IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL REVISION PETITION NO. 1004 OF 2024

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

BETWEEN:

1. SRI BHASKAR T
   S/O T.NARASIMHALU NAIDU,
   AGED ABOUT 52 YEARS,
   R/O K.G.KARUDIGAI, THIRUTHANI TALUK,
   THIRUVALLAVAR DISTRICT
   TAMIL NADU-631205

...PETITIONER

(BY SRI. NANJUNDA GOWDA M R.,ADVOCATE)

AND:

1. STATE OF KARNATAKA
   KOLAR TRAFFIC POLICE, KOLAR DISTRICT,
   REPRESENTED BY STATE PUBLIC PROSECUTOR,
   HIGH COURT OF KARNATAKA,
   BENGALURU-560 001

...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 a) SET ASIDE THE JUDGEMENT AND ORDER OF CONVICTION AND ORDER REGARDING SENTENCE DTD 21.09.2022 PASSED IN CC.NO.1171/2018 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND JMFC AT KOLAR BY CONVICTING THE PETITIONER, FOR THE OFFENCE P/U/S 279, 337 AND 304-A OF IPC, SEC.187 OF INDIAN MOTOR VECHICLE ACT AND ETC.,

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THIS PETITION HAVING BEEN HEARD AND RESERVED ON 06.11.2026, COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT DELIVERED THE FOLLOWING:

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

CAV JUDGMENT

This is the revision petition filed under Sections 397 read with 401 of the Code of Criminal Procedure, 1973 (in short, Cr.P.C.) by the revision petitioner/accused challenging the judgment of conviction and order of sentence dated 21.09.2022 passed in CC No.1171 of 2018 on the file of II Additional Senior Civil Judge and JMFC, Kolar and the judgment of appeal dated 01.07.2024 passed in Criminal Appeal No.65/2022 on the file of the Principal District and Sessions Judge, Kolar and to acquit the revision petitioner/accused.

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 29.03.2018 at about 04:30 a.m. near the SDC College, Kodiramasandra village in front of the shop of one

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Govinda, on Bengaluru-Chennai NH-75, the tractor bearing No.KA-07/T-2895 along with trailer bearing registration number KA-07/T-2896 was proceeding on the road; when the lorry bearing No.TN-23/AP-1575 (in short 'the offending vehicle') came from behind and dashed against the trailer thereby caused the accident. Due to this dashing by the lorry, the driver of the tractor-trailer lost his control over the tractor-trailer and dashed against the iron pole with name plate on left side; because of that the person who was sitting by the side of driver's seat (PW.1) fell on left side and the driver of the tractor-trailer Nandish fell below the tractor and because of that, he succumbed to the injuries on the spot itself but PW.1 had been taken to the hospital wherein he has taken treatment.

4. The trial Court has taken the cognizance of the offences punishable under Sections 279, 337 and 304-A IPC and Section 187 of the Motor Vehicles Act, 1988 (in short 'MV Act') and then issued summons to the accused. After appearance of the accused, when the accusation

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levelled against the accused is read over and explained to him, he pleaded not guilty of the offence.

5. On behalf of prosecution, the witnesses were examined and documents were marked and then statement of the accused under Section 313 Cr.P.C., was recorded wherein the accused has denied the case of prosecution in *toto*.

6. The accused has not let in defence evidence.

7. After hearing arguments of both the sides, the trial Court convicted the accused for the offences punishable under Sections 279, 337 and 304-A IPC and 187 of MV Act; and sentenced to undergo simple imprisonment for six months and to pay fine of Rs.1,000/- for the offence punishable under Section 279 of IPC; to pay a fine of Rs.500/- for the offence punishable under Section 337 of IPC; to undergo simple imprisonment for one year and to pay fine of Rs.5,000/- for the offence punishable under Section 279 of IPC and to pay fine of Rs.500/- for the offence punishable under Section 187 of the MV Act.

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8. Aggrieved by the said judgment of conviction and order of sentence, the accused has preferred the appeal. After hearing both sides, the appellate Court has dismissed the appeal by confirming the judgment and order of conviction.

9. Aggrieved by the same, the revision petitioner/accused is before this Court.

10. The learned counsel for the revision petitioner Sri Srinath would submit that PW.1 is the injured-cum-eyewitness to the incident and he has not stated anything about rashness or negligence on the part of driver of the lorry in causing the accident. As per motor vehicles' accident report, the lorry was not at all damaged. If it dashed the tractor-trailer from behind there shall be damage on its front which is not forthcoming. There is no other eyewitness; the other witnesses examined are only circumstantial panch witnesses and police witnesses. Hence prosecution utterly failed to prove the rashness or negligence on the part of driver of the lorry in causing the

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accident. In this regard he places reliance on the following judgments :

1. ***Jojo Mathew v/s State of Karnataka[1];***
2. ***State of Karnataka v/s Mehaboob Hussain Sab[2];***
3. ***State of Karnataka v/s Satish Krishna Naik[3]*** ;
4. ***Mrs. Shakila Khader etc., v/s Nausher Gama and another[4];***
5. ***State of Karnataka v/s Satish[5].***

11. The learned HCGP would submit that the evidence on record before the trial Court clearly and categorically establishes the rashness or negligence on the part of driver of the lorry. Even though the words 'rashness or negligence' are not used by PW.1, the way in which accident occurred indicates the rashness and negligence on his part. Even though in motor vehicles' accident report, it is stated that no fresh damages to the lorry are forthcoming; in the panchanama it is clearly mentioned that there is damage on its front portion which is repaired

[1] *2016 (3) AKR 335*
[2] *AIR Online 2021 Kar 1160*
[3] *2021 (2) KCCR 1765*
[4] *AIR 1975 SC 1324*
[5] *AIR OnLine 1996 SC 95*

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afresh and half-painted afresh. Thus, these things establish the case of prosecution which is affirmed by the trial Court and confirmed by the appellate Court. Hence prayed for dismissal of the revision petition.

12. 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 revision petitioner proves that the Judgment of conviction and order of sentence is perverse, capricious, vexatious and passed without examining the material evidence or examined an irrelevant evidence to come to the conclusion and whether it was wrongly affirmed by the appellate Court?"*

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

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REASONS

14. 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.*

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

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

16. With this background, the facts of the present case are to be analyzed.

17. The facts before trial Court are that, on 29.03.2018 at about 04:40 a.m. near SDC College, Kodiramasandra village in front of the shop of one Govinda on Bengaluru-Chennai NH-75, the tractor bearing No.KA-07/T-2895 along with trailer bearing registration No.KA-07/T-2896 was proceeding on the road; the lorry bearing No.TN-23/AP-1575 (in short 'the offending vehicle') came from

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behind and dashed against the trailer thereby caused the accident. Due to this dashing by the lorry, the driver of the tractor-trailer lost his control over the tractor-trailer and dashed against the iron pole with name plate on left side; because of that the person who was sitting by the side of driver's seat (PW.1) fell on left side and the driver of the tractor-trailer Nandish fell below the tractor and because of that, he succumbed to the injuries on the spot itself but PW.1 had been taken to the hospital wherein he has taken treatment.

18. PW.1 is the complainant-cum-eyewitness-cum-injured person and related to the deceased; PWs.2 to 5 are related to the deceased and PW.1 and they are hearsay witnesses in respect of the accident; PW.4 is the witness for seizure of the offending lorry; PW.5 is the witness for spot panchanama-cum-seizure of the tractor-cum-trailer; PW.6 is the doctor who issued MNC register; PW.8 is one more attesting witness to spot cum seizure panchanama; PWs.7 and 9 are police witnesses; PW.10 is the Motor Vehicle Inspector who has examined the motor

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vehicles and issued Motor Vehicles Accident Report; PW.11 is the police witness; Ex.P.8 - spot panchanama and Ex.P.12- spot sketch establishes that the accident has taken place on Bengaluru-Chennai NH-75 road.

19. In this regard PW.1 is the only eye-witness. He has given evidence that, on 29.03.2018 at about 04:00 a.m., Nandish was driving the tractor-cum-trailer from Chathrakodihalli towards Kanganalluru and when they were going on NH-75 in front of SDC College on Bengaluru-Chennai Highway, the offending lorry came from backside and dashed against the trailer; because of that the driver of the tractor lost his control over the tractor and dashed against the iron pole on the left side; at that time he fell on the road and Nandish fell below the tractor. PW.1 sustained injuries. Afterwards he went and saw that his elder brother-Nandish died on the spot.

20. In the above evidence, PW.1 has only deposed the lorry came from backside with high speed and dashed against the tractor-trailer. However, he has not deposed the rashness or negligence on the part of driver of the

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lorry in causing the accident. But his cross-examination establishes that for him the road and backside were clearly visible. They were already on NH.75 and about 2 kilometers after they were going on NH.75, the accident has taken place. Their tractor-trailer was going with very low speed of 20 kmph. The Lorry is of 10 wheels and from 80-100 feet backside, he observed the lorry. He also deposed that the lorry was loaded. He admitted that if the lorry is loaded generally it would come with less speed. However, the manner in which the accident has taken place is clearly deposed by PW.1 in his examination-in-chief and also in the cross-examination. When this tractor was going on the straight line road with less speed; the lorry came from backside and dashed against the trailer attached to tractor, which leads to the tractor driver to lose his balance and to dash against the pole on left side.

21. With this background, Motor Vehicles' Accident Report is to be examined. According to this report, there is bent on the backside of the trailer and the front and rear left side of the tractor was damaged i.e., front bumper,

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both headlight, front body pressed and damaged, rear left side of the tractor wheel axle is damaged and trailer rear body was dent. Thus, the impact was such that the lorry dashed to the trailer and because of that the trailer dashed against the tractor's rear side and the tractor driver lost balance on it and dashed on the left side pole and hence its front and rear side were damaged.

22. The learned counsel for revision petitioner would vehemently submit that as per this motor vehicles' accident report, there was no fresh damage on the lorry at the time of inspection. He conducted the inspection on 02.04.2018 at 12:40 noon. As per Ex.P.6 the lorry was seized on 31.03.2018. The accident has taken place on 29.03.2018 at about 04:30 a.m.

23. As per the evidence of PW.1, after causing the accident, the lorry driver stopped the lorry at a distance of about 10 feet, he came to the spot and saw that, Nandish died and PW.1 is injured and immediately he ran away from the spot. Thus, immediately after the accident on 29.03.2018, the lorry was taken away by the driver and it

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was seized on 31.03.2018 at about 03:00 p.m. in the police station.

24. The evidence of PW.9 reveals that he and another police official were deputed to trace the lorry involved in this accident on 30.03.2018 and accordingly, traced the lorry driver and the lorry and then produced before CW.18. According to PW.8, he seized the lorry on 31.03.2018. Thus, there is 1 or 2 days gap between the date of accident and the date of seizure. According to the seizure panchanama as per Ex.P.6, the front side of the lorry was damaged and found fresh repairs and it was half painted on its front side; its front headlights were damaged and the new headlights were inserted. Nothing was elicited in the cross-examination of PW.4 to deny these facts.

25. With this background, it is to be decided whether there was rashness or negligence on the part of the driver of the lorry in causing the accident.

26. Except by making some vague suggestions to the prosecution witnesses, the facts that, the accused was the

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driver of the lorry; the lorry was involved in the accident are not seriously disputed by the accused. Furthermore, PW.1 categorically identified the accused before the court and this identification is not disputed. The conduct of driver of the lorry is very important. By seeing the accident and by seeing the death of one person and injury to another person, without providing any medical treatment to them, the driver absconded from the spot by taking the lorry. He has not intimated the accident to the nearest police station which is very much essential.

27. Repairing the lorry immediately after the accident also establishes that the lorry is involved in the accident. Its front portion was damaged, its headlights were damaged and new headlights were inserted as per the recitals in the panchanama. This dashing the lorry to the tractor causes the accident. The heavy impact of the accident on the tractor-trailer which was going on the straight road is that after the lorry hit from backside to the tractor-trailer; the tractor-trailer's driver lost his control over it; dashed against an iron pole establishes the

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rashness and negligence on the part of driver of the lorry in causing the accident.

28. In ***Jojo Mathew v/s State of Karnataka[6];*** held as follows:

> *10. As already stated, none of these important witnesses have spoken anything about the rash and negligent driving except stating that the Tata Sumo vehicle was being driven with speed. Mere driving of the vehicle at high speed does not lead to an inference of negligent or rashness in driving the vehicle and causing the accident.*
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> *11. In the case of State of Karnataka v. Satish, - (1998) 8 SCC 493, Hon'ble Supreme Court has dealt with term "high speed" and it is held that mere driving of the truck at a "high speed" does not lead to the inference that such negligent or rash driving has caused the accident resulting in death and injuries to the persons. Merely because Tata Sumo was driven with 'speed' does not bespeak of either "negligence" or "rashness". None of the witnesses examined by the prosecution have given any indication, even remotely as to what they meant by 'speed'. The word "speed" or "High speed" are relative terms. As held by the Hon'ble Supreme Court criminality is not to be presumed, subject of course to some statutory exceptions.*
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> *12. Prosecution is expected to prove the guilt of the accused beyond reasonable doubt. The same degree of proof is not applicable whenever accused wants to probablise the defence. Just because, the counsel for the accused did not put the suggestion to the material witnesses that the motor cycle was driven in zig-zag and dashed against the tata sumo vehicle, during the course of cross-examination, the defence sought to be probablised on behalf of the*

[6] *2016 (3) AKR 335*

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accused could not have been easily brushed aside. Infact the prosecution has not discharged the initial burden in regard to the proof of foundational facts.

29. In ***State of Karnataka v/s Mehaboob Hussain Sab***[7] held as follows:

"16. There is absolutely no evidence to show that the driver of the vehicle was driving the offending vehicle in a rash and negligent manner so as to endanger human lif at does not amounts to proving the case by the prosecution. It is the settled principle of law that initial burden of proving its case as alleged against the accused is on the prosecution. Once the prosecution discharges its burden beyond reasonable doubt, then the burden shifts on the accused to show by his defence that prosecution evidence creates doubt. The possibility of accused dashing to vehicle suddenly in hurry to cross road also cannot be ruled out. The accused has proved his defence by preponderance of probabilities."

30. In ***State of Karnataka v/s Satish Krishna Naik***[8] held as follows:

"10. In order to bring home guilt of the accused beyond all reasonable doubt the prosecution has to prove the alleged accident has taken place due to the rash and negligent act on the part of the respondent-accused. Criminal negligence, as has been discussed by the Hon'ble Apex Court in the case of S.N.Hussain Vs. State of A.P. (AIR 1972 SC 685). In the said decision it has been observed that, "Culpable

[7] *AIR Online 2021 Kar 1160*

[8] *2021 (2) KCCR 1765*

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negligence lies in the failure to exercise reasonable and proper care and the extent of its reasonableness will always depend upon the circumstances of each case."

31. In ***Mrs. Shakila Khader etc., v/s Nausher Gama and another***[9] held as follows:

"6. The facts in the case speak eloquently about what should have happened. The main criterion for deciding whether the driving which led to the accident was rash and negligent is not only the speed but the width of the road, the density of the traffic and the attempt, as in this case, to overtake the other vehicles resulting in going to the wrong side of the road and being responsible for the accident. Even if the accident took place in the twinkling of an eye it is not difficult for an eye witness to notice a car overtaking other vehicles and going to the wrong side of the road and hitting a vehicle travelling on that side of the road. The criterion adopted by the learned Judge for assessing the evidence of P.Ws. 3 and 4 and rejecting it is thoroughly unjustifiable. There may be cases where it is difficult to be clear or specific in giving details as to the cause of the accident but this is not one such case. The reference by the learned Judge about the slight damage to the electric post and the conclusion drawn therefrom that the car could not have been going at a high speed is not correct as we shall show later. His further observation that the fact that the car travelled another 45 feet and hit against the parapet wall and turned turtle showed that the car must have been travelling at an extremely high speed but there is a

[9] *AIR 1975 SC 1324*

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little blue paint on the pole and a faint gray stain on the parapet wall is self contradictory unless we are to infer that the learned Judge implied that the one or the other is not true. He does not so hold. There can be no doubt about the car having hit the electric post and the parapet wall. That and the fact of its overturning would establish the rash and negligent driving. A car driven normally and travelling behind a bus does not go to the opposite side of the road and hit an electric post and parapet wall and turn turtle. The car apparently stopped only because it turned turtle. It did not hit the electric post or the parapet wall full tilt; if it did it would have stopped at one of those points. We should remember that the collision with the scooter and pushing it back would have considerably reduced the speed of the car. Even so it travelled farther. The slight damage to the electric post and the parapet wall is because the car hit them sideways. Nobody has suggested that they were brought into existence for the purpose of this case. The car would probably not have stopped but for turning turtle and it should have been travelling quite fast before it could overturn as the learned Judge himself realises. There is only one conclusion possible on the facts of this case and that is that the accused came over to the wrong side of the road and was responsible for the accident and that is clearly a rash and negligent act in the condition of the road and the condition of the traffic."

32. In ***State of Karnataka v/s Satish***[10] held as follows:

"5. There being no evidence on the record to establish "negligence" or "rashness" in driving the

[10] *AIR OnLine 1996 SC 95*

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truck on the part of the respondent, it cannot be said that the view taken by the High Court in acquitting the respondent is a perverse view. To us it appears that the view of the High Court, in the facts and circumstances of this case, is a reasonably possible view. We, therefore, do not find any reason to interfere with the order of acquittal. The appeal fails and is dismissed. The respondent is on bail. His bail bonds shall stand discharged."

33. On a careful perusal of all the above said judgments and the facts established as discussed above, it is crystal clear that only because of rashness and negligence on the part of driver of the lorry, the accident happened. Merely because PW.1 has not used the words 'rashness' or 'negligence' in his evidence, it cannot be said that there is no such rashness or negligence. Mere using of the words ‘rashness’ or ‘negligence’ is not relevant. The facts how the accident occurred as explained by PW.1 and as noted in spot panchanama and spot sketch and the damages caused to the vehicle and also the damages which were caused to the offending vehicle which were tried to be concealed by making its repairs immediately clearly establish the involvement of the accused in causing

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the accident and his rashness and negligence are established.

34. Considering these aspects, rightly the trial court convicted the accused which is upheld by the appellate Court. Thus, there is no gross erroneousness in passing the aforesaid judgments by both the Courts; the aforesaid judgments are not capricious or not *perverse* or vexatious. Hence, interference on those judgments is not required.

35. Hence, this Court passes the following:

ORDER

The Revision Petition is ***dismissed***.

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(GEETHA K.B.)
JUDGE

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