HC-KAR

NC: 2026:KHC:60869
CRL.RP No. 805 of 2024

CNR: KAHC010340802024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL REVISION PETITION NO. 805 OF 2024

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

BETWEEN:

1. SRI MANJUNATHA
   S/O KEMPAYYA,
   AGED ABOUT 53 YEARS,
   RESIDING AT SANTHE MARKET,
   TAMIL COLONY, CHIKKAMAGALURU,
   CHIKKAMAGALURU DISTRICT - 577101

...PETITIONER

(BY SRI. NAVEEN J N.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
   BY RURAL POLICE, CHIKKAMAGALURU
   (REP. BY SPP, OFFICE OF SPP,
   HIGH COURT BUILDING,
   DR. AMBEDKAR VEEDHI,
   BENGALURU - 560001.

...RESPONDENT

(BY SRI.VINAY MAHADEVAIAH, HCGP)

THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING TO 1.SET ASIDE THE JUDGMENT OF CONVICTION AND SENTENCE PASSED BY THE COURT OF PRL.DISTRICT AND SESSIONS JUDGE AT CHIKKAMAGALURU IN CRL.A.NO.37/2019 DATED 30.01.2024

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AND 2.SET ASIDE THE JUDGMENT OF CONVICTION AND SENTENCE PASSED BY THE COURT OF IST ADDL.SENIOR CIVIL JUDGE AND J.M.F.C AT CHIKKAMAGALURU IN C.C.NO.531/2017 DAETD 23.01.2019 AND ETC.,

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

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

ORAL ORDER

This is the revision petition filed by the revision petitioner/accused under Section 397 r/w 401 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.'), praying for setting aside the judgment of conviction and order of sentence dated 23.01.2019 passed in C.C.No.531/2017 on the file of the I Additional Senior Civil Judge and JMFC, Chikkamagaluru (in short, 'the trial Court'), confirmed in appeal judgment dated 30.01.2024 passed in Criminal Appeal No.37/2019 on the file of the Prl. District and Sessions Judge, Chikkamagaluru (in short, 'the appellate Court') and to acquit the accused for the offences punishable under Sections 279, 338 and 304-A of The Indian Penal Code, 1860 (for short ' the IPC') and Section 187 of Motor Vehicles Act (for short 'MV Act').

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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 case of prosecution in nutshell is that on 14.07.2016 at about 12:00 p.m., in front of the site belonging to one Rangaswamy on Hiremagalur-Chikkamagaluru road, Dinesha-PW.7 was riding the motorcycle bearing Reg.No.KA-18/ED-8210 with Purushothama as the pillion rider; at that time a lorry bearing Reg.No.KA.52/6724 came from opposite side i.e., from Chikkamagaluru side with great speed rashly and negligently, dashed against the motor cycle; due to which, the rider and motorcycle fell on the left side of the road and the lorry overturned on the right side of the road and because of that, the rider sustained grievous injuries and the pillion rider died on the spot within 2-3 minutes.

4. The trial Court and the appellate Court after examining the available oral and documentary evidence have come to the conclusion that the accident happened

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due to rash and negligent driving of driver of the lorry (the accused).

5. Aggrieved by the aforesaid judgments, the revision petitioner/accused is before this court.

6. The learned counsel for the revision petitioner Sri Naveen J.N. would submit that the accused is not properly identified by the witnesses. PW.1 categorically admitted in his evidence that he had not seen the accused on the date of incident; there is some admission by PW.7 in his cross-examination and these aspects were not appreciated by the trial Court in an appropriate manner. There are some specific admissions in the cross-examination of prosecution witnesses, which are not properly appreciated by the trial Court and the appellate Court. Hence, prayed for allowing the revision petition.

7. The learned HCGP for the respondent Sri Vinay Mahadevaiah would submit that there is evidence of eyewitnesses who speak on the rashness and negligence on the part of accused in driving the lorry, which caused

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the accident. This fact is substantiated from the evidence of spot panch witnesses and police official witnesses. The serious impact of the accident is that the pillion rider died on the spot and PW.7 sustained grievious injuries in the accident. Hence, considering these aspects, the trial Court convicted the accused, which is confirmed by the appellate Court, which requires no interference.

8. 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 of IPC and Section 187 of MV Act?"*

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

REASONS

10. 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 Nos.7.1. to 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.*

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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."

11. Thus, only if the judgment of the trial Court confirmed by appellate Court is *perverse* or grossly erroneous, is 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.

12. The conclusion of the trial court upheld by the appellate court is based on the oral evidence of eyewitness-PW1 and the rider of the motorcycle- PW.7, which is supported by the evidence of panch witnesses -

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PWs.3 and 4. PW.2 was the owner of the lorry who has handed over the lorry to the accused for driving. PWs.5, 6 and 8 are police witnesses.

13. The panchanama as per Ex.P.3 consists of the spot sketch; it reveals that the accident has taken place from left side of the road when it is considered from the side of the motorcycle and the lorry came from opposite side on the extreme right side and caused the accident.

14. The defence taken by the accused is that he was not the driver of the lorry which caused the accident. In this regard, PWs.1 and 7 have categorically identified the accused before the Court that he was the driver of the lorry. The evidence of PWs.1 and 7 that after causing the accident, accused ran away from the spot.

15. PW.2 is the owner of the lorry and he has deposed in his examination in chief that the accused was his driver. He has given reply to the statutory notice issued under Section 133 of MV Act stating that the accused was his driver of the offending vehicle at the time

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of causing the accident. In the cross-examination he has only deposed that he does not know the contents of police documents as per Exs.P.6 to P.9. However, it is to be noted here that he owes a statutory duty that he has to give details of the driver at the time of accident to the investigating officer. The said reply is already marked as Ex.P.6. Thus, his ignorance of contents of these documents in the cross-examination would not take away the validity of said document. In that reply, PW.2 specifically stated that accused was its driver and he was holding driving license.

16. Except denying the case of prosecution in the statement recorded under Section 313 of Cr.P.C., the accused stated that he was not the driver of the lorry on the date of accident.

17. Furthermore, as discussed above, both PWs.1 and 7 have categorically identified the accused in their evidence. Even though, PW1 has deposed that he was concentrating more on the injured person and the person

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who died on the spot; he has denied the suggestion that accused was not the driver of the offending vehicle. On the other hand, PW7 was not cross-examined on this point.

18. The above discussion reveals that the identity of accused is established by the prosecution.

19. The spot-panchanama coupled with the evidence of PWs.1 and 7 clearly establishes the rashness and negligence on the part of the accused in causing the accident.

20. Considering these aspects, rightly the trial Court convicted the accused for the offences punishable under Sections 279, 338 and 304-A of IPC and Section 187 of MV Act, which is confirmed by the appellate Court. The aforesaid finding is not erroneous; not capricious; based on material evidence and irrelevant evidence was not considered. Hence, interference of this Court on the judgment of conviction is not required.

21. As far as sentencing part is concerned, due to the impact of the accident, the pillion rider died

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immediately on the spot and the rider of the motorcycle sustained grievous injuries. Considering these aspects, the trial Court sentenced the accused by imposing a fine of ₹1,000/- for the offence under Section 279 of IPC; 6 months imprisonment and fine of ₹1,000/- for the offence under Section 338 of IPC and 2 years imprisonment and fine of ₹2,000/- for the offence under Section 304-A of IPC and as accused ran away from the spot without providing first-aid to the injured and without intimating the accident to the concerned Police Station; he was sentenced to pay a fine of ₹500/- for the offence under Section 187 of MV Act. The substantive sentences shall run concurrently.

22. The maximum punishment for the offence under Section 304-A of IPC is 2 years. In this regard, the learned counsel for the revision petitioner places reliance on the judgment of Hon'ble Apex Court in ***State of Punjab vs. Saurabh Bakshi***[1].

[1] (2015) 5 SCC 182

23. 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 sentence of one year be reduced to six months. The paragraph-23 of the said Judgment is extracted as follows:

> *"23. 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 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, is worse than 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."*

24. On certain occasions, opportunities maybe granted to the convict for reforming himself but it is

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equally important that the principle of proportionality of offence committed and the penalty imposed are to be kept in view. When carrying out this complex exercise, it is obligatory on the part of the court to see the impact of the offence under society as a whole and its ramifications on the immediate collective as well as its repercussions on the victim. By placing reliance on the aforesaid judgment and considering the impact of accident on the society as a whole, this Court opines that the imprisonment imposed on the accused at 2 years shall be reduced to 1 year.

25. Hence, this Court passes the following:

ORDER

i) The Criminal Revision Petition is ***allowed in part.***

ii) The sentence of imprisonment for the offence punishable under Section 304-A IPC is reduced to one year.

iii) The imposition of sentence of fine and other part of the judgment of trial Court is unaltered.

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iv) The bail bond of revision petitioner stands cancelled. He is directed to surrender forthwith to undergo sentence;

v) the revision petitioner be taken into custody to undergo the period of sentence as indicated in this order;

vi) the revision petitioner is entitled to set off for the period of sentence he has already undergone under Section 468 of the BNSS (corresponding Section 428 of Cr.P.C.)

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(GEETHA K.B.)
JUDGE

SPV
List No.: 1 Sl No.: 22