HC-KAR
NC: 2026:KHC:61726
CRL.RP No. 991 of 2024
CNR: KAHC010441902024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL REVISION PETITION NO. 991 OF 2024

BETWEEN:

SRI. RAVI. M,
S/O MUNI ANJANAPPA,
AGED ABOUT41 YEARS,
RESIDING AT NO.34,
MANCHOHALLI VILLAGE,
VISHWANIDAM POST,
BANGALORE - 560 091.

...PETITIONER

(BY SMT. PADMAVATHI N., ADVOCATE)

AND:

STATE BY CHANNARAYAPATANA
POLICE STATION,
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE - 560 001.

...RESPONDENT

(BY SRI VINAY MAHADEVAIAH, HCGP)

THIS CRL.RP IS FILED U/S.397 R/W 401 OF CR.P.C PRAYING TO SET ASIDE THE ORDER PASSED BY THE LEARNED PRL. CIVIL JUDGE AND JMFC, CHANNARAYAPATANAN, IN

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CC.NO.657/2014 DATED 17.11.2023 AND CONFIRMED THE SAME BY THE LEARNED IV ADDITIONAL DISTRICT AND SESSIONS JUDGE CHANNARAYAPATANA (SITTING AT HASSAN) IN CRL.A.NO.271/2023, DATED 27.06.2024 FOR THE OFFENCES P/U/S 279, 337, 338, 304-A OF IPC AND SEC.187 OF IMV ACT (CR.NO.466/2013 CHANNARAYAPATANA TOWN POLICE), HASSAN DISTRICT.

THIS PETITION, COMING ON FOR FURTHER ARGUMENTS, 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 401 of the Code of Criminal Procedure, 1973 (in short, 'the Cr.P.C') by the revision petitioner/accused challenging the Judgment of conviction and order of sentence dated 17.11.2023 passed in CC No.657/2014 on the file of the Prl. Civil Judge and JMFC, Channarayapatna (in short, 'the trial Court') confirmed in the Judgment dated 27.06.2024 in Criminal Appeal No.271/2023 on the file of IV Addl. District and Sessions Judge, Hassan sitting at Channarayapatna (in short 'the appellate Court').

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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 Channarayapatna Circle Inspector has filed the charge-sheet against the accused alleging the offences punishable under Sections 279, 337, 338, 304-A of Indian Penal Code read with Section 187 of IMV Act.

4. After taking cognizance of the offences, the accused appeared before the trial Court upon the issuance of summons. He pleaded not guilty of the offences when accusation leveled against him were read over and explained to him.

5. On behalf of the prosecution, witnesses were examined. The accused has denied the case of prosecution in *toto* in his statement recorded under Section 313 Cr.PC.

6. After hearing arguments on both sides, the trial Court concluded that the accused has committed the offences alleged against him and sentenced him to pay fine of ₹1,000/- for the offence punishable under Section

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279 IPC; fine of ₹500/- for the offence punishable under Section 337 IPC and fine of ₹1,000/- for the offence punishable under Section 338 IPC; to undergo simple imprisonment for 6 months and to pay fine of ₹2,000/- for the offence punishable under Section 304-A IPC and fine of ₹500/- for the offence punishable under Section 187 of IMV Act.

7. Aggrieved by the same, the accused preferred the appeal before the appellate Court.

8. After hearing arguments, the appellate Court has dismissed the appeal which is under challenge in this revision petition.

9. The learned counsel for the revision petitioner Smt. Padmavathi N., would submit that the prosecution failed to establish the rashness and negligence on the part of the accused in driving the tempo traveler. PW2 and PW7 are planted witnesses because they were also the resident of the village in which PW3, the injured-cum-rider of the motorcycle resides. PW3 was not having driving

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licence to drive the motorcycle. Hence, negligence on his part in causing the accident cannot be ruled out. PW2, PW3 and PW7 have deposed that the accused was driving the tempo traveler with high speed; nothing was stated about rashness and negligence. None of the inmates of Tempo Travels were examined to prove the rashness and negligence of the driver of the tempo traveler.

10. In this regard, the learned counsel for the revision petitioner places reliance on the Judgment of Hon'ble Apex Court in ***State of Karnataka vs. Satish***[1] at paragraph No.4 which explains the meaning of rashness, negligence and high speed. Except high speed, nothing was stated in the evidence. Hence, prayed for allowing the revision petition.

11. The learned counsel for the revision petitioner would also submit that the wife of the revision petitioner is a cancer patient and the revision petitioner is the only earning member of the family. Hence, in case this court

[1] (1998) 8 SCC 493

confirms the conviction, a lenient view may be taken regarding imposition of sentence.

12. The learned HCGP would submit his arguments that there is clear evidence of PW3, the injured-cum-rider of the motor cycle; the evidence of PW2 and PW7-eyewitnesses to prove the rashness and negligence on the part of driver of the tempo traveler. These facts were properly appreciated by the trial Court and the appellate Court. Hence, it requires no interference.

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

i. *"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?*

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ii. Whether imposing sentence by the trial Court is exorbitant compared to the gravity of the offence proved against the accused."

14. The finding of this Court on the above point Nos.1 and 2 is in ***'Negative'*** for the following:

REASONS

15. It is the case of the prosecution that, when PW3 and his sister-Manjula were proceeding on the motorcycle to go to their village on NH-75 on 28.12.2013 at 8:00 pm, the driver of the tempo traveler made an attempt to overtake another vehicle, took extreme right and hit the motorcycle, in result of the same, PW3 sustained severe injuries and sister of PW3 died on the spot.

16. The learned counsel for the revision petitioner vehemently submit that PW2 and PW7 are planted witnesses, because they are also the residents of the village in which PW3- the injured person resides and the

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distance between the spot of incident and their village is about 50 kilometers.

17. PW2 and PW7 were cross-examined on this point. In their cross-examination, they have denied the contention that they were not present at the time of the incident. The only discrepancy in the evidence of PW2 and PW7 is that, according to PW2, the deceased and PW3 left the place about 10 minutes prior to PW2 and PW7 leave the tea shop at Hirisave; whereas, according to PW7, they left about 5 minutes prior to PW2 and PW7 leave the spot. This cannot be called as material discrepancy. PW2 and PW7 have seen the accident from about 50 - 100 meters away from the spot. They have denied the suggestion that the accident occurred due to rash and negligent driving of PW3. PW3 also denied the said suggestion. PW3 has deposed that he was not holding driving licence as on the date of accident. That doesn't mean that PW3 did not know the driving. Because in the next sentence itself he has deposed that he was driving the bike since 3 - 4 years

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prior to the accident, which is not denied by the accused. He denied the suggestion that because of non-experience and because of his high speed, the accident has taken place.

18. PW2, PW3 and PW7 have deposed that the accused was driving the tempo traveler with high speed. However, they have not used the words rashness or negligence.

19. To attract the offence under Section 279, 337, 338 and 304-A IPC, there shall be rashness or negligence on the part of the accused in driving tempo traveler.

20. Mere use of the words 'rashness' or 'negligence' will not prove that the accused was driving with rashness or negligence and mere non-use of those words will not disprove that the accused was not driving the vehicle without 'rashness' or 'negligence'. The rashness or negligence has to be attributed from the circumstances under which the accident happened, how the two-wheeler was going in which direction and how the four wheeler

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was coming from which direction and the spot panchanama and spot sketch are relevant documents to decide this aspect.

21. Ex.P1 is the spot panchanama. Ex.P15-sketch According to these documents, the accident occurred on the plain tar road. It is a fact that the accused was driving the temp traveler from Hassan side whereas PW3 was riding two-wheeler towards Hassan side. The width of the road is 4 + 12 + 12 + 4. There is a White strip mark on the road. The accident took place on the southern side, 4 feet to the north. The accused was driving from Hassan towards Bengaluru. If it is taken from said side; that the accused has taken tempo traveler to the extreme right at the time of causing the accident.

22. It is the contention of the prosecution that while overtaking a vehicle, the accused has taken his vehicle to the extreme right side and caused the accident when two-wheeler was coming from opposite side on left side of the road.

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23. The above facts establish the way in which the accident has taken place.

24. In the Judgment of ***Satish's*** case cited supra at para No.4, it is held as follows:

> *Merely because the truck was being driven at a "high speed" does not bespeak of either "negligence" or "rashness" by itself. None of the witnesses examined by the prosecution could give any indication, even approximately, as to what they meant by "high speed". "High speed" is a relative term. It was for the prosecution to bring on record material to establish as to what it meant by "high speed" in the facts and circumstances of the case. In a criminal trial, the burden of providing everything essential to the establishment of the charge against an accused always rests on the prosecution and there is a presumption of innocence in favour of the accused until the contrary is proved. Criminality is not to be presumed, subject of course to some statutory exceptions. There is no such statutory exception pleaded in the present case. In the absence of any material on the record, no presumption of "rashness" or*

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"negligence" could be drawn by invoking the maxim "res ipsa loquitur". There is evidence to show that immediately before the truck turned turtle, there was a big jerk. It is not explained as to whether the jerk was because of the uneven road or mechanical failure. The Motor Vehicle Inspector who inspected the vehicle had submitted his report. That report is not forthcoming from the record and the Inspector was not examined for reasons best known to the prosecution. This is a serious infirmity and lacuna in the prosecution case.

25. The word high speed is a relative term. However, nothing was elicited in the cross-examination of PW2, PW3 and PW7 that what was the speed in which accused was driving, but it is come in evidence that the accused while overtaking a lorry, he came to the extreme right and caused the accident. Thus, the accused has not at all seen the two-wheeler which is coming from opposite side and dashed against it and thereby caused the accident. The accident has taken place on the straight

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road. These facts establish that there is negligence on the part of the accused in driving tempo traveler. Hence, the above said judgment is not helpful for the accused to prove his innocence.

26. Considering these aspects, the trial Court and the appellate Court have rightly convicted the accused.

27. As discussed above, there is no *perversity* in these judgments and they were not *capricious*.

28. While framing the accusation, the trial Court has framed it in an appropriate manner that while PW3 was driving the two-wheeler, the accused being the driver of the tempo traveler came from opposite side and dashed against it. Even in the judgment at point No.1, the same was framed, but while framing points No.2 to 5, due to typographical error, it is stated that the accused was the rider of two-wheeler instead of tempo traveler and there is no mention of another vehicle in points No.2 to 4, but while considering these points, the trial Court has categorically considered the material before it that the

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accused was the driver of tempo traveler and PW3 was the rider of two-wheeler and these facts are not in dispute. Hence, mere typographical mistake in framing points No.2 to 4 will not entitle the accused to get benefit of doubt.

29. For the above reasons, this Court holds that the judgment of conviction passed by the trial Court affirmed by the appellate Court requires no interference. Accordingly, point No.1 is answered in the ***Negative***.

30. As far as imposition of sentence is concerned, because of the accident, the pillion rider died on the way to the hospital and this also establishes the gravity of the accident. In ***State of Punjab vs. Saurabh Bakshi's***[2] case, the Hon'ble Apex Court clearly held that in the offence of present nature, by mere granting compensation to the family of the deceased will not entitle the accused to get absolve of the punishment of imprisonment.

31. In the instant case, only 6 months imprisonment was imposed by the trial Court for the

[2] (2015) 5 SCC 182

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offence under Section 304-A IPC, which is not exorbitant compared to the gravity of the offence proved against the accused. Hence, this Court holds that interference of this Court on the above aspect is also not required. Accordingly, point No.2 is also answered in the ***Negative***.

32. Hence, this Court passes the following:

ORDER

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

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(GEETHA K.B.)
JUDGE

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List No.: 1 Sl No.: 14