HC-KAR

NC: 2026:KHC:20870
CRL.RP No. 713 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION No.713 OF 2018

BETWEEN:

SRISHAILA BAKATI
S/O. HANUMANTHA
AGED ABOUT 35 YEARS
KSRTC BUS DRIVER
RESIDING AT NAGATANA
BIJAPURA TALUK AND DISTRICT

...PETITIONER

(BY SRI M. B. NARAGUND, SR. ADVOCATE FOR
SMT. S. SUMATHI, ADVOCATE)

AND:

STATE OF KARNATAKA
BY BEGURU POLICE
REPRESENTED BY
THE STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGLAURU-560 001

...RESPONDENT

(BY SRI K. NAGESHWARAPPA, H.C.G.P.)

Digitally signed by R MANJUNATHA
Location: HIGH COURT OF KARNATAKA

THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION AND SENTENCE PASSED IN C.C.NO.156/2010, ON THE FILE OF THE LEARNED PRINCIPAL CIVIL JUDGE AND J.M.F.C., GUNDLUPET DATED 05.03.2015, AND CONFIRMED IN CRL.APPEAL NO.14/15, ON THE FILE OF THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, CHAMARAJANAGARA (SITTING AT KOLLEGALA) DATED 17.01.2018 AND ACQUIT THE PETITIONER/ACCUSED.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

Heard Sri M.B.Nargund, learned Senior Counsel for the revision petitioner and Sri. K. Nageshwarappa, Learned High Court Government Pleader.

2. Petitioner is the accused who suffered an order of conviction in C.C No.156/2010 for the offences punishable under Sections 279, 337, 338, 304A of the Indian Penal Code. The order of conviction and sentence was challenged before the First Appellate Court in Criminal Appeal No.14/2015.

3. Learned Judge in the First Appellate Court, after securing the records, heard the arguments of the parties and dismissed the appeal by a considered judgment dated 17.01.2018.

4. Thereafter, petitioner/accused is before this Court in this revision petition.

5. Facts in the nutshell which are utmost necessary for disposal of the present petition are as under:

5.1 A road traffic accident occurred on 20.04.2009 at about 01.00 p.m. within the limits of Gundlupete Police Station. A complaint came to be lodged alleging that the KSRTC bus bearing registration No.KA-09/3360 driven by the revision petitioner while passing through Arepura gate was proceeding towards Gundlupete.

5.2 When the said bus reached the Nursery near the land of Sri Narayanaswamy, because of the rash and negligent driving of the bus by the petitioner, it hit the tender coconut vendors by name Swamy Buddi and Mahendra. Bus did not stop there. It went into the agricultural land, wherein, it hit a child aged 4 years by name Venugopal and Puttaswamy.

5.3 Because of the impact and the injuries, Swami Buddi and Puttaswmay died on the spot. Venugopal aged 4 years succumbed to the injuries in Begur Hospital. So also, Mahendra lost his life at about 06.00 p.m. in K.R Hospital. Apart from these four deaths, inmates of the bus also suffered injuries.

6. Police after registering the case, investigated the matter thoroughly and filed the charge sheet against the revision

petitioner/accused for the offences punishable under Sections 279, 337, 338, 304A of the Indian Penal Code and Section 184 of the Indian Motor Vehicles Act.

7. Presence of the accused was secured and charges were framed. The accused pleaded not guilty and therefore, trial was held.

8. In order to bring home the guilt of the accused, prosecution proceeded to examine twelve witnesses as PWs-1 to 12, and placed on record 21 documents which were exhibited and marked as Exs.P-1 to P-21 comprising of the complaint, mahazar, inquest mahazar, wound certificates, indemnity bond, post mortem report and First Information Report.

9. Few contradictions which were elicited were also marked in evidence.

10. Thereafter, learned Trial Magistrate culled out the incriminatory circumstances found from the prosecution evidence and put it across to the accused seeking his

explanation as is contemplated under Section 313 of the Code of Criminal Procedure.

11. Surprisingly, petitioner has denied all the incriminatory circumstances including the accident and did not offer any explanation nor placed his version about the incident.

12. Thereafter, learned Trial Magistrate heard the arguments of the parties and by the judgment dated 05.03.2015 convicted the accused and sentenced as under:

Offence punishable under Section	Sentence	Fine	Default sentence
279	Six months simple imprisonment	Rs.1,000/-	---
337	Six months simple imprisonment	Rs.500/-	---
338	Six months simple imprisonment	Rs.1,000/-	---
304A	One year simple imprisonment	Rs.6,000/-	---

13. Being aggrieved by the same, accused filed an appeal before the District Court in Criminal Appeal No.14/2015.

14. Learned Judge in the First Appellate Court, after securing the records, re-appreciated the material on record and by the judgment dated 17.01.2018 dismissed the appeal.

15. Thereafter, accused is before this Court in this revision.

16. Sri M.B.Nargund, learned Senior Counsel would submit that there is improper exercise of appellate jurisdiction inasmuch as facts and the law are not properly discussed and the finding has been recorded by the learned Judge in the First Appellate Court resulting in miscarriage of justice and sought for allowing the revision.

17. Sri Nargund, would also contend that PW-5 being the conductor of the bus and PW-6 being one of the inmates of the bus have spoken about the mechanical defects in the bus. Whereas, PW-4 has stated that there is no mechanical defect. There is no proper discussion in this regard either by the learned Trial Magistrate or by the learned Judge in the First Appellate Court and solely passing an order of conviction on the basis of the I.M.V report issued by PW-4 vide Exhibit P-16 has

resulted in miscarriage of justice and thus sought for allowing the revision petition.

18. *Per contra*, Sri K.Nageshwarappa, learned High Court Government Pleader, supports the impugned judgments.

19. He would further contend that there is no explanation forthcoming from the accused with regard to the incident that has occurred which is significant in appreciating the nature of accident.

20. He would further submit that, if the brake system of the bus was not good as is spoken to by PW-6 or, if there is a damage to the blade in the shock absorber which resulted in losing the control of the vehicle, best person to speak about the same is the accused himself. Further, accused was duty bound to place such material before the court at the time of recording the accused's statement or at least by written submissions. No such effort has been made by the accused and therefore order of conviction needs no interference.

21. Having heard the arguments of both sides, this Court perused the material on record meticulously.

22. On such perusal of the material on record, there is no dispute that accused is the driver of the bus.

23. Likewise, there is no dispute about the unfortunate incident occurred on 20.04.2009 at about 01.00 p.m. near Arepura gate, Gundlupete.

24. Noticeably, because of the bus losing control dashed against the tender coconut vendors. Bus did not stop there. It went into the agricultural land, wherein it dashed against Mahendra and Venugopal who also succumbed to the injuries. As such, one can infer the rashness with which the bus was driven.

25. If it is a case of brake failure, then necessarily it should have found place in Exhibit P-16 which is the IMV report issued by PW-4, after the vehicle was examined by him.

26. There is a specific mention in Exhibit P-16 that brake system of the offending bus was intact, except for minor damages on the peripheries. Further, breakage of the blade which is used in the suspension system of the bus would not straight away result in losing the control over the bus. Thus,

the answers elicited in the cross-examination of PW-4, PW-5, and PW-6 would not be of any avail to the accused in holding that he drove the bus with all care and caution and the accident has occurred beyond human error on account of the mechanical defect.

27. Neither PW-5 nor PW-6 are competent persons to speak about the mechanical defect in the offending bus. It is PW-4 who is qualified and competent to speak about the mechanical defect, if any, in the bus.

28. Pertinently, in the cross-examination of PW-4, there is no suggestion to PW-4 about the improper working of brake system of the bus. Therefore, the defence of the accused that the incident has occurred beyond the control of a human being, and on account of mechanical defect cannot be countenanced in law.

29. When such a defence does not get probabilised, the other material evidence has to be looked into to find out the rashness and negligent driving of the bus by the revision petitioner.

30. In this regard, learned Trial Magistrate has undertaken a detailed discussion. But as rightly pointed out by the learned Senior Counsel for the petitioner, not much discussion is found in the judgment of the First Appellate Court.

31. In this regard, how the evidence of the prosecution is to be appreciated and what are the requirements that the Courts are bound to follow in appreciating the prosecution evidence is no longer *res integra*.

32. In a matter of this nature when the prosecution establishes the charges levelled against the accused by placing the necessary material on record, Court must look forward for the version of the accused while recording the accused's statement.

33. Recording of an accused's statement in a criminal trial more so, in respect of these type of matters is not an empty formality. It serves dual purpose.

34. Firstly, the Trial Magistrate is required to cull out the incriminatory circumstances found in the prosecution case and

put it across to the accused seeking his explanation. Such a duty cast on the Magistrate is mandatory in nature.

35. Secondly, it is the best opportunity for the accused to putforth his version about the incident. If the accused deliberately fails to make use of the said opportunity, the consequences in law should follow.

36. The view of this Court in this regard is fortified by the principles of law enunciated by the Hon'ble Apex Court in the case of ***Ravi Kapur vs State of Rajasthan*** reported in ***(2012)9 SCC 284*** wherein, at paragraph 39 it has been held as under:

> ***"39.*** *It is true that the prosecution is required to prove its case beyond reasonable doubt but the provisions of Section 313 CrPC are not a mere formality or purposeless. They have a dual purpose to discharge, firstly, that the entire material parts of the incriminating evidence should be put to the accused in accordance with law and, secondly, to provide an opportunity to the accused to explain his conduct or his version of the case. To provide this opportunity to the accused is the mandatory duty of the court. If the accused deliberately fails to avail this opportunity, then the consequences in law have to follow, particularly when it would be expected of the accused in the normal*

course of conduct to disclose certain facts which may be within his personal knowledge and have a bearing on the case."

37. Keeping the above principles of law in the background, when the material on record is analyzed, accused being the driver of the offending bus, without involvement of any other vehicle, having taken a specific stand that the accident was beyond his control and on account of mechanical defect, was duty bound to answer the incriminatory circumstances in a pragmatic manner.

38. In fact, petitioner being the driver of the offending bus, is the best person to point out what are the mechanical defects which made him to lose control over the bus.

39. But in the case on hand, accused has denied all the incriminatory circumstances including the accident.

40. Sri M.B.Nargund, however submits that in the mofussil areas, it is a normal practice that the accused would be told to deny whatever the questions that are put to him by the Court. Such an argument cannot be countenanced in law inasmuch as

accused has to place his version of the incident in a matter of this nature.

41. Even assuming that such a practice is in place in the mofussil areas in denying the incriminatory circumstances, written submissions could have been filed explaining the cause for the accident by the accused or accused could have examined himself as a witness and speak about the incident that it was beyond his control and was on account of mechanical defects.

42. In the absence of such an exercise being carried out and when the accused has failed to offer any explanation, learned Trial Magistrate was justified in convicting the accused taking note of four innocent people losing their valuable lives because of the negligence attributable to the accused.

43. Bus having not stopped near the place of incident where the coconut vendor and yet another person lost their lives and further moving into the agricultural land killing two more persons itself would be sufficient enough to infer the speed and the rashness with which the petitioner drove the bus.

44. Thus, this Court having regard to the limited revisional powers, cannot revisit into the factual aspects of the matter in upsetting the finding of guilt recorded by Trial Magistrate confirmed by the First Appellate Court.

45. With regard to the sentence, it is a pathetic case. No mitigating circumstances are found from the accused to interfere with the discretionary order of sentence.

46. In fact, if there is a challenge to the inadequacy of the sentence by the State, ample scope exists for enhancing the sentence.

47. As such, this Court does not find any good grounds to interfere with the Order of the learned Trial Magistrate confirmed by the learned Judge in the First Appellate Court.

48. Hence, the following:

ORDER

Revision Petition is ***dismissed***.

SD/-
(V SRISHANANDA)
JUDGE

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List No.: 2 Sl No.: 81