

KABR320026432015



**IN THE COURT OF II ADDL CIVIL JUDGE & JMFC
DEVANAHALLI.**

Dated this the 3rd day of July 2026

Present

Smt. Chandrika. K. T. BCA,LL.B.,
II Addl. Civil Judge & JMFC,
Devanahalli.

CC No.1537/2015

Complainant : The State by PSI.
Vishwanathapura Police Station
(By Learned A.P.P.)

V/s

Accused : Sri. M. Ganesh
S/o Muniyappa
Aged about 32 years,
R/at Jyothipura,
Bidarahalli Hobli,
Bengaluru East Taluk,
Bengaluru.

(By Sri. R.U.L., Advocate)

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|---------------------------|------------------------------------|
| 1. Name of the Informant | : Doddaiah |
| 2. Offences complained of | : U/Sec. 338, 279, 337,
304(A). |

3. Date of offence : 13.02.2015
4. Date of report of offence : 14.02.2015
5. Arrest of the accused : --
6. Date of release on bail :
7. Period undergone in custody : --
8. Date of recording evidence : 30.12.2015
9. Date of closing of evidence : 09.04.2026
10. Date of pronouncing judgment : 03.07.2026
11. Opinion of the judge : Accused found not guilty

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J U D G M E N T

This is the charge sheet filed by the PI of Vishwanathapura Police Station against accused for the offences punishable U/s 339, 279, 337 & 304(A) of IPC.

2. Brief facts of the prosecution case:- That on 13.02.2015 at around 6:30PM within the jurisdictional limits of Vishwanathapura Police Station, on Devanahalli-Doddaballapura NH-207 Road, near Seekayanahalli Gate, CW.1 was riding his motorcycle bearing No.KA-43-Q-5587 Hero Honda Motorcycle by taking Chikkamunishamappa as a pillion rider. At the same time, the accused being the driver Tata Goods Vehicle bearing No.KA-53-9822, drove the said vehicle from Devanahalli towards Doddaballapura with a high speed and negligent manner and tried to over take the motorcycle which CW.1 was riding by taking his father Chimmamunishamappa as a pillion rider. The accused

drove the vehicle in negligent manner and tried to over take CW.1's vehicle without giving any signal and suddenly, applied the brakes and stopped the vehicle after moving it towards the left portion of the road. Due to this sudden action of the accused, CW.1 's motorcycle hit the back portion of the Goods vehicle and caused accident. Due to this accident, both CW.1 and his father Chikkamunishamappa along with the motorcycle fell on road. CW.1 has sustained simple and grievous injuries on his nose and head. Chikkamunishamappa has sustained grievous injuries to his head, eyes, hands, and legs. He was taken to hospitle for the treatment. Despite providing treatment, Chikkamunishamappa died due to injureies sustained by him in the accident. Thereby, the accused has committed an offences punishable U/sec. 279, 337, 338 & 304(A) of IPC.

3. After filing the charge-sheet, cognizance was taken for the aforesaid offences. Accused appeared before the court in pursuance of summons issued to him and was released on bail. Copy of the charge-sheet was furnished to the accused as contemplated under Sec. 207 of Cr.P.C. Thereafter, substance of accusation was framed, read over and explained to accused to which he pleaded not guilty and claimed trial.

4. In-order to prove the guilt of accused, the prosecution has examined 6 witnesses out of 18 witnesses listed in the charge-sheet as PW.1 to PW.6 and got marked 11 documents as Ex.P.1 to Ex.P.11 and closed its side. CW.7 to CW.15 were given

up by the prosecution. As CW5 and CW 6, remained absent, despite giving sufficient opportunities, they were dropped from proceedings.

5. Thereafter, statement of accused as required U/s.313 of Cr.P.C. is recorded, read over and explained the incriminating evidence appearing against him and he denied the same and did not prefer to lead evidence on his behalf.

6. Heard arguments of learned APP and the counsel for accused. Perused the materials placed before the court.

7. The points that arise for consideration are:

1. Whether the prosecution proves beyond all reasonable doubt that on 13.02.2015 at around 6.30pm within the jurisdiction of Vishwanathapura police station, on Devanahalli-Doddaballapura NH-207 Road, near Seekayanahalli Gate, CW.1 was riding his motorcycle bearing No.KA-43-Q-5587 Hero Honda Motorcycle by taking Chikkamunishamappa as a pillion rider, accused being the driver of No.KA-53-9822 Tata Goods Vehicle drove the said vehicle from Devanahalli-Doddaballapura with a high speed and negligent manner and tried to over take the motorcycle of CW.1 and suddenly without giving any single

applied the break stopped towards the left portion of the road, as such the motorcycle of CW.1 hit the back portion of the goods vehicles and caused accident and thereby committed an offence punishable U/Sec.279 of IPC?

- 2. Whether the prosecution proves beyond all reasonable doubt that on the above said date, time and place, accused by committing the said accidents as caused simple injuries to CW 1's nose and thereby committed an offence punishable U/Sec.337 of IPC?*
- 3. Whether the prosecution proves beyond all reasonable doubt that on the above said date, time and place, due to this caused by the accused CW.1 has sustained grievous injuries and thereby accused committed an offence punishable U/Sec. 338 of IPC?*
- 4. Whether the prosecution proves beyond all reasonable doubt that on the above said date, time and place, due to this caused by the accused, the pillion rider of motorcycle of CW.1 by name Chikkamunishappa has sustained grievous and injuries on his head ,eyes, hand legs annd was*

taken to the treatment of hospital, despite the treatment hhe has died due to injuries sustained by the accident and thereby committed an offence punishable U/Sec. 304(A) of IPC?

5. What order?

8. My findings on the above points are as follows:

Point No.1 to 4 : In the **Negative**.

Point No.5 : As per the final order,
for the following:-

REASONS

9. **Point Nos.1 to 4** :- These points are taken together for the discussion as they are interlinked and the reasons that are to be assigned are one and the same. Ex.P1 is the first information statement which is the first document in this case. Ex.P.1 was lodged by CW.1. It is stated in Ex.P.1 that, CW.1 by taking his father Chikkamunishamappa as a pillion rider was riding his motorcycle bearing NO KA-43-Q-5587 Hero Honda on Devanahalli-Doddaballapura road towards the left side of the road at 6.30PM. Near Seekayanahalli Gate, a driver of KA-43-Q-5587 goods vehicle drove his vehicle with a high speed and negligent manner and tried to overtake with his vehicle and suddenly applied break on the left side of the road when the vehicle was on left side of the road without any signal, as such the motorcycle which CW1 was riding hit the back portion of the 407 Tempo and sustained accident. Due to this accident ,he and

his father Chikkamunishamappa along with the motorcycle fell on the road and his father has sustained grievous injuries on his heads, hands, leges, he has injuries on head and nose. The registration number of the vehicle was read as .KA-53-9822 and later public at the place sent them to Government hospital at Devanahalli for treatment in Ambulance. After taking the first aid treatment at the hospital, as per advise by the doctor, they were taken for the higher treatment to Baptist Hospital. Despite taking treatment at Baptist Hospital, his father Chikkamunishmappa died due to injuries sustained by him in the accident on the same day on 9.48PM. As such, he has lodged the first information statement.

10. CW.1 is the informant eye witness in this case. He was examined before this court as PW.1. PW.1 in his chief examination has stated that, he knows the accused before the court and deceased Chikkamunishamappa is his father, he has died in a road traffic accident. PW.1, in his chief examination has reiterated the contents of Ex.P.1. He has also deposed about the accident that he and his father met on 13.02.2015 at around 6.30PM near Seekayanahalli Gate that has been caused by the drive of Tempo No.KA-53-9822. He has also stated that, the driver drove the tempo with a high speed and negligent manner and suddenly came towards the left side of vehicle without any signal and applied break. As such his vehicle has hit the back portion of the tempo and sustained accident. Due to this accident

his father Chikkamunishamappa has sustained injuries on head and nose, they were taken to Devanahalli Government Hospital and later his father was to Baptist Hospital for the treatment and despite treatment given to his father, his father has died due to injuries sustained by him in the accident. He identified his signature on Ex.P.1 and he has also deposed about him lodging the first information statement. He identified the accused before the court stating he was the driver of the vehicle which caused the accident. He was cross examined by the counsel for the accused. In his cross-examination, he has stated that, Ex.P.1 was written by the police and he put his signature of Ex.P.1 Seekayanahalli Gate and then in the hospital and he does not know the contents of the Ex.P.1. He has also stated that, he has seen the accused before the court on this date for the first time and not before. He further denied of all the suggestion put to him by the counsel for the accused.

11. As per the case of prosecution, CW.1 has lodged the first information statement before the police at the hospital while he was treated as in patient at the Baptist hospital on 14.02.2015 at 2.00AM. Whereas, PW.1 in his cross-examination has stated that, he has lodged first information statement at the place of the accident and then at the hospital. However, he deposed about the accident as well as the lodging of the first information statement. PW.5 the investigation officer who received the first information statement has also deposed about

the fact that, on 14.02.2015 at 2.00PM, CW.15 has recorded the first information statement at the hospital and it was given to him and based on that statement, he registered a criminal case. Therefore, in view of this evidence of PW.1 & PW.5 the lodging of the first information statement about the accident by PW.1 and the contents of Ex.P.1 about the accident that, the PW.1 has met is proved.

12. CW.2 by name Prakash was examined before this court, PW.2 is the eye witness to the accident. He in his chief examination has identified the accused before this court and has stated that, deceased Chikkamunishamappa is from his village and Chikkamunishamappa has died in an accident. He has stated that, on 13.02.2015 at 6.30PM, when he was going from Devanahalli to Doddaballapura, near Seekayanahalli Gate, Chikkamunishmappa and CW.1 were coming from the Devanahalli to Doddaballapura in a motorcycle No.KA-43-Q-5587, at that time the TATA goods vehicles bearing No.KA-53-9822 came from Devanahalli to Doddaballapura and tried to overtake the motorcycle of CW.1 and suddenly took stopped the vehicle without giving any signal. As such, the two wheeler of the CW.1 hit the back portion of TATA goods vehicle and sustained accident. Due to this accident, the riders of the two wheeler fell on road CW.1 and Chikkamunishamappa sustained injuries on head, eyes or nose and then he sent them to Devanahalli Government Hospital in 108 Ambulance for the treatment. Later

they were taken to Baptist Hospital at Bengalure for further treatment and on the same day at 9.30PM Chikkamunishamappa has died due to injuries sustained by him in the accident. He has stated that, the accident taken place due to the negligent driving of the Tempo and he has seen him at place of the accident. He identified the accused before this court as a drive of the Tempo with caused the accident was cross examined by the counsel for the accident. In his cross examination he admitted that, he has not seen the accident, he went to place of the accident after the accident as caused. As he was coming from Doddaballapura he could not see as to how the vehicles behind him was coming. He denied the other suggestions made to him by the counsel for accused.

13. CW.3 the another eye witness to the accident by name Srinivas was examined before this court. PW.4 in his chief examination has stated that, he does not now anything about this case, he has not seen any accident and at the request of police he has signed few document and he has not given any statement before the police. He was treated as hostile witness and he was cross examined by the prosecution at length suggesting him that, on 13.02.2015 he has seen the accident caused by the accused by riding is TATA goods vehicle with high speed and negligent manner by over taking the motorcycle of CW.1 and Chikkamunishamappa and taking the vehicle of left side of the road without giving any signal and stopped the vehicle on the left

side of the road and as such the motorcycle hit the back portion of the TATA goods vehicle and sustained accident and due this accident, CW.1 and Chikkamunishamappa along with the motorcycle fell on road and sustained injuries on head, nose and others part of the body he sent they were taken to Devanahalli hospital for the treatment, and later to the taken Baptist Hospital at Bengaluru for higher treatment, on the same day at 9.45PM Chikkamunishamappa has died due to the injuries sustained by him in the accident and he has been accused before the court at the place of the accident and it is his due to his negligent driving, the accident has been caused, wherein he denied the same and also denied the statement before police as per Ex.P.3.

14. In present case PW.1 is injured witness, PW.2 & PW.4 are the eye witnesses. Therefore, the PW.1, PW.2 & PW.4 are the prime witnesses to the prosecution. It is through them the prosecution has to prove the guilt of the accused. In order to bring on the ingredients of U/sec.279, 337, 338 & 304(A) of IPC, the prosecution has to explicitly bring on record through the eye witnesses as how the accused being the driver offending of vehicle has exhibited negligence on public way while driver the offending vehicle and caused the accident and it is due to that, accident the deceased has died and PW.1 has sustained injuries. In the present case though PW.1 & PW.2 have deposed about accident and in chief examination and identified the accused before the court, thereby, establishing the identity of the accused

and the identity of the offending vehicle, but in their cross examination they have clearly stated that, they have seen the accused for the first time before this court. However, in the cross-examination that has been made on the same date, PW.1 has stated that, he has seen the accused for the first time in the court. Thereby, indicating that, he has not seen the accused at the place of the accident. Further, PW.2 in his cross examination though he has stated that, in his chief examination about him witnessing the accident, in his cross-examination that has been made on the same day, he has admitted that, he has not seen the accident when it was caused, but he only went to the place of accident, after the accident was caused. He has also admitted that, since vehicles were coming from behind was coming could not see as to how the offending vehicle. So with this contradictory facts that has been brought on by cross examination, it creates doubt about PW.1 & PW.2, identifying the accused as driver offending vehicle and PW.2 witnessing the accident. Though, through the evidence of PW.1 & PW.2 factum of the accident to CW.1 and deceased Munishamappa is established but the identification of offending vehicle has not been established and also the manner of the accident by the prosecution. The prosecution has failed to establish the manner of the accident and also the identification of the accused as a driver of accident through PW.1 & PW.2. Therefore, in view of this contradictions that has been brought on record by way of cross-examination of it witnesses, their evidence renders doubtful as

such the same alone cannot be relied upon and their evidence needs collaboration. PW.4 is another eye witness who has completely turned hostile towards prosecutions case. He has stated that, he has not seen any accident and he does not know anything case. He has also denied statement before the police when he was cross examined. Therefore, the prosecution has failed to bring home the ingredients of Sec.279, 337 & 304(A) of IPC through its prime witnesses.

15. Ex.P.2 is the spot mahazar. As per the case of prosecution after lodging first information statement by PW.1 the police have conducted the spot mahazar in presence of CW.4 to CW.6 and the seized vehicles from the place of accident. CW.4 one of the mahazar witnesses by name Hari Prakash was examined before this court as PW.3. PW.3 in his chief examination has identified his signature on Ex.P.2 and he has stated that, he made the said signature in the year 2015 at Vishwanathapura Police Station. He does not know the contents of Ex.P.2. He was treated as hostile witness and was cross examined by the prosecution. In his cross-examination, he was suggested that on 14.12.2015 between 9.00 to 9.45PM, at the place of accident which is near Seekayanahalli Gate, the police conducted the mahazar his presence and seized the vehicles No.KA-43-Q-5587 which met with the accident and TATA goods vehicle bearing No.KA-53-9828 which caused accident and it is at that place he has made his signature on Ex.P.2, which he

denied the same. The other mahazar witness CW.5 & CW.6 remained absent. Despite issuance of process warrant, proclamation against them. As such, they were dropped from the proceedings. Hence, there evidence is not available on record. PW.7 the investigating Officer has deposed about the fact truth he conducted spot mahazar at the place shown by CW.5 in presence of CW.4 to CW.6 and about seizure of offending vehicle and vehicle which sustained accident from the place of accident.

16. It is to the noticed that, in the present case only CW.2 & CW.3 are eye witnesses and mahazar was conducted in presence of CW.4 to CW.6. As per PW.7 he conducted the spot mahazar at the place shown by CW.5. CW.5 is not an eye witness. So, how did CW.5 came to know about the accident and also place of accident if at all he is not eye witness to the accident. Then how come he the showed to the police to conduct the mahazar is question that arise the place of accident before the court, which is not satisfactorilly answered by the prosecution though its oral and documentary evidence. Further, the mahazar witness PW.4 has completely turned hostile the prosecutions case he has not deposed about the conduction of the mahazar and seizer of offending vehicles from the place of the accident. Except the evidence of the Investigating Officer PW.6 there is no collaborating evidence by the independent witnesses to support spot mahazar that has been conducted at the place of the accident and seizure of offending vehicle from the place of

accident. Therefore, in absence of competitive testimony, the factum of seizer offending vehicle for the place of accident, contents of Ex.P.2 is not proved before this court.

17. Ex.P.12 is the interest report, Ex.P.9 is the PM report of deceased Chikkamunishamappa. In the present case, the accused has not disputed the death of the Chikkamunishamappa but he disputes the fact that such death was caused due to his negligent driving. Ex.P.12 shows the inquest has been conducted on the dead body of deceased Chikkamunishamappa. This fact only proves the factum of death but it does not prove the cause of death. Ex.P.9 shows that, the death is caused due to the multupal injury sustained but, this document does not show, how such injuries was sustained. Ex.P.9 is the wound certificate of PW.1, this document also only shows the type of injuries that the PW.1 has sustained, but it does not shows how such injuries was sustained. So, this injuries which resulted in death of Chikkamunishamappa and injuries that has been caused to PW.1 as to how those injuries were caused has to be brought on record independently by the prosecution through the eye witnesses. But, in the presence case though PW.1 & PW.2 has deposed about the injuries, but they failed to deposed truth those injuries were caused due to negligent driving of the accused by driving the offending vehicle as alleged by the prosecution. Therefore, this documents through proved before this court, is of no aid to prosecution to prove its case in the absence of

collaborative testimony of eye witnesses.

18. PW.5 to PW.7 are the investigating Officers who investigating this case in part. They were examined before this court and deposed about the investigation that they conducted. Ex.P.4 is the first information report, Ex.P.5 is the notice U/sec.135 of IMV Act issued to the owner of offending vehicle, Ex.P.6 is the reply, Ex.P.7 is the indemnity bond, Ex.P.8 is the motor vehicle accident report, Ex.P.11 is the rough sketch are all marked. These documents are the consequential documents and it is part of the investigation. These documents only proves fact that, a case has been registered pertaining to the accident and investigation was taken up and the offending vehicle was in the custody of the police and same was released to RC owner after in the getting indemnity bond executed by them. The motor vehicle accident report Ex.P.8 only shows what were the damaging that has been found on the vehicles involved in the accident but, it does not show how such damages were caused. But these fact has to be proved by the prosecution independently through the eye witnesses. In present case, the eye witnesses have not supported the prosecution case to the fullest, their evidence creates doubt, as such this court cannot completely rely on their evidence to prove the guilt of the accused beyond reasonable doubt. Therefore, in the absence of the collaborative testimony of eye witnesses, this documents though proved, alone, is of no aid to the prosecution to prove its case against the accused.

19. In the present case none of the eye witnesses, injured witnesses, mahazar witnesses have fully supported the case of the prosecution. There is no piece of evidence to prove the guilt of the accused beyond reasonable doubt by the prosecution. Such being the case, the prosecution has failed to prove its case against the accused. The oral and documentary evidence on record are not sufficient to hold the accused guilty and it creates doubtful about the involvement of the accused in this case. Therefore it can be concluded that the prosecution has failed to prove the guilt of the accused beyond all reasonable doubts. Hence, benefit of the doubt shall be given to the accused. Therefore, accused deserves acquittal. Accordingly, Point Nos.1 to 4 are answered in the **Negative**.

20. Point No.5:- In view of the above discussion and aforementioned reasons, this court proceeds to pass the following:-

ORDER

Acting U/Sec.255(1) of Cr.P.C.
accused is acquitted for the offences
punishable U/Sec. 279, 337, 338,
304(A).

Accused is hereby set at liberty.

The bail bond of accused and that
of his surety shall be in force for 6
months in view of the amended

provisions U/Sec.437A of Cr.P.C.

*(Dictated to the stenographer, corrected by me and then pronounced in open court, on this the **3rd day of July 2026**).*

(Chandrika. K. T.)
II Addl. Civil Judge & JMFC,
Devanahalli.

ANNEXURE

List of witnesses examined for prosecution:-

PW.1 : Doddaiah
PW.2 : Prakash
PW.3 : Hariprakash
PW.4 : Srinivas
PW.5 : Sriman Raju
PW.6 : Mahesh Kumar
PW.7 : Sudhakar Reddy

List of witnesses examined for defence:-

- Nil -

List of documents marked for prosecution:-

Ex.P.1 : Complaint
Ex.P.1(a) : Signature of PW.1
Ex.P.2 : Mahazar
Ex.P.2(a) : Statement
Ex.P.3 : Statement of PW.2
Ex.P.4 : FIR
Ex.P.5 : Form No.133 Notice

Ex.P.6 : Notice
Ex.P.7 : Indemnity Bond
Ex.P.8 : Accident Report
Ex.P.9 : Medical Report
Ex.P.10 : Wound Certificate
Ex.P.11 : Sketch copy

List of documents marked for defence:-

- Nil -

Material objects identified for prosecution:-

- Nil -

(Chandrika. K. T.)
II Addl. Civil Judge & JMFC,
Devanahalli.

Order pronounced in the open
court.

(Vide separate order)

ORDER

Acting U/Sec.255(1) of Cr.P.C.
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(Chandrika. K. T.)

II Addl. Civil Judge & JMFC,
Devanahalli.