

KADG520007612024



Presented on : 28-05-2024  
Registered on : 28-05-2024  
Decided on : 01-04-2026  
Duration : 1 years, 10 months, 4 days

IN THE COURT OF THE ADDITIONAL CIVIL JUDGE AND JMFC,  
HONNALI

Dated this 01<sup>st</sup> Day of April 2026

PRESENT

Sri. PUNYAKOTI S N

B.A LLB

Addl. Civil Judge & JMFC,  
Honnali.

CRIMINAL CASE No.396/2024

COMPLAINANT: The State through,  
Nyamathi Police Station.  
(By Asst. Public Prosecutor)

- Vs -

ACCUSED : 1. Raghavendra K S  
S/o Shivappa G H  
Aged about 43 years  
R/at. Siddeshwara circle Gopala,  
Shivamogga Town and District.  
2. Elumalai  
S/o Gopalappa (Abated)  
(A-1 Rep. By Sri. SBP Advocate)

1.	Date of commencement of offence.	22-02-2024
2.	Date of report of offence	22-02-2024
3.	Arrest of the Accused	-
4.	Name of the Informant	Naveen @ Naveenkumara
5.	Date of commencement of	17-02-2026

	recording evidence	
6.	Date of closing of evidence	07-03-2026
7.	Offences complained of	U/s.279, 304(A) of IPC
8.	Opinion of the Judge	Accused No.1 found not guilty.

## JUDGMENT

This case emanates from the charge sheet filed by the PI of Nyamathi Police station against the accused No.1 and 2 for the commission of offences punishable under Section 279, 304(A) of IPC and secs. 146,196 of IMV Act .

2. The brief facts of the prosecution are as follows :- It is alleged that, on 22-02-2024 around 12.45 pm, within the jurisdiction of Nyamathi Police Station, at Savalanga - Shikaripura road, the accused No.1 drove car bearing Reg.No.KA-14-B-8467 from Shikaripua towards Savalanga in rash and negligent manner so as to endanger human life and personal safety of others and out of his control dashed to the accused No.2 by name Elumalai who was riding uninsured motor cycle bearing Reg.No.KA-17-EL-8741 due to which the accused No.2 fell down from the said motor bike, thereby he sustained grievous injuries and succumbed while he taking treatment at Meggan hospital, Shivamogga. Thereby the accused No.1 and 2 have committed the alleged offences.

3. The Nyamathi Police have registered a case against the accused No.1 and 2 in Crime No.38/2024 for the offences punishable U/Secs.279, 304(A) of Indian Penal Code. After completion of investigation, the IO has filed the Charge Sheet against the accused No.1 and abated charge sheet against

accused no. 2 for the offences punishable U/Secs.279, 304(A) of IPC and secs.146, 196 of IMV Act.

4. After submission of Charge Sheet by the Investigating Officer, this Court has taken cognizance against the accused No.1 for the above said offences. Thereafter, the summons was issued to the accused No.1. The accused No.1 appeared through his advocate and got released on bail. Copy of Charge Sheet and other materials were furnished to the accused No.1 as contemplated U/Sec.207 of Cr.P.C. Since there are sufficient materials available on record to record the substance of accusation. Hence, the substance of accusation for the offences U/Secs.279 and 304(A) of Indian Penal Code is recorded, read over and explained to the accused No.1. Accused No.1 has denied the same as false and claimed for trial.

5. In order to prove the guilt against the accused No.1, the prosecution has examined 7 witnesses as PW-1 to 7 out of 17 Charge Sheet witnesses and got marked 23 documents as per Ex.P.1 to Ex.P.23 with sub markings and closed its side. In view of marking of the same learned APP given up CW-2 to 6, 12 to 15.

6. After completion of Prosecution evidence, the accused No.1 was examined U/s 313 of Cr.P.C. The incriminating evidence has been read over and explained to the accused No.1. Accused No.1 had denied the incriminating evidence against him and submitted that he has no defence evidence and obtained compliance surety from the accused No.1.

7. Heard the arguments by the learned APP as well as defence counsel.

8. On going through the materials placed by the Prosecution in this case, the following Points would arise for my consideration:

#### POINTS

1. Whether the Prosecution proves beyond all reasonable doubt that on 22-02-2024 around 12.45 pm, within the jurisdiction of Nyamathi Police Station, at Savalanga -Shikaripura road, the accused No.1 drove car bearing Reg.No.KA-14-B-8467 from Shikaripura towards Savalanga in rash and negligent manner so as to endanger human life and personal safety of others, thereby accused No.1 committed an offence punishable U/Sec.279 of Indian Penal Code?
2. Whether the Prosecution proves beyond all reasonable doubt that on the above said date, time and place, the accused No.1 drove car bearing Reg.No.KA-14-B-8467 in the above said manner, out of his control he dashed to the accused No.2 who was riding motor bike bearing Reg.No.KA-17-EL-8741 due to which the accused No.2 fell down from the said motor bike, thereby he sustained grievous injuries and succumbed while he taking treatment at Meggan hospital, Shivamogga, thereby accused No.1 committed an offence punishable

U/Sec.304(A) of Indian Penal Code?

3. What Order ?

9. My findings to the above Points are as under:

POINT No.1 : In the Negative.

POINT No.2 : In the Negative.

POINT No.3 : As per final order  
for the following: -

#### REASONS

10. POINTS No.1 and 2: - As these points are interlinked with each other and also similar evidence is led on all these points, hence in order to avoid repetition of facts and discussion, I have taken all these points together for common discussion.

11. In a criminal case the entire burden of proof rest upon the prosecution and the accused No.1 need prove nothing. Suffice for the accused No.1 to create doubt about the case of the prosecution and the reliability of the witnesses for prosecution. With this back ground, I proceed to discuss the evidence available on record.

12. In order to bring home the guilt of the accused No.1 for the offence punishable under Section 279 IPC, prosecution must prove that he was driving the vehicle on public way in a rash or negligent manner endangering human life or is likely to cause hurt or injury to any other person. In order to prove charge for the offence punishable under Section 304-A IPC, prosecution must prove that the death of a person was caused due to rash or negligent act of the Accused, not amounting to culpable

homicide. Once the offence under Section 279 is proved, penal consequences under Section 304-A of IPC may follow, subject to proof of other facts-in-issue. Therefore, at the first instance, it is incumbent upon the prosecution to prove charge under Section 279 of IPC.

13. In order to prove the case, the prosecution has examined 7 witnesses as PW.1 to 7, out of the said witnesses, PW.1 is the complainant and mahazar witness, PW-2 to 4 are eye witnesses, PW-5 is the mahazar witness, PW-6,7 are the IO Witnesses.

14. In the present case, the complainant CW-1 who is the son of the deceased Elumalai, examined as PW-1. Wherein he deposed in his evidence that his father died on accident but he does not know whose fault the alleged accident was occurred and he did not given any complaint to the police with regard to the accident. Further during his presence no mahazar was drawn and no vehicles were seized. As such the complainant himself turned hostile to the prosecution case.

15. In the present case on hand, in order to prove the rash or negligent act of the accused no.1, the material witnesses are eye witness. IO cited CW 7 to 9 as alleged to be direct witnesses. Wherein they have been examined as PW-2 to 4. Wherein they deposed in their evidence that they have not seen the alleged accident and with regard to that they have not given any statement to the police. As such the direct witnesses turned hostile to the prosecution case.

16. IO cited CW-10 as alleged to be mahazar witness. Wherein

he has been examined as PW-5 and deposed in his evidence that, during his presence police have not conducted spot panchanama or seizure panchanama and not seized any vehicles. Further deposed that, he put his signature on spot panchanama and seizure panchanama only on the request of the police. As such the mahazar witness turned hostile to the prosecution case. Learned APP cross examined all the independent witnesses in order to elicit the truth in supportive of their case. But all the independent witnesses denied the suggestions of the learned APP.

17. CW-16 and 17 are IO witnesses examined as PW-6 and 7. Wherein they have deposed in support of prosecution with regard to the receiving of complaint, registering FIR, conducting the mahazar and all the investigation procedures.

18. On assessing the entire evidence, all the independent witnesses including the complainant who is the son of the deceased Elumalai, the direct witnesses and mahazar witness have not supported the prosecution case. Further they deposed quite opposite to the prosecution case. Despite cross-examination by the learned APP, the witnesses denied the suggestions putforth by the learned APP. As such entire prosecution case is demolished.

19. As such all the independent witnesses are turned hostile by denying the prosecution case. As such there is no corroborative evidence among the independent witnesses except IO witnesses.

20. On perusal of over all evidence this court comes to the conclusion that the prosecution has utterly failed to prove the rash or negligent driving of the accused No.1 through its witnesses. The prosecution also failed to prove the involvement of the accused No.1 and his negligent act through prosecution witnesses. Hence, without much discussion, I hold that the evidence placed by the prosecution is not probable and hence cannot be based to hold that, the accused No.1 has committed the alleged offences. Hence, I answered Point No.1 and 2 in the "Negative."

21. POINT No.3 :- In view of discussion on the aforesaid points, this court proceed to pass the following:

#### ORDER

Acting U/s.255(1) of Cr.P.C., the accused No.1 is hereby acquitted for the offences punishable U/s 279 and 304(A) of IPC.

Bail bond and surety bond stand in force for a period of 6 months as per sec.436(A) of Cr.P.C.

(Dictated to the stenographer through computer, typed by her, corrected by me and then pronounced in the open Court today the 01<sup>st</sup> day of April 2026).

(Punyakoti S N)  
Addl.Civil Judge & J.M.F.C.,  
Honnali.

#### ANNEXURE

1. List of witnesses examined for prosecution:

PW-1 : Navin Kumar

PW-2 : Ananda  
PW-3 : Murugesh  
PW-4 : Muniyappa  
PW-5 : Elumalai  
PW-6 : Umesh K L  
PW-7 : Ravi N S

2. List of documents marked for prosecution:

Ex.P-1 : Complaint  
Ex.P-1(a, b) : Signature of PW-1, 6  
Ex.P-2 : Spot Panchanama  
Ex.P-2(a,b) : Signature of PW-2,7  
Ex.P-3 : Rough Sketch  
Ex.P-3(a,b) : Signature of PW-2,7  
Ex.P-4 : Seizure panchanama  
Ex.P-4(a,b) : Signature of PW-2,7  
Ex.P-5-10 : Photos  
Ex.P-11 : Statement of PW-2  
Ex.P-12 : Statement of PW-3  
Ex.P-13 : Statement of PW-4  
Ex.P-13(a) : Statement of PW-4  
Ex.P-14 : FIR  
Ex.P-14(a) : Signature of PW-6  
Ex.P-15 : Inquest report  
Ex.P-15(a) : Signature of PW-7  
Ex.P-16 : PM Report  
Ex.P-16(a) : Signature of PW-7  
Ex.P-17 : IMV Report  
Ex.P-17(a) : Signature of PW-7  
Ex.P-18 : Police Notice  
Ex.P-18(a) : Signature of PW-7

Ex.P-19	:	Reply Notice
Ex.P-19(a)	:	Signature of PW-7
Ex.P-20	:	Indemnity bond
Ex.P-20(a)	:	Signature of PW-7
Ex.P-21	:	Police Notice
Ex.P-21(a)	:	Signature of PW-7
Ex.P-22	:	Reply Notice
Ex.P-22(a)	:	Signature of PW-7
Ex.P-23	:	Sec.65 B certificate
Ex.P-23(a)	:	Signature of PW-7.

3. List of witnesses examined for Accused: Nil
4. List of documents marked for Accused: NIL
5. List of material objects marked: NIL

(Punyakoti S N)  
Addl.Civil Judge & J.M.F.C.,  
Honnali.