



IN THE COURT OF PRINCIPAL DISTRICT AND SESSIONS
JUDGE, AT BIDAR

DATED: THIS THE 1st DAY OF AUGUST 2026

PRESENT

Shri.Syed Baleegur Rahaman, **B.A.L, LL. B.**
Principal District & Sessions Judge,
Bidar

CRIMINAL APPEAL NO.60/2024

- APPELLANTS: 1. Karan S/o Ghaleppa age 27 years,
occu:Nil, R/o Village Hudgi, Tq
Humnabad, Dist: Bidar
2. Arun Kumar S/o Gundappa Kote, age 27
years, occu: Agri, R/o village Hudgi, Tq
Humnabad, Dist: Bidar

(By Sri. R. Khanapurkar, Advocate)

-VERSUS-

RESPONDENT:

State of Karnataka, Through Bidar Rural,
Police station, Bidar

(By Sri. PP, Adv)

Date and nature of the order appealed against	Judgment passed by the IInd Addl. Civil Judge & JMFC-II, Bidar in CC.No.747/2021 Dtd: 14.08.2024
Date of institution of the appeal	:: 05.09.2024
Date of judgment	:: 01.08.2026
Duration of the appeal	:: Year/s Month/s Date 01 10 27



J U D G M E N T

1. The appellants / accused No.1 and 2 have preferred this appeal questioning the legality and correctness of the impugned judgment of conviction and order of sentence passed by the IInd Addl. Civil Judge and JMFC-II, Bidar in CC No.747/2021 Dtd:14.08.2024, wherein the trial court has convicted the accused No.1 and 2 for the commission of offences punishable U/Sec.279, 337, 338, 304(A) of IPC and Sec.180, 181, 192 of MV Act.

2. **Facts necessary for disposal of this appeal are as under;** On 29.02.2020 the accused No.1 had obtained an unregistered motorbike bearing Chassi No.MD2B57CY - 1KCH31040 and Engine No.MPDYCKH11317 from the accused No.2 and when the accused No.1 came near Kamthana – Bidar ring road, at about 6:00pm the accused No.1 drove the said vehicle in rash and negligent manner so as to endanger the human life and dashed against the motorbike bearing Reg No. KA-32/EW-4936 which was came coming from Bidar towards Kamthana as a result of which the rider and two pillion riders of the above said motorbike fell down and sustained injuries all over their body. One of the injured by name Ganesh Prasad S/o Shantappa Kothnoor had succumbed to the injuries when he was being taken to the hospital for treatment. As per the report submitted by first informant FIR was registered against the accused No.1 and 2 for the commission of offences referred above and after conclusion of investigation the IO has filed charge sheet before the trial court.



3. After filing of the charge sheet, summons were issued to accused No.1 and 2 and in pursuance of summons, the accused No.1 and 2 appeared before the trial court through their counsel and they were enlarged on bail. The trial court complied Sec.207 of Cr.P.C and thereafter plea was recorded and the substance of accusation was read over to the accused No.1 and 2. They pleaded not guilty and claimed to be tried.

4. In support of its case the prosecution examined 11 witnesses as PW-1 to 11 and got marked 19 documents as Ex.P1 to P19. After closing of the prosecution evidence, the trial court examined accused No.1 and 2 U/Sec.313 in the language known to them. The accused No.1 and 2 denied the incriminating circumstances available in the evidence of prosecution witnesses and they did not choose to lead evidence.

5. Trial court after hearing the arguments on both sides and considering the oral and documentary evidence placed on record convicted the accused No.1 and 2. The trial court sentenced the accused No.1 to undergo simple imprisonment for a period of one month with fine of Rs.1,000/- for the offence punishable U/Sec.279 of IPC. In default of payment of fine he was directed to undergo simple imprisonment for 15 days. Accused No.1 was further sentenced to undergo simple imprisonment for three days and to pay fine of Rs.500/- for the offence punishable U/Sec.337 of IPC. In default of payment of fine he was directed to undergo simple imprisonment for 15 days. Accused No.1 was further sentenced to undergo simple



imprisonment for two months and to pay fine of Rs.1,000/- for the offence punishable U/Sec.338 of IPC. In default of payment of fine he was directed to undergo simple imprisonment for one month. Accused No.1 was further sentenced to undergo simple imprisonment for a period of two years with fine of Rs.10,000/- for the offence punishable U/Sec.304(A) of IPC. In default of payment of fine he was directed to undergo simple imprisonment for two months. Accused No.1 was further sentenced to undergo simple imprisonment for a period of one month and to pay fine of Rs.2,000/- for the offence punishable U/Sec.181 of IMV Act. In default of payment of fine he was directed to undergo simple imprisonment for one month. Accused No.2 was sentenced to pay fine of Rs.2,000/- for the offence punishable U/Sec.192 of IMV Act. In default of payment of fine he was directed to undergo simple imprisonment for 15 days. Accused No.2 was sentenced to pay fine of Rs.5,000/- for the offence punishable U/Sec.180 of IMV Act(**U/Sec.180 of IMV Act is wrongly typed as U/Sec.192 of IMV Act**). In default of payment of fine he was directed to undergo simple imprisonment for 20 days. All the sentences were directed to run concurrently.

6. Aggrieved by the above said judgment of conviction and sentence passed by the trial court, the appellants / accused have preferred this appeal on the following **grounds**;

The impugned judgment of conviction and sentence passed by the trial court is against to the oral and documentary evidence placed on record. The judgment has



been passed on the basis of assumption and presumptions. While framing the points for consideration, the ingredients of Sec.337, 338, 304(A) of IPC are missing. Therefore the trial court has committed error in convicting the accused No.1 for the offences punishable U/Sec.337, 338, 304(A) of IPC. There is material contradiction between the evidence of PW-2 and Ex.P5. The trial court convicted the accused by relying on the testimony of PW-2. PW-2 was treated as hostile by learned APP, but has not identified accused No.1. Therefore the evidence of PW-2 is not reliable. PW-2 has not at all deposed anything with respect to rash and negligent act at the time of accident. PW-2 has not identified the accused. When such is the case the trial court has erred in observing that the evidence of PW-2 could not be impeached. The testimony of PW-9 is not corroborated by any of the eye witnesses with respect of rash and negligent driving. PW-6 is a hearsay witness and his evidence is not corroborated by evidence of eye witnesses. The trial court has relied on the testimony of PW-6 even through the same is not reliable to prove the rash and negligent act of accused. The trial court has erroneously placed reliance on the evidence of PW-7 on the basis of assumption and presumption. There is a material contradiction between the testimony of PW-7 and the story of the prosecution. The trial court has erroneously held that there is no dispute in respect of identity of offending vehicle and the accused No.1. However the eye witness have not identified the accused No.1. The observation of the trial court stating that Ex.P3, 4, 7, 8, IMV report coupled with the evidence of PW-4 & 7 makes out the case against the



accused No.1 erroneously on assumptions and presumptions. PW-2 has not deposed anything regarding the rash and negligent act on the part of accused No.1. The finding of the trial court regarding the mahazar in para-22 of the impugned judgment is against to the materials on record. The trial court has erroneously placed reliance on Sec.101 and 102 of Evidence Act against the accused No.1 which is without basis. The trial court has not given any reasons to impose certain sentences. The word negligence is missing in plea recorded U/Sec.304(A) of IPC. Therefore there is an error in recording plea of the accused No.1. The trial court has erroneously convicted the accused No.2 for two times for the same offences i.e., U/Sec.192 of IMV Act. Amongst other grounds, accused No.1 and 2 have prayed this court to allow this appeal and set aside the judgment of conviction and sentenced passed by the trial court against the accused No.1 and 2.

7. After filing of the appeal notice was issued to the respondent. Learned PP has represented on behalf of the respondent.

8. Heard both sides and perused the case papers available on record.

9. Based on the basis of submission of both parties and the materials available on record, the following points would arise for my consideration are:

- 1) Whether the trial court has committed error in convicting the accused No.1 for the offences punishable U/Sec.279, 337, 338 & 304(A) of IPC and Sec.181 of IMV Act and the accused



No.2 for the offences punishable U/Sec.180,
192 of IMV Act?

2) What order?

10. My finding to the aforesaid points is:

Point No.1 : In **Affirmative**,

Point No.2 : As per final order for the following;

REASONS

11. **Point No.1**: It is settled principle of Law that the prosecution has to establish its case beyond all reasonable doubt with the help of legal admissible evidence without banking upon the weakness of the defence of accused. As per the criminal jurisprudence the accused is having right of silence and it is prosecution that has to establish the charges leveled against the accused beyond all reasonable doubt. The allegations against the accused No.1 herein is that he drove the the unregistered motorbike bearing Chassi No.MD2B57CY1KCH31040 and Engine No.MPDYCKH11317 on 29.02.2020 and dashed against the victim motorbike bearing Reg No.KA-32/EW-4956 as a result of which the rider and two pillion rider who were traveling on the victim vehicle sustained injuries. However one of the injured by name Ganesh Prasad succumbed to the injuries while he was being taken to the hospital.

12. In order to establish the charges levelled against the accused the prosecution has examined 11 witnesses. Out of the 11 witnesses, PW-1 Shankar, PW-3 Ashok are the



witnesses to Ex.P1 spot panchanama. PW-4 Nagshetty and PW-5 Shivkumar are the witnesses to Ex.P6 seizure panchanama of the offending vehicle and victim vehicle. PW-2 Godusab is the injured and the first informant of this case. PW-6 Kishan Prasad is a hearsay witness. PW-7 Rangarao is also one of the eye witness and the injured in the case on hand. PW-8 Shivaji is the official who registered the FIR in Cr.No.9/2020 as per the statement given by CW-1. PW-9 Sri. Ramappa is the IO who has taken up further investigation of this case from CW-14, conducted investigation and filed charge sheet before the court. PW-10 Srikanth Allapure is the witness who has conducted part of investigation and submitted final report before the court. PW-11 Dr. Padmaraj has treated the injured and submitted wound certificate.

13. In cases of this nature mere identity of the accused and proof of alleged accident is insufficient to convict the accused. In order to convict the accused for the alleged offences U/Sec.279, 337, 338 and 304(A) of IPC it is the prime responsibility of the prosecution to establish beyond all reasonable doubt that the alleged accident was due to rash and negligent driving of the driver / rider of the offending vehicle. Therefore in the case on hand the evidence of first informant and injured eye witnesses is material to find whether the prosecution has been successful in establishing the charges or not. FIR has been registered against the accused on the basis of report submitted by PW-2 Gudusab who was one of the pillion rider on the victim vehicle. The sum and substance of



the examination-in-chief of PW-2 is that on the fatal day, he along with deceased Ganesh Prasad and CW-8 were going to their village on one motorbike. He has also deposed that the deceased Ganesh was riding the motorbike. When they reached Bidar - Kamthana road at about 5:45pm a motorbike came on wrong side from opposite direction and dashed against the vehicle, as a result of which the rider and himself sustained injuries. He has also deposed CW-8 and deceased Ganesh also sustained injuries in the said accident. They were shifted to Bidar Government hospital in an ambulance. Ganesh died in hospital. It is pertinent to note that though the PW-2 claims that the offending vehicle came from wrong side and dashed against their vehicle, but this witness has not identified the accused No.1 before the court. In view of the said deposition of PW-2, learned PP treated this witness as hostile and cross examined. During the course of cross-examination this witness has expressed ignorance stating that he does not know whether the accused No.1 was riding the offending vehicle. He has also specifically denied the suggestion of learned APP stating that on 01.03.2020, he was called to the police station and shown the offending vehicle. He has also denied the suggestions of learned APP that he has given his further statement before the IO as per Ex.P5. It is pertinent note that during the course of examination-in-chief of PW-2 this witness has not deposed anything regarding the rash and negligent driving of the driver of the offending vehicle. It is the contention of the PW-2 that the offending vehicle came from wrong side of the road and dashed against their vehicle.



14. Now let me appreciate whether there is any substance in the contention of the PW-2 that the accident has taken place because the offending vehicle came from the wrong direction. The report submitted by PW-2 before the police has been marked as Ex.P2. I have carefully gone through the averments made in Ex.P2. On perusal of the Ex.P2 it is seen that PW-2 has specifically averred that the rider of the offending vehicle drove the said vehicle in rash and negligent manner and caused the accused. For the sake of convenience the relevant portion of Ex.P2 is extracted below;

“ಸಾಯಿಂಕಾಲ 6 ಗಂಟೆಗೆ ಎದುರಿನಿಂದ ಬಂದು ಮೋಟಾರ್ ಸೈಕಲ ಚಾಲಕನು ತನ್ನ ಮೋಟಾರ್ ಸೈಕಲ ಅತೀವಾಗ ನಿರ್ಲಕ್ಷ್ಯದಿಂದ ಚಲಾಯಿಸಿ ಕೊಂಡು ಬಂದು ನಮಗೆ ಅಪಘಾತ ಪಡೆದಿರಲಿಲ್ಲ”

15. On plain reading of the above said portion of Ex.P2 no where the PW-2 has averred in Ex.P2 that the accident has occurred as offending vehicle came from wrong direction. PW-2 has deposed the said fact for the first time before the court. Apart from it PW-2 has not identified the accused. He has also deposed that he did not give any further statement before the IO as per Ex.P2. Therefore I am of the opinion that the evidence of PW-2 available on record is insufficient to come to conclusion that due to the rashness and negligent riding of the rider of the offending vehicle the alleged accident has taken place.

16. Another material witness who has been examined before the trial court is PW-7 Rangarao who is also one of the injured



in present case. The sum and substance of examination in chief of PW-7 is that on the fatal day at about 4:00 pm when himself, deceased Ganesh Prasad and CW-1 were going to their village and in when they were near Bidar – Kamthana road, the accused came from wrong side and dashed against their vehicle. Therefore the accident has taken place. Himself, deceased as well as CW-1 sustained the injuries. According to PW-7 the alleged accident had taken place because of wrong committed by the accused. Therefore as per the examination-in-chief of PW-7 also, the alleged accident had taken place as the accused came from wrong side and dashed against the victim vehicle. As already discussed the case of the prosecution was not initiated on the fact that the alleged accident had taken place because the offending vehicle came from wrong side. On the other hand the case of the prosecution was built up on the allegations that because of the rash and negligent driving of the rider of the offending vehicle the accident has taken place. Therefore it is to be said that in the evidence of PW-7 also there is no material to show that the accident has taken place due to rash and negligent riding of the rider of offending vehicle. I am conscious of the fact that recklessly riding on the wrong side of the road will also amount to rashness and negligence. But the same is to be proved by prosecution by placing cogent and convincing material evidence before the court.

17. In order to find out the fact that the accident had taken place as the offending vehicle was driven on the wrong side of



the road, the spot panchanama conducted by the investigation officer becomes material. After registration of the FIR the IO has conducted panchanama as per Ex.P1 in presence of PW-3 Ashok. PW-3 during the course of his examination-in-chief have deposed that about two years back when he was present in Kamthana village police took his signature to Ex.P1. But he do not know for what reason the police took his signature to Ex.P1. Therefore learned PP treated this witness as hostile and cross examined at length. But nothing worth could be elicited from the mouth of PW-3 which is helpful to the case of prosecution to prove Ex.P1. PW-1 during the course of his examination-in-chief has deposed that on 01.03.2021, police took his signature to Ex.P1 near Ayaspur cross in connection with an accident. But he has expressed his ignorance as to who has signed along with him to Ex.P1. Learned PP treated this witness as hostile during the course of cross-examination by learned APP this witness has expressed ignorance with respect to the contents of panchanama which has been marked at Ex.P1. On perusal of the examination-in-chief and cross-examination of PW-1 one can find that there is nothing in the evidence of PW-1 to support the case of prosecution that Ex.P1 was drawn by investigating officer at the spot after the alleged accident. Therefore on plain reading of evidence of PW-1 and 3 it can be said that the prosecution has not been able to establish Ex.P1 in the manner known to Law. It is also pertinent to note that in order to prove that the alleged accident had taken place on extreme wrong side of the offending vehicle then the sketch of scene of occurrence plays a



prominent role. PW-1 & 3 have not whispered anything during their examination-in-chief regarding drawing of sketch by the investigating officer in their presence. Learned APP during the course of cross-examination has also not suggested that the IO had drawn the sketch of scene of occurrence at the time of drawing the spot panchanama. Therefore the evidence of PW-1 and 3 will not help the prosecution to establish beyond all reasonable doubt that the alleged accident had taken place on the wrong side of the offending vehicle.

18. Apart from the above said fact, it is pertinent to note that the alleged accident has taken place on 29.02.2020 at about 4:00pm. However though the FIR was registered on the same day, but the IO did not chose to go to the place of occurrence and conduct panchanama immediately. No photograph of the place of occurrence have been taken by the investigating officer to demonstrate before the court that the alleged accident has taken place on the extreme wrong side of the offending vehicle. In order to know the exact location of the victim and the offending vehicles, drawing of spot panchanama immediately after the accident and taking of photographs immediately after the accident before the scene of occurrence is disturbed is very material. Here is a case wherein the IO has not conducted panchanama on 29.02.2020. But the spot panchanama as per Ex.P1 has been conducted on 01.03.2020 at about 11:00 am to 12:00pm. Needless to say that the IO has not seized the victim vehicle and offending vehicle under Ex.P1 which establishes the fact that before conducting of spot panchanama as per



Ex.P1, the vehicles were removed from the spot. Therefore Ex.P1 spot panchanama drawn by the IO at the spot loses its evidentiary value.

19. Ex.P13 is said to be the sketch drawn by the IO at the time of drawing spot panchanama as per Ex.P1. On perusal of Ex.P13 it is seen that the said sketch does not bear signature of IO or the panch witnesses to Ex.P1. On careful perusal of the contents of Ex.P1 one can easily find nowhere it is written in Ex.P1 that the accident has taken place on extreme wrong side of the offending vehicle. It is only mentioned that the accident has taken place as a result of rash and negligent driving of the rider of new avenger vehicle. Therefore the contents of Ex.P1 will not support the allegations made by PW-2 and 7 that the alleged accident had taken place as the offending vehicle came from wrong side. As already discussed when the vehicles were disturbed or removed from the place of incident, Ex.P1 and Ex.P13 the sketch loses its evidentiary value. The IO of the present case during the course of his examination in chief has not whispered that how he came to know that the accident had taken place on the extreme right side of the offending vehicle. Therefore I have no hesitation to come to conclusion that prosecution has miserably failed to establish the fact that the accused No.1 was completely responsible for the alleged accident. Neither the prosecution has been able to establish beyond all reasonable doubt that the accident was caused due to rash and negligent act of the accused No.1 nor the prosecution has been able to establish



beyond all reasonable doubt that the accident has occurred as the accused No.1 came from wrong side and dashed against victim vehicle.

20. As already discussed in the earlier part of this judgment the IO did not seize the vehicle at the spot under Ex.P1. On the other hand he seems to have seized victim and the offending vehicle under Ex.P6 in the premises of the police station. PW-4 Nagshetty and PW-5 Shivkumar are the panch witnesses to Ex.P6. During the course of their examination in chief both these witnesses have deposed that the IO has not conducted any panchanama in their presence and nothing has been seized in their presence. Learned PP treated both the witnesses as hostile and cross examined. But nothing worth could be elicited from their mouth to establish Ex.P6. Therefore it can be said that prosecution has not been able to establish Ex.P6 in the manner known to Law.

21. The IO has decided to file charge sheet against the accused No.2 on the allegations that he is the owner of the offending vehicle which was not yet registered and he had given the said vehicle to the accused No.1 which is the violation of Sec.192 of IMV Act. Before coming to the conclusion that the accused No.2 has committed offence U/Sec.192 of IMV Act it is the responsibility of the prosecution to establish beyond all reasonable doubt that the accused No.2 was the owner of the offending vehicle. On careful perusal of the entire evidence adduced by the prosecution I find no material before the court



to show that the accused No.2 was the owner of the offending vehicle except the bond that was said to be executed by the accused No.2 before the IO which has been marked as Ex.P14. Except Ex.P14 the IO has failed to collect any other documents to show that the accused No.2 had purchased the offending vehicle. Ex.P14 the document which has been executed before the IO cannot be considered as the proof of ownership of the offending vehicle. The IO could have easily collected documents from the seller of the vehicle to show that the accused No.2 was the purchaser of the vehicle. No such attempt is made by the IO to prove that the accused No.2 was the owner of the offending vehicle. Relying completely on Ex.P14 by the trial court to convict the accused No.2 is completely illegal. In criminal cases it is the responsibility of the prosecution to establish the charge against the accused beyond all reasonable doubt. If any reasonable doubt arises in the mind of court regarding the genuineness of the allegations made against the accused the benefit of doubt shall be extended to accused.

22. I have carefully gone through the impugned judgment passed by the trial court. The trial court in para No.13 of the judgment has observed that PW-2 was not cross examined by the accused No.1 and 2 on certain important facts. Therefore the trial court by relying on the 14th addition of Indian Evidence Act by Sarkar has come to conclusion that omission on material points is to be considered as acceptance of truth. The trial court has opined that as the accused No.1 and 2 have not cross examined the material witness on certain crucial points,



the same has to be accepted as truth. This observation of trial court is unknown to the criminal jurisprudence and completely against the settled principle of Law. The accused is having right of complete silence. Prosecution is having responsibility to prove the charges levelled against the accused beyond all reasonable doubt. If the counsel for accused has failed to touch the prosecution witnesses on the certain point the court cannot convict the accused by relying on the untouched portion of evidence of material witnesses by believing it to be true. The trial court has failed to consider the fact that the prosecution has not been able to establish beyond all reasonable doubt that the accident was due to rash and negligent driving of the rider of offending vehicle. It is an undisputed fact that the three persons were traveling on the victim vehicle. Out of three persons deceased Ganesh was the rider of the vehicle and sustained injury in accident and died while he was being taken to hospital. I am conscious of the fact that contributory negligence is unknown to the cases which are registered for the commission of offence under Sec.279, 337, 338 and 304(A) of IPC and Sec.181, 192 & 180 of IMV Act. But the same may be relevant while considering the case registered for getting the compensation under the Motor Vehicle Act. But the contributory negligence on part of the victim vehicle can be a mitigating factor if it is in favour of accused. It is pertinent to note that if three persons are traveling on one motorbike it can be gathered the rider of the said motorcycle would be facing difficulty in controlling the vehicle. In extreme or unseen or sudden circumstance it would be difficult to control the vehicle.



Therefore it cannot be ruled out that the accident might have caused due to the fact that the suddenly the rider of the victim vehicle might have lost control as he was unable to cope up with emergency. In such a situation the trial court ought to have considered this fact while deciding the case on merits.

23. On over all verification of evidence adduced by prosecution I am of the opinion that considering opinion that evidence placed on record is insufficient to come to conclusion that the accident has taken place due to rash and negligent rider of the offending vehicle. In criminal cases if two views are possible the view which favours the accused is to be accepted. In the case on hand two views are possible. Therefore I am of the opinion that impugned judgment of conviction and order of sentence is not sustainable and same calls for interference by this court. Hence I answer point No.1 in **Affirmative**.

24. **Point No.2:-** In view of the above findings, I proceed to pass the following;

ORDER

The appeal filed by the appellants / accused in Crl. Appeal. No.60/2024 is hereby allowed.

Consequently the judgment of conviction and order of sentence passed by the IInd Addl. Civil Judge and JMFC-II, Bidar in CC No.747/2021 Dtd:14.08.2024 is hereby set aside.



The accused No.1 and 2 /
appellants are hereby acquitted for the
charges levelled against them. The fine
amount if any deposited by the
appellants / accused No.1 and 2 shall be
returned forthwith.

Send the copy of judgment to trial
court along with TCR.

(The judgment is dictated to the Stenographer G-III, transcribed and
computerized by him, corrected by me and then pronounced in the open
Court, on this the 1st day of AUGUST 2026)

(Syed Baleegur Rahaman)
Principal District & Sessions Judge,
Bidar

DB**