

KABR320055592018



**IN THE COURT OF ADDL CIVIL JUDGE AND JMFC
DEVANAHALLI**

Dated this the 22nd day of April 2026

Present

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

CC No.3679/2018

Complainant :

The State by PSI.
Channarayapatna Police Station.
(By Learned A.P.P.)

Versus

Accused :

Manoja S/o Venkateshappa,
Aged about 19 years,
R/at: Near KPTCL, Budigere village,
Channarayapatna Hobli,
Devanahalli Taluk.

(By Sri. C.K.G – Advocate)

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|------------------------------|--------------------------------|
| 1. Name of the Informant | : Pillavenkatappa |
| 2. Offences complained of | : U/Sec. 279,
304(A) of IPC |
| 3. Date of offence | : 18-04-2018 |
| 4. Date of report of offence | : 25-04-2018 |

5. Arrest of the accused : --
6. Date of release on bail : 24-08-2018
7. Period undergone in custody : --
8. Date of recording evidence : 13-06-2022
9. Date of closing of evidence : 09-03-2026
10. Date of pronouncing judgment : 22-04-2026
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 Channarayapatna Police Station against accused for the offences punishable U/Sec. 279, 304(A) of IPC.

2. Brief facts of the prosecution case: That on 18-04-2018 when CW2 along with Mohan was standing near Naganayakanahalli village in front of Basaveshwara Temple of Naganayakanahalli in front of the motor cycle KA 05 EW 1727, accused being the driver of the vehicle bearing No. KA 43 E 2386 by taking CW4 as a pillion rider drove the said motor cycle from Balepura towards Channarayapatna and hit with a high speed and negligent manner and hit the motor cycle bearing No KA 05 EW 1727 and caused accident. Due to this accident both vehicles got damaged and Mohan who was standing near the said vehicle sustained grievous injuries on his head and he died on 25-04-2018 while the treatment at the hospital failed for the injuries that he sustained in the accident and therefore the accused has committed an offence

punishable U/s 279, 304(A) of IPC. On the information given by CW1, case has been registered at the complainant police station. Thereafter, investigation has been taken and finally charge sheet has been submitted against the accused for the offences noted Supra.

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 person to which he pleaded not guilty and claimed trial.

4. In-order to prove the guilt of accused, the prosecution has examined 9 witnesses out of 17 witnesses listed in the charge-sheet as PW1 to PW9 and got marked 11 documents as Ex.P1 to Ex.P11 and closed its side. CW1 & CW14 were given up by the prosecution.

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 18-04-2018 when CW2 along with Mohan was standing near Naganayakanahalli village was standing in front of Basaveshwara Temple of Naganayakanahalli in front of the motor cycle KA 05 EW 1727 accused being the driver of the vehicle bearing No. KA 43 E 2386 by taking CW4 as a pillion rider drove the said motor cycle from Balepura towards Channarayapatna and hit with a high speed and negligent manner and hit the motor cycle bearing No KA 05 EW 1727 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, due to this accident, both vehicles got damaged and Mohan who was standing near the said vehicle sustained grievous injuries on his head and he died on 25-04-2018 while the treatment at the hospital failed for the injuries that he sustained in the accident thereby accused committed an offence punishable U/Sec.304(A) of IPC?*

3. *What order?*

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

Point No.1 & 2 : In the **Negative**.

Point No.3 : As per the final order,
for the following:

REASONS

9. Point No.1 and 2 :- 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.

10. Ex.P1 is the first information statement which is the first document in this case. It was lodged by CW1. It is mentioned in Ex.P1 that CW1 learnt on 25-04-2018 at around 3.00PM that his son CW2 and his relative Mohan were standing in front of Basaveshwara Temple near Naganayakanahalli in order to witness the village fair and at that time a rider of the motor cycle bearing No. KA 43 E 2386 drove the red color motor cycle with a high speed and negligent manner and hit the motor vehicle bearing No. KA 05 EW 1727 which was parked next to the place where CW2 and Mohan was standing. Due to this accident CW2 sustained grievous injuries and Mohan sustained grievous injuries on his head and CW3 by name Dilip has taken them to the hospital and he later learnt that on 25-04-2018 at around 12.00pm he came to know that the injured Mohan has died due to the injuries sustained by him in accident as the treatment at the hospital failed.

11. CW1 by name Pillavenkateshappa was examined before this court as PW1. PW1 in his chief examination has deposed about the contents of Ex.P1 stating that about 5 to 6 years prior to him deposing before the court, he learnt about the accident that has been caused to his son CW2 and another person who died in the accident and he can not remember that person's name at this stage and he identified his signature on Ex.P1 he has also stated about the fact that he has lodged the Ex.P1 first information statement before the police. He was cross examined by the counsel for the accused. In his cross examination he has stated that he has not witnessed the accident and denied the other suggestion made to him by the prosecution.

12. CW13 the investigating officer who received the first information statement as per Ex.P1 was examined before this court as PW5. He deposed about receiving of the first information statement from PW1 and also lodging the FIR before the court. He identified his signature on Ex.P1 and also he identified the FIR Ex.P5. He was cross examined by the counsel for the accused. In his cross examination he has admitted that the reasons for delay in lodging the first information statement was not mentioned in FIR and denied the other suggestions made to him by the counsel for the accused.

13. With this evidence of PW1 and PW5 the factum of the accident that has been caused to deceased Mohan and also

that the fact that an information about the same given by PW1 before the police as per Ex.P1 and PW5 has received that information and initiated the criminal proceedings taking of the matter for investigation by lodging the FIR Ex.P5 is proved. But this document alone does not prove the guilt of the accused. It is to be noticed that as per the prosecution papers the accident took place on 18-04-2018. However, first information is lodged on 25-04-2018. A perusal of the Ex.P1 clearly shows that accident has been taken place on 18-04-2018 and the first information is lodged on 25-04-2018. Except the fact that as CW2 and injured Mohan were taking treatment at the hospital they could not lodged the first information statement, there is no material in Ex.P1 to show delay in lodging Ex.P1 by police. However, the first information is lodged by PW1, he is not the eye witness to the case and he was not injured in the accident and he was also not present at the time of the accident when the accident took place. However, as per Ex.P1 he has received the information about the accident and immediately after the accident and took the injured to the hospital. Neither CW2 nor the injured Mohan has lodged the first information statement before the police to seek a ground for delay that they were taking treatment at the hospital. It is PW1 who has lodged the first information statement. There was no impediment to PW1 to initiate the criminal proceedings by lodging the first information statement as and when he received the information about the accident. But why he has not lodged the first information statement till 25-06-2018 is not forthcoming from the

prosecution papers. Further it is to be noticed that since CW2 and deceased Mohan were taking treatment immediately after the accident, there should have been medico legal case registered at the hospital and information to that effect has to be given to the police station about the same. But a perusal of the prosecution papers does not indicate about the medico legal case and information being given to the police officers to that effect. If at all the police officers received such information as per the mandate of law and what prevented the police officers to register a case and proceed with the investigation based on MLC received from the hospital is not forthcoming from the prosecution papers and there is no evidence by the investigating officers to that effect. Therefore such being a case the delay in lodging the first information statement certainly creates doubt about the prosecution's version and has created a lacuna in the case of prosecution.

14. CW2 Rajappa, CW3 by name Dilip, CW4 by name Damodhar are the eye witnesses to the said accident. They were examined before this court as PW2, PW3 and PW8 respectively. PW2 in his chief examination has stated that CW1 is his father, deceased Mohan is his nephew, CW3 is his cousin and CW5 is his uncle. Few years back when they were celebrating Basava Jayanthi, he along with Mohan was standing in front of a two-wheeler bearing No. 1727 near Naganayakanahalli, at that time a rider of a two-wheeler came from Balepura towards Channarayana with a speed of 120 km per hour and hit the motor cycle which was parked and

caused accident. Due to this accident, Mohan who was standing near the vehicle fell on road and sustained injuries on his head. PW2 has also fell on road and sustained injuries. Later CW3 took him and Mohan to the hospital in an ambulance. Later, after a week from the date of the said accident, Mohan while taking treatment has died due to the injuries sustained by him in the accident. The vehicle which was caused the accident was red in color and he has given statement before the police to that effect. He has stated in his chief examination that he can identify the rider of the vehicle which cause the accident to him. On the day of examination of PW2, accused remained absent. As such learned counsel for the accused has stated that accused does not dispute the identity in this case. He was cross examined by the counsel for the accused on 09-03-2026 after 4 years from recording his chief examination statement. In his cross examination he has stated that he has not seen the accused before the court. He admitted that he does not know anything about the accident. He does not know which vehicle the accused was riding on the said day. He has further stated that after the accident caused to Mohan he went to the place of accident and he does not know anything about this case. He was re examined by APP. In his reexamination he denied the suggestions about the compromise that has been entered between him and the accused as such he is falsely deposing him before the court. He has also stated that there was no force or coercion by anyone else to depose before this court.

15. A perusal of evidence of PW2 certainly shows that PW2 has not specifically identified the accused before the court. In his chief examination he has stated that he can identify the accused but on that day accused remained absent. Accused was not shown to him before the court. As such he could not identify the accused. However during the cross examination by the counsel for the accused he has clearly stated that he has not seen the accused before the court, he does not know accused before the court. Therefore there are two contradicting statements by PW2 one in chief examination and one in the cross examination. Therefore in view of the cross examination of PW2 the evidence of PW1 renders it unreliable.

16. PW3 in his chief examination has stated that in the year 2008 when he and Mohan had been to Naganayakanahalli to celebrate their village fair in view of Basava Jayanthi, they were standing in front of the vehicle parked. At that time one rider of a red color victor two wheeler drove the said vehicle with a high speed and hit Mohan. Due to this accident Mohan fell on road and sustained injuries. He was taken to hospital through an ambulance. He has stated that the vehicle which caused the accident was red in color and he can not identify the rider of the motor cycle which caused the said accident. He was cross examined by the counsel for the accused in his cross examination he has admitted that he has seen the accused before the court for the first time on this day and denied the other suggestions made

to him by the counsel for the accused. Though PW3 has partly supported the case of the prosecution about witnessing the accident, he has not specifically stated about how the accident took place and from which direction, the rider of the motor cycle was coming and how he exhibited his negligence and caused accident. Except deposing the fact that the rider of the vehicle was coming with high speed, he has not stated about how that high speed amounted to negligent driving of the accused that has resulted in the present accident and also resulted in the death of Mohan. He has also not identified the accused before the court and he has not specifically deposed about the registration number of the offending vehicle so has to establish the identity of the offending vehicle in this case. Therefore PW3's evidence is also not sufficient to prove the prosecutions case in bringing home to the ingredients of section 279 and 304(A) of IPC.

17. Another eye witness PW8 was examined before this court. He in his chief examination has stated that he does know who deceased Mohan is. He does not know the accused before the court. He does know anything about this case. He has not seen any accident and he has not given any statement before the police. He has also stated that he has not sustained any injuries in the accident and he also not identified the photograph of the vehicle as per Ex.P7. He was treated as hostile witness and he was cross examined by the prosecution suggesting him about him witnessing the accident on 18-04-2018 as accused being his friend, took him as pillion rider and

drove the said vehicle bearing No. KA 3 E 2386 at around 12.30 pm on Channarayapatna Naganayakanahalli road with a high speed and negligent manner and near Basaveshwara temple, he hit one Motor Cycle which was parked on the left side of the road and caused accident and due to this accident the person who was sitting on the parked motor cycle has fell on road and sustained grievous injuries on his head and the said injured person was taken to the hospital in an ambulance he and accused have also sustained injuries in the said accident wherein he denied the same. He has also denied the suggestion that on 25-04-2018 at 2.00pm the injured Mohan who sustained grievous injuries in the accident, has died due to the injuries sustained by him in the accident. He has also denied his further statement before the police as per Ex.P11. In this case PW8 being an eye witness has completely turned hostile towards the case of the prosecution and has not deposed anything in favour of the prosecution.

18. In the present case PW2, PW3 and PW8 are the eye witness to the prosecution case. It is through them the prosecution has to bring on record how the accused being the rider of the offending vehicle rode the vehicle in a such a way which amounts his negligent driving and caused the death of the Mohan and also resulted the said accident. But in the present case though PW2 and PW3 partly supported the case of the prosecution about the occurrence of the accident, they have failed to depose about the manner of the accident to bring home the ingredients of section 279 of IPC. They have

also not identified the accused before the court as a driver of the offending vehicle and they have not specifically deposed about the registration number of the vehicle in order to establish the identity of the offending vehicle in the present case. PW8 has completely turned hostile towards the prosecutions case. Therefore their evidence is not sufficient to prove the prosecutions case pertaining to bringing home the ingredients of section 279 and 304(A) against the accused. Therefore, the prosecution through its prime witness failed to establish the guilt of the accused beyond reasonable doubt.

19. Ex.P2 is the spot / seizure mahazar. As per the case of prosecution on 26-04-2018 at the place of accident shown by PW3, the police conducted the mahazar between 2.30 to 3.15pm at the place of accident and seized the vehicles involved in the accident including the offending vehicle KA 43 E 2386. PW3 the one who showed the place of accident before the police in his chief examination has identified his signature on Ex.P2 and he has stated that the he, CW5 and CW6 have showed the place of accident to the police and the police have conducted the mahazar at the place of accident. He was cross examined by the counsel for the accused. In his cross examination pertaining to the mahazar he has stated that he does not know the contents of mahazar at Ex.P2. He has also stated that no vehicles were seized from the place of accident at the time of the mahazar.

20. CW6, one of the mahazar witnesses was examined

before this court as PW4. He in his chief examination identified his signature on Ex.P2 and he has stated that he made the said signature on 18-04-2018 near Naganayakanahalli Basavanagudi Temple in presence of CW3 and CW5, at that place, an accident took place and CW3 showed the place of accident to the police to conduct the mahazar. He has also stated that there was some marks showing the occurrence of the accident in the place of accident and one police official has conducted the mahazar between 2.30 to 3.15pm and he by learning contents of Ex.P2, has made his signature on Ex.P2 and one the vehicle which caused the accident was TVS victor vehicle. He was cross examined by the counsel for the accused. In his cross examination, he has stated that he does not know the contents of Ex.P2 denied the other suggestions made to him by the counsel for the accused.

21. CW5 another mahazar witness was examined before this court as PW9. PW9 in his chief examination has stated that in the year 2018 near Naganayakanahalli when there was a village fair, police in relation to a mahazar, took his thumb impression on Ex.P2. He does not know the contents of Ex.P2 and no vehicle was seized in his presence. He has also not identified the vehicle seen in Ex.P7. He was treated as hostile witness and he was cross examined by the prosecution suggesting him that on 26-04-2018 in relation to an accident police conducted the spot mahazar at the place of accident near Basaveshwara temple Balepura Channarayapatna road at

the place shown by Pw3 in his, and CW5's presence between 2.30 to 3.15pm wherein he denied the same. He also denied the seizure of the offending vehicle from the place of accident.

22. PW6 the investigating officer who conducted the spot mahazar has deposed about the conducting of the mahazar and drawing about the rough sketch as per Ex.P6 at the place of accident. He was cross examined by the counsel for the accused. In his cross examination, he denied the suggestions made to him by the counsel for the accused. In the present case though the spot mahazar witness have partly deposed about the conducting of the mahazar at the place of accident none of them specifically stated about the seizure of the offending vehicle at the place of accident. They have not specifically deposed about the registration number of the vehicle so has to establish the identity of the offending vehicle in this case. Therefore in view of the available evidence on record about the conducting of the spot mahazar and the seizure of the offending vehicle, the prosecution has proved the place of accident by the evidence of spot mahazar witnesses but failed to prove the seizure of the offending vehicle, from the place of accident through its spot / seizure mahazar witnesses.

23. Ex.P3 the inquest report, Ex.P4 the PM report of deceased Mohan, Ex.P8 motor vehicle accident report, Ex.P9 notice U/s 133 issued to one Venkateshappa, Ex.P10 the reply are all marked with the consent of the accused. In essence the

accused does not dispute the fact of the death, but he only dispute the fact that death of Mohan is caused due to his negligent driving. Ex.P4 PM report shows that death is due to cordio respiratory arrest, secondary to severe head injury but it does not reflects how such head injury was caused. Ex.P3 inquest only proves the factum of death, but it does not prove how such death was caused. Ex.P8 the motor vehicle accident report shows the damages seen in both the vehicles involved in the accident and the fact that the accident was not caused due to the mechanical defects in the above vehicles. When the seizure of the offending vehicle from the place of accident and the identification of the offending vehicle through the eye witnesses itself is not established ascertaining its mechanical condition serves no purpose. Ex.P9 and Ex.P10 are the consequential documents and it is a notice issued U/s 133 to the owner of the vehicle which sustained accident to get the vehicle released. So this documents alone in the absence of the corroborative oral testimony of the eye witness is of no aid to the prosecution to prove the case. Therefore this documents though proved before the court, though the same was marked with the consent of the accused, this documents alone in the absence of the corroborative oral testimony about the eye witness about the manner of the accident, identification of the accused and identification of the offending vehicle, alone serves no purpose to prove the prosecutions case beyond reasonable doubt against the accused.

24. PW5, PW6 and PW7 are the investigating officer who

investigated this case in part they have deposed about the investigation that they conducted in this case. Ex.P5 FIR, Ex.P6 rough sketch, Ex.P7 the photograph of the motor vehicle are all marked through them. These documents are consequential in nature. Hence this documents is also no aid to the case of the prosecution to prove its case.

25. In present case none of the eye witnesses have deposed in support of the prosecution to full extent to prove the guilt of the accused. They have partly supported the case of the prosecution but the facts elicited during the cross examination render their evidence unreliable. Therefore their evidence not reliable to prove the guilt of the accused. None of the eye witness have identified the accused and also identified offending vehicle before this court to establish the identity of the accused as driver of offending vehicle. The mahazar witness have not deposed about the seizure of the offending vehicle. Such being the case the prosecution has failed to prove as to how the accused has exhibited negligence while riding offending vehicle caused the accident which resulted in the death of Mohan. Therefore in view of the materials available on record the prosecution has failed to prove the guilt of the accused beyond reasonable doubt and materials on record certainly creates doubt about the involvement of the accused in this case. Therefore the benefit of doubt has to be given to the accused. Accordingly, Point No.1 and 2 are answered in the **Negative**.

26. Point No.3 : 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,
304(A) of IPC.

Accused person 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 **22nd day of April 2026**).*

(Chandrika. K. T.)

Addl. Civil Judge and JMFC,
Devanahalli.

ANNEXURE

List of witnesses examined for prosecution:

- PW-1 - Pillavenkatappa
- PW-2 - Rajanna
- PW-3 - Dilip

PW-4 - Vinod
PW-5 - Narayanaswamy
PW-6 - Paramesh
PW-7 - Manjunath
PW-8 -Damodhara
PW-9 -Venkatesha

List of witnesses examined for defence:

- Nil -

List of documents marked for prosecution:

Ex.P1 : FIS
Ex.P2 : Mahazar
Ex.P3 : Inquest report
Ex.P4 : PM report
Ex.P5 : FIR
Ex.P6 : Sketch
Ex.P7 : Photograph
Ex.P8 : IMV Report
Ex.P9 : FIS
Ex.P10 : Notice U/Sec.133 of IMV Act
Ex.P11 : Statement of PW8

List of documents marked for defence:

- Nil -

Material objects identified for prosecution:

- Nil -

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

Order pronounced in the open court.
(Vide separate order)

ORDER

Acting U/Sec.255(1) of Cr.P.C. accused No. 1 is acquitted for the offences punishable U/Sec.279, 304(A) of IPC and Under Section 181 of IMV Act. Accused No. 2 is acquitted for the offences punishable Under Section 180 of IMV Act.

Accused persons are hereby set at liberty.

The bail bond of accused No. 1 and 2 and that of their surety shall be in force for 6 months in view of the amended provisions U/Sec.437A of Cr.P.C.

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