HC-KAR

NC: 2026:KHC:59745
CRL.A No. 1756 of 2026

CNR: KAHC010711102026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1756 OF 2026 (A)

BETWEEN:

1. THE STATE OF KARNATAKA
   BY THE CIRCLE POLICE STATION,
   KAPU CIRCLE, UDUPI DISTRICT,
   REP. BY THE STATE PUBLIC PROSECUTOR,
   HIGH COURT BUILDING,
   BENGALURU-560 001.

…APPELLANT

(BY SRI K.NAGESHWARAPPA, HCGP)

AND:

1. SRI. ROHIT KUMAR
   S/O. VITTHAL SHETTRY,
   AGED ABOUT 26 YEARS,
   R/AT ESHWAR NILAYA GORIMANTHA,
   MAVINAKERE VILLAGE, KALASA TALUK,
   CHICKKAMAGALURU.

Digitally signed by
LAKSHMINARAYAN N
Location: High Court
of Karnataka

2. SRI. NITHIN KUMAR SHETTY,
   S/O. RATHNAKARA SHETTY,
   AGED ABOUT 23 YEARS,
   R/AT DOOR NO.1-206(4), THOKUR,
   SHEDIGURI HOUSE,
   62ND THOKUR JOKATTE POST,
   BYKAMPADY, MANGALURU CITY.

…RESPONDENTS

THIS CRL.A IS FILED U/S 378(1)(3) OF CR.P.C (U/S 419(1)(3) BNSS) PLEASED TO GRANT LEAVE TO APPEAL AGAINST THE IMPUGNED JUDGEMENT AND ORDER OF ACQUITTAL DTD 07.08.2026 PASSED BY THE 2nd ADDL. CIVIL

JUDGE AND JMFC, UDUPI IN CC.NO.147/2023 ACQUITTING THE RESPONDENT-ACCUSED NOs.1 AND 2, FOR THE OFFENCES P/U/S 279 AND 304A OF IPC, U/S 134 (A AND B) R/W 187 OF I.M.V ACT AND ETC.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

Heard on admission.

1. The State has preferred this appeal against the judgment of acquittal passed against accused No.1 by the II Addl. Civil Judge and JMFC, Udupi in CC No.147/2023 dated 07.08.2026.

2. The police Inspector of Udupi Traffic Police has filed charge-sheet against accused Nos.1 and 2 in Crime No.94/2022 for the offence punishable under Sections 279, 304A of IPC, 134(A) and (B) read with Section 187 of IMV Act, and CMV Rule 115 read with 190(2) IMV Act.

3. It is alleged by the prosecution that on 29.08.2022 at 07:15 p.m., accused No.1 was riding motorcycle No. KA-19/ HG-7551 on National Highway 66 from Mangaluru towards Udupi. Near Pangada Village, Gudde Cross,

Sri. Suresh Sherigar was crossing NH-66 heading east at roughly 5 feet away. The accused, driving rashly and negligently, hit Sri. Suresh Sherigar. The pedestrian fell and sustained serious injuries to his head and chest, losing consciousness. While he was being taken to Aadarsha Hospital, Udupi, he died on the way. After the incident, accused No.1 neither provided medical help nor reported the accident to the nearest police. Thereby, he committed an offence punishable under Section 279, 304A IPC, and Section 134 (A) and (B) read with 187 IMV Act.

4. The accused No.2, being the owner of the offending vehicle No. KA-19/HG-7551, has allowed the accused No.1 to drive while the fitness certificate of the said motorcycle had lapsed. Thereby, accused No.2 has committed an offence punishable under CMV Rule 115 read with 190(2) IMV Act.

5. To prove the case of the prosecution, in all, 8 witnesses were examined as PW1 to PW8, 21 documents were marked as Exhibits P1 to P26.

6. The trial Court has acquitted accused No.1 for the offences punishable under Section 279, 304A of IPC and 134

(A) and (B) read with 187 of IMV Act. The trial Court has convicted accused No.2 for the offences punishable under CMV Rule 115 read with Section 190(2) IMV Act. Being aggrieved by the judgment of acquittal against accused No.1, the State has preferred this appeal.

7. The trial Court discussed the evidence of PW1 to PW8 and about the documents marked.

8. The trial Court has observed in para Nos.27 and 28 as under:

> *"27. In this case, the prosecution failed to prove beyond a reasonable doubt that the accused was rash or negligent in driving. It is argued that the area is a busy national highway with heavy vehicle traffic, and there was no obstacle preventing the investigating officer from examining other witnesses. The prosecution's own testimony conflicts, as PW1 to 3 suggest the accident involved Suresh, who was standing beside the road. Conversely, Exhibit P1 indicates uncertainty about who was crossing the road, whether Suresh was crossing negligently and suddenly in front of a moving vehicle, or if the accused, aware of a pedestrian, failed to slow down or apply brakes to avoid the collision. Simply noting that the accident occurred on a highway with heavy traffic or absence of a zebra crossing does not justify hitting a pedestrian. Drivers should prioritise pedestrian safety, even without a zebra crossing. The key question-whose negligence*

caused the accident-remains unproven by the prosecution. In criminal cases, evidence must prove guilt beyond a reasonable doubt, and the evidence presented here is inconsistent.

28. It is well settled that when two views are possible, one doubt in favour of the accused should be considered. In other words, the benefit of doubt should go in favour of the accused no.1. As far as the accused no. 2, being an RC owner, has failed to produce the emission certificate for the vehicle, therefore, he is liable for the said contravention. Based on these considerations, I answer Point Nos.1 to 3 in the Negative and Point No. 4 in the Affirmative."

9. On re-examination on entire materials on record, I do not find any legal or factual error in the judgment of acquittal. Hence, I proceed to pass the following:

ORDER

Being devoid of merits, Appeal stands dismissed at the admission stage itself.

Sd/-
(G BASAVARAJA)
JUDGE

KBM
List No.: 1 Sl No.: 47