HC-KAR

NC: 2026:KHC:59794
CRL.RP No. 144 of 2024

CNR: KAHC010030642024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE GEETHA K.B.

CRIMINAL REVISION PETITION NO. 144 OF 2024

BETWEEN:

ABHIJITH,
S/O PURUSHOTTAMA N.M.,
AGED ABOUT 24 YEARS,
R/AT ABHIRAMA NILAYA,
CHAMBIRIKA VILLAGE,
CHANDRAGIRI POST,
KASARGODU - 671 121,
KERALA STATE.

...PETITIONER

(BY SRI USMAN P., ADVOCATE)

AND:

STATE OF KARNATAKA,
BY SAGAR TOWN POLICE,
SAGAR.
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENGALURU - 560 001.

...RESPONDENT

(BY SRI VINAY MAHADEVAIAH, HCGP)

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THIS CRL.RP IS FILED U/S 397 R/W 401 OF CR.PC PRAYING TO SET ASIDE THE JUDGMENT DATED 16.12.2023 PASSED IN CRL.A.NO.10057/2023 ON THE FILE OF THE LEARNED 5TH ADDL.DISTRICT AND SESSIONS JUDGE, SHIVAMOGGA SITTING AT SAGAR AND SET ASIDE THE JUDGMENT OF CONVICTION AND SENTENCE PASSED IN C.C.NO.195/2018 DATED 05.10.2023 ON THE FILE OF THE LEARNED PRL.CIVIL JUDGE AND J.M.F.C AT SAGAR FOR THE OFFENCE P/U/S 279, 338, 304-A OF IPC AND ACQUIT THE ACCUSED FOR THE OFFENCE P/U/S 279, 338, 304-A OF IPC.

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

CORAM: HON'BLE MRS. JUSTICE GEETHA K.B.

ORAL ORDER

1. This is the revision petition filed under Section 397 read with 491 of the Code of Criminal Procedure, 1973 (in short, 'Cr.PC') by the revision petitioner/accused challenging the Judgment of conviction and order of sentence dated 05.10.2023 passed in CC No.195/2018 on the file of Principal Civil Judge and JMFC, Sagar, (in short, 'the trial Court') which is confirmed in the Judgment dated

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16.12.2023 passed in Criminal Appeal No.10057/2023 on the file of V Addl. District Sessions Judge, Shivamogga, sitting at Sagar (in short, 'the appellate Court').

2. The parties would be referred with their ranks, as they were before the trial Court for the sake of convenience and clarity.

3. The Police Inspector of Sagar Town Police Station, Sagar has filed charge-sheet against the accused alleging the offences punishable under Sections 279, 338 and 304-A of IPC.

4. The case of prosecution in nutshell is that on 17.12.2017 at about 03:00 p.m. on the back side of KSRTC Depot, Job Road, CW2 was the rider of KA-15/W-8291 bike and the deceased-Mastappa was its pillion rider; when they were going from Sagar towards Kugve, the accused being the driver of Maruti Alto 800 car bearing registration No.KA-14/T-5280 came from opposite side with rashness and negligence and dashed against the bike,

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due to which CW2 sustained grievous injuries and the pillion rider Mastappa sustained grievous injuries who succumbed to those injuries in the hospital and thereby the accused has committed the aforesaid offences.

5. On behalf of prosecution, totally 8 witnesses were examined before the trial Court.

6. In the statement under Section 313 Cr.PC, the accused has denied the case of prosecution witnesses.

7. After hearing arguments, the trial Court concluded that the accused has committed the offences punishable under Sections 279, 338 and 304-A of IPC and sentenced to undergo simple imprisonment for 3 months and to pay fine of ₹500/- for the offence punishable under Section 279 IPC; fine of ₹500/- for the offence punishable under Section 338 IPC and simple imprisonment for 1 year and fine of ₹5,000/- for the offence punishable under Section 304-A IPC and all the aforesaid sentences shall run concurrently.

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8. Aggrieved by the said Judgment of conviction and order of sentence, the accused has filed the appeal before the appellate Court. The appellate Court after examining the trial Court records and judgment and after hearing the arguments confirmed the Judgment of conviction and order of sentence of trial court by dismissing the appeal.

9. Against which, the revision petitioner/accused is before this court.

10. Heard arguments of both sides.

11. The learned counsel for the revision petitioner Sri Usman P. would submit that the vehicle number mentioned in the charge-sheet and in the statement of witnesses is KA-14/T-5280; whereas the vehicle seized in this case is KL-14/T-5280 and the vehicle examined by the Motor Vehicles Inspector is KL-14/T-5280. Thus, the charge-sheet filed against the accused and the accusation leveled against the accused is in respect of KA-14/T-5280 which is not the vehicle seized in this case. Thus, there is

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discrepancy in the case of prosecution, which is not at all examined by the trial Court and the appellate Court. Furthermore, the deceased has consumed alcohol at the time of accident and even the rider of the motorbike has consumed alcohol and because of his imbalance on the vehicle, the accident happened and there is no negligence on the part of accused in causing the accident. PW2 and PW3 have not fully supported the case of prosecution. This discrepancy of the number of vehicle in the charge-sheet and its annexures goes to the root of the case. Hence, the accused is entitled for benefit of doubt.

12. The learned HCGP would submit that the wrong mentioning of vehicle number in the charge-sheet and the statement of witnesses is only a typographical mistake because the vehicle seized in this case is KL-14/T-5280 and not KA-14/T-5280. This is not disputed by the accused while cross-examining the witnesses or in his statement under Section 313 Cr.PC. Thus, this discrepancy does not come in the way of prosecution in proving its case. The

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accused being the driver of the offending vehicle is identified by PW2 and PW3 in categorical terms in their evidence. For the first time, the revision petitioner is raising this point and it was not raised before the trial Court or before the appellate Court. Nothing was elicited in the cross-examination of the prosecution witnesses by the accused to disprove their evidence. Hence, prayed for dismissal of the revision petition.

13. Having heard arguments of both sides, verifying the revision petition papers, the trial Court and the appellate Court records, the point that arises for consideration is:

> *"Whether the trial Court and the appellate Court have committed gross erroneousness in convicting the accused for the offences punishable under Sections 279, 338 and 304-A IPC when the vehicle number mentioned in the charge-sheet and the seized vehicle number differs."*

14. The finding of this Court on above point is in ***"Affirmative"*** for the following:

REASONS

15. As per the charge-sheet averments at column No.17, the offending vehicle bearing registration No.KA-14/T-5280. However Ex.P.3 - photograph, Ex.P.6 - seizure panchanama and Ex.P.16 - Motor Vehicles Accident Report reveals that the seized vehicle is bearing registration No.KL-14/T-5280 and is damaged on its right side. Ex.P.15, the indemnity bond executed by owner of the vehicle reveals that he has got released the vehicle bearing No.KL-14/T-5280 and not KA- 14/T-5280.

16. Under these circumstances the vehicle involved in the present case is KL-14/T-5280 and not KA-14/T-5280. But in the charge-sheet and also in the accusation leveled against accused, the offending vehicle's number is mentioned as KA-14/T-5280. The discrepancy regarding the vehicle number is immaterial and has not caused prejudice to the accused and not affected his right of fair trial.

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17. It is to be noted here that PW2 is the rider of the motorbike which was involved in the accident and PW3 is the eyewitness. Both PW2 and PW3 have not deposed the registration number of the vehicle in their examination-in-chief. For that purpose, they were treated as hostile by the learned APP and in that cross-examination; both of them admitted that the offending vehicle is bearing registration No.KL-14/T-5280.

18. In the cross-examination by learned counsel for the accused, PW2 has deposed that it may be correct that he has mentioned the vehicle number as KA-14/T-5280 in his statement before the police, but he has not firmly admitted said statement; on the other hand, PW3 in his cross-examination categorically admitted that in the statement before police, he has mentioned the vehicle number as KA-14/T-5280. However, that portion of his statement was not marked on behalf of the accused and it was not confronted to the Investigation Officer to know whether PW2 and PW3 have given such a statement

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before the Investigation Officer. Only when the contradictions before the police statement under Section 161 Cr.PC and evidence given before the Court is confronted to the Investigating Officer and confronted to the witness, then only it can be considered as material contradiction. However, that is not being done in the present case.

19. PW8 is the Investigating Officer who has not conducted the investigation since from beginning but the investigation was being conducted by CW22 who died during pendency of the investigation and thus PW8 continued the investigation and he has recorded only the statement of CW2 and received the wound certificate from the doctor and filed the charge-sheet against the accused.

20. With this background, the other facts are to be examined.

21. PW1 is the complainant and the son of deceased. He had not seen the accident. Only based on the statements of PW3 and CW4, he has lodged the

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complaint. Thus, he has only set criminal law into motion but he is only the hearsay witness.

22. PW2 was the rider of the motorbike. He has given evidence that when he along with deceased Mastappa as pillion rider was going from Sagar to Karkikoppa village, behind KSRTC depot, after Varadallli cross, on road leading to LB College from Pragathishala, the accident happened. According to him, the accused was driving the car coming from Joga side with great speed and dashed against him and thus the accident occurred.

23. In the examination-in-chief itself PW2 has deposed that he became afraid by seeing the speed of the car and tried to dismount from the scooter to avoid the collusion; however, before he could do so the vehicle driven by the accused advanced and struck him and thereby caused the accident. He has identified the accused before the Court and deposed that accused is from Kerala State.

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24. PW2 was cross-examined in length by the learned counsel for the accused and the material suggestions put to the PW2 were denied by him i.e., PW2 has consumed alcohol before driving the two-wheeler; PW2 and the deceased became afraid and because of their negligence and because of the imbalance of PW2, the accident occurred. It is also suggested to PW2 that he tried to overtake the vehicle which was going in front of it and caused the accident, which is denied by him.

25. PW2 and PW3 in their cross-examination admitted that the road in which accident happened is a busy road. PW3 denied the suggestion that he had not seen the accident and denied the suggestion that the accident has not occurred due to the fault of the accused.

26. Both PW2 and PW3 categorically identified the accused that he was driving the offending car which caused the accident. At the time of cross-examination of PW2 and PW3, it is not suggested that the vehicle which

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was being driven by the accused was not involved in the accident.

27. Under these circumstances, any minor discrepancy between the registration number of the vehicle as recorded in the charge-sheet and that set forth in the formal accusation does not constitute a material defect sufficient to extend the benefit of doubt to the accused.

28. PW4 is the panch witness and nothing was elicited in his cross-examination. PW5 is the owner of the two wheeler, which is involved in the accident and he is also the son of PW2. PW6 is the doctor who treated PW2. PW7 is the wife of deceased and has not seen the incident and thus much importance cannot be given to her evidence.

29. PW8 is the Investigating Officer who has conducted only a minimal part of the as discussed above. However, he has identified the signature of the Investigating Officer who conducted investigation on all

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relevant police papers. Because CW22 is no more, the investigation is continued by PW8 and filed the charge sheet. Even in his cross examination it is not suggested that the vehicle number mentioned in the charge-sheet and in the police papers differ. When this aspect was not at all brought to the notice of the trial Court and the appellate Court and even this is not the ground in the appeal memo and also in this revision petition, it is only the point raised by the learned counsel for revision petitioner at the time of arguments and as discussed above, this discrepancy has not caused prejudice to the accused because the vehicle is identified by the Investigating Officer and the seized vehicle is being driven by the accused is not in dispute. The accused was identified by PW2 and PW3. Hence, that ground cannot be taken at this stage.

30. The accused has not ellicited anything in the cross-examination of PW2 and PW3 to say that there is no

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rashness or negligence on the part of the accused in causing the accident.

31. The revisional jurisdiction of this Court is very limited. In this regard, this Court places reliance on the Judgment of the Hon'ble Apex Court in the case of ***Kuntegowda v/s Thurubaiah in Criminal Appeal No.3654/2026, (Arising out of Special Leave Petition (Criminal) No.2247 of 2024 dated 04.08.2026*** reported in ***2026 SCC OnLine SC 1485***. In the aforesaid judgment, the Hon'ble Apex Court at paragraph No. 7.3 has discussed the revisional jurisdiction of this Court, which reads as follows:

> *"7.3. The contours for exercise of revisional jurisdiction has been well settled by the judicial dicta of this Court wherein time and again it has been observed that the High Court shall not interfere with the orders of the lower court unless:*
>
> *i. The order or finding of the lower court is perverse, grossly erroneous, glaringly unreasonable or wholly unreliable or untenable in law.*

ii. The lower court has passed the impugned order after considering an immaterial or irrelevant material or no material at all.

iii. There is a non-consideration of any relevant material or the judicial discretion has been exercised arbitrarily or capriciously."

32. Thus, only if the judgment of the trial Court confirmed by appellate Court is *perverse* or grossly erroneous, are grossly unreasonable, or wholly unreliable, or wholly untenable, or the trial Court considered an immaterial or irrelevant, material or no material or not at all relevant material or judicial discretion has been exercised arbitrarily and capriciously, the revisional Court can interfere with such judgment.

33. As discussed above, the material evidence was not left over by the trial Court or the appellate Court and they have not considered any irrelevant evidence. The judgment of the trial Court and the appellate Court is not erroneous or grossly not erroneous or not capricious. Hence, this Court holds that passing of Judgment of

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conviction by the trial Court upheld by the appellate Court requires no interference.

34. As far as sentencing part is concerned, the learned counsel for the revision petitioner would submit that the accused is a student and of young age and hence the imposing sentence of one year is exorbitant. In this regard, he places reliance on the judgment of Hon'ble Apex Court in ***State of Punjab vs. Saurabh Bakshi***[1]. Hence, prayed for reduction of the sentence.

35. The learned HCGP would submit that the maximum sentence for the offence under Section 304-A IPC is two years, but the trial Court itself has taken leniency view and convicted the accused for one year and thus it requires no interference.

36. In the aforesaid Judgment, the Hon'ble Apex Court by placing reliance on several earlier judgments of the Apex Court has concluded that the imposition of

[1] 2015 5 SCC 182

sentence of one year be reduced to six months. The paragraph-17 of the said Judgment is extracted as follows:

> *"17. In the instant case the factum of rash and negligent driving has been established. This court has been constantly noticing the increase in number of road accidents and has also noticed how the vehicle drivers have been totally rash and negligent. It seems to us driving in a drunken state, in a rash and negligent manner or driving with youthful adventurous enthusiasm as if there are no traffic rules or no discipline of law has come to the centre stage.*
>
> *The protagonists, as we perceive, have lost all respect for law. A man with the means has, in possibility, graduated himself to harbour the idea that he can escape from the substantive sentence by payment of compensation. Neither the law nor the court that implements the law should ever get oblivious of the fact that in such accidents precious lives are lost or the victims who survive are crippled for life which, in a way, worse then death. Such developing of notions is a dangerous phenomenon in an orderly society. Young age cannot be a plea to be accepted in all circumstances. Life to the poor or the impecunious is as worth living for as it is to the rich and the luxuriously temperamental. Needless to say, the principle of sentencing recognizes the corrective measures but there are occasions when the deterrence is an imperative necessity depending*

upon the facts of the case. In our opinion, it is a fit case where we are constrained to say that the High Court has been swayed away by the passion of mercy in applying the principle that payment of compensation is a factor for reduction of sentence to 24 days. It is absolutely in the realm of misplaced sympathy. It is, in a way mockery of justice. Because justice is "the crowning glory", "the sovereign mistress" and "queen of virtue" as Cicero had said. Such a crime blights not only the lives of the victims but of many others around them. It ultimately shatters the faith of the public in judicial system. In our view, the sentence of one year as imposed by the trial Magistrate which has been affirmed by the appellate court should be reduced to six months."

37. By placing reliance on the aforesaid judgment of the Hon'ble Apex Court, as the accused is aged about 18 years at the time of accident and as he was a student, the sentence of imprisonment is reduced from one year to six months, but as far as imposing fine is concerned it is unaltered. Hence, this Court passes the following:

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Order

The revision petition is ***allowed in part***.

The sentence of imprisonment for the offence punishable under Section 304-A IPC is reduced to six months.

Except this amendment, the remaining portion of the Judgment of trial Court is unaltered.

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(GEETHA K.B.)
JUDGE

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List No.: 1 Sl No.: 19