. A Revisional Court cannot undertake meticulous examination of the material on record as it is undertaken by the trial court or the appellate court. This power can only be exercised if there is any legal bar to the continuance of the proceedings or if the facts as stated in the charge-sheet are taken to be true on their face value and accepted in their entirety do not constitute the offence for which the accused has been charged. It is conferred to check grave error of law or procedure."

C. Further, the Hon'ble Apex Court in the case of **STATE OF MAHARASHTRA v. SUJAY MANGESH POYAREKAR** reported in **(2008) 9 SCC 475**, at paragraph No.16, has held as under:

"16. xxx xxx xxx. Now it is well settled that revisional jurisdiction can be exercised sparingly and only in exceptional cases. A Revisional Court cannot convert itself into a regular court of appeal."

26. Therefore, the revisional jurisdiction should normally be exercised in exceptional cases when there is glaring defect in the proceedings or a manifest error of law resulting in a flagrant miscarriage of justice.

27. This Court is aware that while exercising jurisdiction under Section 397 of Cr.P.C., that too, when there are concurrent findings, the scope of interference in the orders of the Courts below is very limited. However, Section 397 of Cr.P.C. itself states that on examining the records of the trial Court and the First Appellate Court, if the revisional Court is satisfied that there is any incorrectness, illegality or impropriety in the findings, sentence or order passed by such Courts or irregularity in the proceedings of such Courts, the revisional Court may suspend sentence or may reverse the said order or judgment. The same principle is reiterated in ***Duli Chand v. Delhi Administration*** reported in ***(1975) 4 SCC 649*** and ***State of Karnataka v. Appa Balu Ingale and Others*** reported in ***AIR 1993 SC 1126***.

28. Learned counsel for the petitioner-accused alternatively contended that, considering the age of the petitioner, who is aged about 45 years, sole bread earner in the family and the fact that the matter is of the year 2019, and the petitioner has no criminal antecedents nor had any intention to cause the accident, thus a lenient view be taken by this Court by imposing only fine and set aside the sentence passed by the Courts below. Learned High Court Government Pleader

contended that, there was sheer negligence on the part of the accused while driving the car and hence, a lenient view may not be taken in the matter.

29. Now, the only question that arises for the consideration of this Court is:-

"Whether imposition of sentence is tenable?"

30. In the instant case, the maximum sentence imposed by the trial court for the offence under section 304A of IPC is six months. While dealing with the question "whether it is desirable to impose minimal or negligible sentence in a case of offence punishable under Section 304A of IPC", the Hon'ble Apex Court in the case of **GURU BASAVARAJ Alias BENNE SETTAPPA v. STATE OF KARNATAKA** reported in **2012 (8) SCC 734**, at Paragraph Nos.22, 23, 28, 30 and 33, held as under:

"22. In Dalbir Singh v. State of Haryana, this Court expressed thus: (SCC p. 87, para 13)

"13. Bearing in mind the galloping trend in road accidents in India and the devastating consequences visiting the victims and their families, criminal courts

cannot treat the nature of the offence under Section 304-A IPC as attracting the benevolent provisions of Section 4 of the PO Act. While considering the quantum of sentence to be imposed for the offence of causing death by rash or negligent driving of automobiles, one of the prime considerations should be deterrence."

23. *Thereafter, the Court proceeded to highlight what is expected of a professional driver (Dalbir Singh case, SCC p. 87, para 13)*

"13. xxx xxx xxx A professional driver pedals the accelerator of the automobile almost throughout his working hours. He must constantly inform himself that he cannot afford to have a single moment of laxity or inattentiveness when his leg is on the pedal of a vehicle in locomotion. He cannot and should not take a chance thinking that a rash driving need not necessarily cause any accident; or even if any accident occurs it need not necessarily result in the death of any human being; or even if such death ensues he might not be convicted of the offence; and lastly, that even if he is convicted he would be dealt

with leniently by the court. He must always keep in his mind the fear psyche that if he is convicted of the offence for causing death of a human being due to his callous driving of vehicle he cannot escape from jail sentence. This is the role which the courts can play, particularly at the level of trial courts, for lessening the high rate of motor accidents due to callous driving of automobiles."

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28. *In Alister Anthony Pareira v. State of Maharashtra [(2012) 2 SCC 648], it has been laid down that sentencing is an important task in relation to criminal justice dispensation system.*

"84. xxx xxx xxx One of the prime objectives of the criminal law is imposition of appropriate, adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no straitjacket formula for sentencing an accused on proof of crime. The courts have evolved certain principles: twin objective of the sentencing policy is deterrence and

correction. What sentence would meet the ends of justice depends on the facts and circumstances of each case and the court must keep in mind the gravity of the crime, motive for the crime, nature of the offence and all other attendant circumstances."

It has been further opined that: (Alister Anthony Pereira case, SCC p.674, para 85)

"85. The principle of proportionality in sentencing a crime-doer is well entrenched in criminal jurisprudence. As a matter of law, the proportion between crime and punishment bears the most relevant influence in the determination of sentencing the crime-doer. The court has to take into consideration all aspects including the social interest and [conscience] of the society for award of appropriate sentence."

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30. *From the aforesaid authorities, it is luminous that this Court has expressed its concern on imposition of adequate sentence in respect of commission of offences regard being had to the nature of the offence and demand of the conscience*

of the society. That apart, the concern has been to impose adequate sentence for the offence punishable under Section 304-A of the IPC. It is worthy to note that in certain circumstances, the mitigating factors have been taken into consideration but the said aspect is dependent on the facts of each case. As the trend of authorities would show, the proficiency in professional driving is emphasized upon and deviation therefrom that results in rash and negligent driving and causes accident has been condemned. In a motor accident, when a number of people sustain injuries and a death occurs, it creates a stir in the society; sense of fear prevails all around. The negligence of one shatters the tranquillity of the collective. When such an accident occurs, it has the effect potentiality of making victims in many a layer and creating a concavity in the social fabric. The agony and anguish of the affected persons, both direct and vicarious, can have nightmarish effect. It has its impact on the society and the impact is felt more when accidents take place quite often because of rash driving by drunken, negligent or, for that matter, adventurous drivers who have, in a way, no concern for others. Be it noted, grant of compensation under the provisions of the Motor Vehicles Act, 1988 is in a different sphere altogether. Grant of compensation under Section 357(3) CrPC with a direction that the same should

be paid to the person who has suffered any loss or injury by reason of the act for which the accused has been sentenced has a different contour and the same is not to be regarded as a substitute in all circumstances for adequate sentence.

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33. *There can hardly be any cavil that there has to be a proportion between the crime and the punishment. It is the duty of the court to see that appropriate sentence is imposed regard being had to the commission of the crime and its impact on the social order. The cry of the collective for justice which includes adequate punishment cannot be lightly ignored. In *Siriya alias Shri Lal v. State of M.P.*, [(2008) 8 SCC 72] it has been held as follows:-*

"13. '7. xxx xxx xxx Protection of society and stamping out criminal proclivity must be the object of law which must be achieved by imposing appropriate sentence. Therefore, law as a cornerstone of the edifice of "order" should meet the challenges confronting the society. Friedman in his "Law in Changing Society" stated that, "State of criminal law continues to be – as it should be – a decisive reflection of social consciousness of society". Therefore, in

operating the sentencing system, law should adopt the corrective machinery or the deterrence based on factual matrix. By deft modulation sentencing process be stern where it should be, and tempered with mercy where it warrants to be'."

31. On perusal of the material available on record, in the instant case, the factum of rash or negligent driving on the part of the petitioner-accused has been duly established. Further, in view of the ratio laid down by the Hon'ble Apex Court in the case of **GURU BASAVARAJ @ BENNE SETTAPPA**, referred to supra, wherein the maximum sentence of imprisonment prescribed for the offence punishable under Section 304A of IPC has been considered, and having regard to the facts and circumstances of the present case, this Court is of the considered view that the sentence of six months imprisonment imposed upon the petitioner-accused by the trial Court and confirmed by the First Appellate Court is just and proper and does not warrant any interference by this Court. The revision petition is liable to be dismissed and accordingly, it is ***dismissed.***

32. In view of the dismissal of the revision petition, pending interlocutory applications, if any, shall stand dismissed.

Registry is directed to send the records to the trial Court with a copy of this order, forthwith.

**Sd/-
(VENKATESH NAIK T)
JUDGE**

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