



DATED THIS THE 07th DAY OF JULY, 2026

CRIMINAL APPEAL No.297/2025

APPELLANT/ : Sri Parashuram S/o Mhatru Ghadi,
ACCUSED: Age: 58 years, Occ: Driver,
R/o Rumewadi village,
Tq: Khanapur, Dist: Belagavi.

(By Sri R.M. Hiremath, Advocate)

**RESPONDENT/
COMPLAINANT** : The State of Karnataka
Through Police Inspector,
Khanapur Police Station, Khanapur.

(By Public Prosecutor, Belagavi)

This appeal is filed by the above named appellant/accused under Section 415(3) of Bharatiya Naagarik Suraksha Sanhita ('BNSS'

for short) (under Section 374 of Code of Criminal Procedure (In short 'Cr.P.C.'), challenging the legality and correctness of the judgment dated 11.11.2025, passed by the learned Prl. Civil Judge and JMFC, Khanapur, in CC No.582/2019, in convicting the appellant/accused for the offence punishable under Sections 279, 337, 338 and 304A of Indian Penal Code ('IPC' for short) and Section 134 read with Section 187 of Motor Vehicles Act ('MV Act' for short). For the sake of convenience, parties are referred in this appeal, as per their ranks/status before the trial Court.

Brief facts leading to filing of this Appeal:

2. Khanapur police have filed charge sheet against the accused by alleging that the accused has committed the offence punishable under Section 279, 337, 338 and 304A of IPC and Section 134 read with Section 187 of MV Act. It is alleged in the charge sheet that on 28.01.2019 at about 12.55 p.m. on the Jath-Jamboti road, accused, by driving truck bearing Reg. No.KA-22/B-3732 in a rash and negligent manner, dashed to the motorbike bearing Reg.No.KA-22/EN-5829 from its hind side, due to which, one Somanath Parashuram Halagekar, who was riding the

motorbike sustained fatal injuries and died at the spot, whereas, one Narayan Huvani Halagekar, who was pillion rider in the motorbike, sustained simple and grievous injuries and the accused has ran away from the spot without informing the police about the accident and without providing treatment to the injured.

3. The accused appeared before the trial Court through his counsel and was enlarged on bail. The accused was provided with a copy of charge sheet and he pleaded not guilty charges leveled against him and claimed to be tried.

4. In order to prove the charges and establish the guilt of the accused, prosecution examined six witnesses as PW.1 to 6 and got marked Ex.P.1 to 15 documents.

5. The statement of the accused was recorded under Section 313 of Cr.P.C. The accused has denied all the incriminating evidence appearing against him and not offered any defence on his behalf.

6. The learned trial Court, after hearing arguments of both the parties and appreciating the evidence let in by the

prosecution, held the accused as guilty of committing offence punishable under Sections 279, 337, 338 and 304A of IPC and 134 read with Section 187 of MV Act and sentenced him to undergo imprisonment for one month and fine of Rs.500/- for the offence punishable under Section 279 of IPC, imprisonment for two months and fine of Rs.500/- for the offence punishable under Section 337 of IPC, imprisonment for two months and fine of Rs.500/- for the offence punishable under Section 338 of IPC, imprisonment for 8 months and fine of Rs.5,000/- for the offence punishable under Section 304A of IPC and fine of Rs.1,000/- for the offence punishable under Section 134 read with Section 187 of MV Act.

7. Being aggrieved by the said judgment, accused has preferred this appeal on following grounds;

GROUND OF APPEAL

1. The conviction order passed by the trial Court is contrary to law and evidence on record.
2. The trial Court has committed grave error in accepting the evidence of prosecution, by overlooking the fact that those are contrary to

the documentary evidence produced by the prosecution.

3. The trial Court has failed to consider that the oral evidence of prosecution is not in conformity with documents placed on record by it.
4. The trial Court has not assigned any importance to the fact that the complainant examined as PW1 is a hearsay witness and his evidence is not helpful to the prosecution to prove the guilt of the accused beyond reasonable doubt.
5. The trial Court has failed to consider that the witnesses examined as PW2 and 3 are the panchas for the panchanamas of scene of offence and seizure of vehicles and that they have clearly expressed their ignorance about the contents of panchanama. However, the trial court has failed to assign any importance to their such admissions.
6. Prosecution has examined PW4, who was pillion rider of motorcycle and injured person. PW4 deposed that the truck driven by the accused dashed the motorcycle from

backside. But, vehicle seizure panchanama as well as the M.V.I. report, which are exhibited as Ex.P6 and 15 respectively, disclose that the dome of motorcycle was totally broken and damaged. Those documents do not disclose that there were any damages to the backside portion of the motorcycle. The trial Court, overlooking the contents of these documents, has proceeded to rely on the interested testimony of injured-PW4 that the truck dashed the motorcycle from behind, which is an error apparent in the judgment of the trial Court in convicting the accused.

7. So also the witness PW4 has admitted that he did not see how accused was driving the vehicle. Despite of this admission on the part of PW4, the trial Court is wrong in giving a finding that the accident is due to rash and negligent driving of the vehicle-truck by accused and he held that such rashness and negligence is proved by the evidence of PW4.
8. PW4 has deposed that the wheel of truck passed over the head of the deceased and that the leg of PW4 was struck in the wheel of truck. It is pertinent to notice that the head of

deceased is not crushed and the P.M. report as per Ex.P12 and inquest panchanama as per Ex.P11 do not disclose any such crush injuries to the head of the deceased. So also, the leg of PW4 is not having any crush injuries. Even though the oral evidence of PW4 was contrary to the contents of Ex.P11 and 12, the trial Court has erred in relying the evidence of PW4 and passing an order in convicting the accused.

9. The trial Court has failed to assign any importance to the fact that the Investigating Officer was not examined by the prosecution, on account of which, right of accused to elicit the contradictions from the I.O. was taken away.
10. Even a sketch of scene of offence said to have been drawn by the I.O. was produced and the accused did not have any opportunity to meet out the same as prosecution failed to examine the I.O.
11. The accused did not run away from the spot taking his vehicle. The vehicle is seized immediately and taken to police station. This fact clearly shows the presence of accused,

but the trial Court has wrongly convicted the accused for offences punishable under Sections 134 read with 187 of MV Act.

12. Even though there is no evidence to prove the guilt of the accused beyond reasonable doubt, the trial Court has given contrary findings mentioning that the prosecution has proved the guilt of the accused beyond reasonable doubt, which is also wrong, erroneous and contrary to the evidence on record.
13. The condition of the motorcycle, damages that appeared on the motorcycle, clearly exhibited that it is the motorcycle which has hit the truck, but the trial Court has overlooked such material evidence and passed the impugned conviction order, as such the same is not sustainable.
14. The entire approach of the trial Court towards the case and appreciation of evidence is not accordance with law.
15. The trial Court has passed the impugned judgment as if it is the accused who has to prove that he is not guilty of commission of offence.

16. The trial Court is wrong in saying that the defense taken by accused is contradictory and hence adverse inference is to be drawn, without there being any valid basis for it.
17. The defense of the accused is total denial and the entire burden of proof was on prosecution, which fact and position of law is lost sight of by the trial Court and it has resulted in passing conviction order contrary to the facts, evidence on record and legal position.
18. The entire approach of the trial Court in appreciating the evidence is arbitrary and one-sided.
19. The trial Court has got itself confused in considering the term beyond reasonable doubt and has committed grave error in passing the conviction order.
20. The trial Court ought to have weighed the entire evidence properly and judiciously and ought to have acquitted the accused from all charges leveled against him.
21. The entire judgment lacks sound, proper, legal, logical and just reasoning's.

22. The trial court ought to have acquitted the accused for all the charge leveled against him.
23. The entire conviction order passed by the trial Court is illegal and it does not stand to reason at all.
24. The trial Court is also harsh in imposing punishments and penalties to the accused.
25. The entire evidence reveals that the prosecution case is doubtful and that benefit of doubt is required to be extended to the accused and an acquittal order was required to be passed by extending said benefit.
26. The judgment and order has resulted in great injustice to the accused.
27. The accused is having family consisting of wife and children and he has to maintain the family from his day to day earnings, which he is getting by his driving work. The impugned judgment results in snatching away his entire earnings.

8. The learned Public Prosecutor appeared before this Court for the respondent.

9. This Court secured the entire records of CC No.582/2019 from the learned Prl. Civil Judge and JMFC, Khanapur.

10. I have heard the arguments of both parties.

11. The points that arise for my consideration are:

1. **Whether the prosecution proved beyond all reasonable doubt that accident in question is due to rash and negligent driving of offending truck by the appellant/accused, resulting death of Somanath Halagekar and simple and grievous injuries to Narayan Halagekar?**
2. **Whether the impugned judgment of the trial Court is against law, facts, evidence and probability of the case and liable to be intervened by this court?.**
3. **What Order?**

12. My answer for the above points are in the following, because of my below discussed reasons:

Point No.1: **IN THE NEGATIVE**

Point No.2: **IN THE AFFIRMATIVE**

Point No.3: **AS PER THE FINAL ORDER.**

REASONS

13. **Point No.1 and 2:-** To avoid the repetition of my discussion on facts, I have taken these two points together for determination. Khanapur police have filed charge sheet against the accused by alleging that the accused has committed the offence punishable under Section 279, 337, 338 and 304A of IPC and Section 134 read with Section 187 of MV Act. The allegation against the accused is that on 28.01.2019 at about 12.55 p.m. when CW4 and deceased Somanath Halagekar were going in a motorbike bearing Reg.No.KA-22/EN-5829, on the Jath-Jamboti Highway, the accused, by driving truck bearing Reg. No.KA-22/B-3732 in a rash and negligent manner, dashed to the motorbike, due to which, Somanath, who was rider in the motorbike, sustained fatal injuries and died at the spot, whereas, CW11, who was pillion rider in the motorbike, sustained injuries. It is also alleged that the accused has failed to provide treatment to the injured and also failed to inform the police about the accident.

14. The accused appeared before the trial Court has pleaded not guilty of the charges leveled against against him. In

order to establish the guilt of the accused, the prosecution examined 6 witnesses as PW1 to 6 and got marked Ex.P1 to 15 documents. The accused denied the incriminating evidence against him and not offered any defense evidence. The learned trial Court, after appreciating the evidence, has found the accused as guilty of committing alleged offences and sentenced him. Challenging the said judgment, the accused has preferred this appeal.

15. If I draw my attention to the evidence let in by the prosecution before the trial Court, the witness examined as PW1 is the complainant and he deposed that after coming to know about the accident, he went to the accident spot and shifted the dead body of the deceased Somanath to the Khanapur Government Hospital and thereafter, he lodged complaint before the Khanapur police as per Ex.P1. PW1 further deposed about the police coming to the spot, drawing spot mahazar as per Ex.P3 and snapping photos as per Ex.P4 and 5. PW1 further said that the police have drawn mahazar as per Ex.P6 for seizing vehicles involved in the accident and snapped photos as per Ex.P7 to 9.

16. CW2 and 3, who were examined before the trial Court as PW2 and 3, have deposed that on 29.01.2019 the police have drawn mahazar as per Ex.P3 at the accident spot and snapped the photos as per Ex.P4 and 5. PW2 and 3 further deposed that the police have drawn another mahazar as per ex.P6 by seizing the vehicles and snapped photos as per Ex.P7 to 9.

17. CW11, who was examined as PW4, has deposed that on 28.01.2019, when he and Somanath Halagekar were returning back from Khanapur, near Lokalli cross, the driver of truck by driving the same in a rash and negligent manner, dashed to their motorbike. PW4 further said that the truck ran over on the body of Somanath, due to which, he died at the spot and he sustained fracture at his left leg. PW4 further deposed that he has given statement before the police by stating that the accident was due to the driver of the truck.

18. CW18, who was examined as PW5, has deposed that when he was serving as PSI in Khanapur police station, on 28.01.2019 CW1 appeared before the police station and lodged complaint as per Ex.P1, on the basis of which, he registered the FIR

in Crime No.27/2019 as per Ex.P14. PW5 further deposed that thereafter, he handed over the file to CW19 for further investigation.

19. CW15, who was examined as PW6, has deposed that when he was serving as Motor Vehicles Inspector at RTO, Belagavi, as per the request of the CW19, he examined the vehicles bearing No.KA-22/B-3732 and KA-22/EL-5829 in the premises of Khanapur police station and issued a report as per Ex.P15 by certifying that the accident was not due to any mechanical defects.

20. From all these evidence, it is quite clear that, regarding accident, evidence available before the trial Court was only the evidence of CW11, who was examined as PW4. PW4 is one of the injured in the accident and he was pillion rider in the motor bike at the time of accident. The complainant, who was examined as PW1, is not an eyewitness to the accident, because he said that, after coming to know about the accident, he went to the accident spot, shifted the dead body to the hospital and thereafter lodged complaint. Since the complainant is an eyewitness to the accident,

his evidence will be of no use for the prosecution to prove the accident and cause for the accident.

21. Of course, CW11, who was examined as PW4, has deposed during the course of his examination in chief that the driver of the truck has driven the same in high speed, negligent manner and dashed to the two wheeler, due to which, the accident took place.

22. If I draw my attention to the examination in chief of the PW4, he never disclosed the registration number of the truck, which has caused caused. More importantly, he has not identified the accused as driver of the truck, which caused the accident. The accused has seriously disputed the involvement of the offending truck in the accident and his identity as the driver of the said truck, by contending that the said vehicle has been falsely implicated in order to get compensation. When the accused has taken such a defense, it is incumbent on the part of the prosecution to prove the involvement of the offending truck and identity of the accused as the driver of the truck at the time of the accident. Only eyewitness for the accident, who was examined before the trial

Court as PW4 has never said about the registration number of the truck and not at all identified the accused as driver of the offending truck.

23. It is pertinent to note here that offending truck was not seized from the accident spot and accused was also arrested and caught at the spot. The allegations were made that accused ran away from the spot after causing the accident. Offending truck was seized about a day after the accident, that too in the police station. Therefore, prosecution is required to prove the actual involvement of the offending truck in the accident and identity of the accused as the driver of the same. In the case on hand, no such convincing evidence has been let in by the prosecution in this regard.

24. Even though in his examination in chief, PW4 said that the driver of the truck has driven the same in high speed and negligent manner, during the course of his cross examination, PW4 said that he do not know as to how the accused was driving the truck at the time of accident. PW4 further said that he has seen the truck after the accident. This statement of PW4 goes to show

that PW4 was not aware as to how the offending truck was coming before the accident and how the accident has actually taken place. Since PW4 is injured and filed claim petition, he deposing in support of the prosecution is accepted, but his oral testimony do not convincingly establish the accident, involvement of the offending truck, identity of the accused as driver of the truck and more importantly, rash and negligent driving by the driver of the truck as the cause for the accident.

25. It is pertinent to note here that in the accident cases, spot mahazar will play an important role in proving allegations of rash and negligent driving. The spot mahazar and sketch will also prove the movement of the vehicles at the spot, through which, one can ascertain as to actual reason for the accident. The prosecution claims that PW2 and 3 are the witnesses for the spot mahazar. PW2 and 3 simply said that the police have drawn the mahazar in their presence in respect of the accident and snapped the photos. During the course of cross examination, PW2 and 3 said that they do not know writing and reading in Kannada language and also do not know the contents of Ex.P3 and 6

mahazars. PW2 and 3 further said that they have not given any instruction for drawing mahazar. In view of these statements given by the PW2 and 3, one cannot accept that the prosecution has proved the spot mahazar by examining those two witnesses.

26. It is pertinent to note here that the Investigating Officer, who has drawn mahazar and conducted the investigation, was not examined before the trial Court. Even though the trial Court has issued summons and warrant to secure the presence of CW19, he failed to appear before the trial Court. Due to non examination of CW19, the prosecution has failed to prove the spot mahazar and also the entire investigation.

27. It is pertinent to note here that the prosecution has not marked the spot sketch due to non examination of the Investigating Officer. Drawing of sketch and marking the same is very important for the cases like this, because from the spot sketch, one can ascertain the actual location of the accident spot, movement of the vehicles and reason for the accident. There is no spot sketch marked for the prosecution, which is an infirmity in the evidence let in by the prosecution.

28. Even though the complainant is also a witness for the spot mahazar, he is not an eyewitness to the accident. Therefore, he may not be knowing where actually the accident has been taken place and as to how the accident has taken place, in order to show the accident spot to this police while drawing spot mahazar. Because of all the above reasons, there were no grounds for the trial court to accept the spot mahazar, which is an essential requirement in accident cases.

29. It is the definite case of the prosecution that the offending truck came from the hind portion of the motorbike and dashed from its hind portion. In this regard, it is necessary to consider the motor vehicle inspection report. The prosecution has produced the same as per Ex.P15 and in order to prove the same, prosecution examined IMV Inspector as PW6. If I draw my attention to Ex.P15 IMV report, no damage was found on the backside of the motorbike. The damages found in the motorbike is damage on the head light and dome assembly, front right side indicator and scratch on the front right side crash guard bar. Except damages in the front portion of the motorbike, no damages

was found in back portion or hind portion of the motorbike. If the accused has driven the offending truck in high speed, and in a rash and negligent manner and dashed to the motorbike from its hind side, some damages would have been caused on the backside of the two wheeler. No such damages being found and notified in Ex.P15, which will falsify the prosecution case regarding the manner in which accident is caused.

30. It is pertinent to note here that, as per Ex.P4 and 5 photos, the road at the accident spot is very straight. Neither there is any cross road nor there is any curve. The possibility of the rider of the motorbike riding the motorbike in rash and negligent manner and suddenly entering into the main road and causing accident also cannot be denied. However, to prove that the offending vehicle was involved and the accused was driving the vehicle in rash and negligent manner to cause the accident, there is no cogent, convenience and concrete evidence.

31. The trial Court, without properly appreciating the evidence, has landed into a wrong conclusion in holding the accused as guilty of the driving the truck in rash and negligent

manner and causing the accident, resulting in death of deceased Somanath and injuries to CW.11/PW4. It appears from the impugned judgment that the trial Court has convicted the accused on the basis of the inference and without there being any cogent and concrete evidence to prove the same. Hence, this Court has to interfere with the finding of the trial Court and it is liable to be set aside. The evidence on record is too scanty to fasten criminal liability upon the accused and to convict him. Hence, by extending the benefit of doubt, the accused has to be acquitted. Accordingly, I answer the point No.1 **in the negative** and Point No.2 **in the affirmative**.

32. **Point No.3:-** In view of my above findings on above points, appeal filed by the accused/appellant is deserves to be allowed. Accordingly, I proceed to pass the following:

ORDER

**The appeal filed by the appellant/
accused under Section 415(3) of BNSS'
(Section 374 of Cr.P.C.) is allowed.**

The impugned Judgment dated 11.11.2025, passed in CC No.582/2019 by the learned Prl. Civil Judge and JMFC, Khanapur is set aside.

Consequently, accused is acquitted from the charges leveled against him for the offences punishable under Sections 279, 337, 338 and 304A Indian Penal Code and Sec. 134 read with Section 187 of Motor Vehicles Act.

The bail bonds executed by the accused and his sureties will stand cancelled after 6 months from the date of this judgment.

The accused is entitled for the refund of fine amount, if deposited before the trial court.

Send back the records of the trial court along with the copy of this judgment forthwith.

(Dictated to the Stenographer Grade-III, after transcription, computerized and print out taken by her, corrected and then pronounced by me in the Open Court on this **07th day of July, 2026**)

**(Manjunath Nayak),
Prl. District & Sessions Judge,
Belagavi**