

KADG520007892021



Presented on : 20-04-2021

Registered on : 20-04-2021

Decided on : 22-04-2026

Duration : 5 years, 0 months, 2 days

IN THE COURT OF PRL.CIVIL JUDGE AND J.M.F.C, HONNALI.

Present: SRI.DEVADAS H., B.A., LL.B.,

Prl.Civil judge and JMFC, Honnali.

C.C.No.325/2021

Dated : 22nd day of April 2026.

COMPLAINANT: State by Honnali Police,

(By learned APP, Honnali.)

// Versus //

ACCUSED : Shekharappa H.S. S/o Honnappa T.

Aged about 47 Years

R/o: Bidaragadde Village

Honnali Taluk.

(Rep.By Sri.GMT., Advocate)

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1. Date of commission of offence : 29.12.2020
2. Date of report of offence : 06.01.2021
3. Arrest of the Accused :
 - a)Date of arrest of the accused :
 - b)Date of release on bail : Accused is on bail
 - c)The period undergone in custody :

4. Name of the complainant : Umesh H.R.
5. Date of recording evidence : 06.03.2026
6. Date of closing evidence : 15.04.2026
7. Offence complained of : U/s.279 and 338 of IPC and
Section 181 of IMV Act.,
8. Opinion of the Judge : As per the final order.

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:: JUDGMENT ::

The Head Constable of Honnali Police station has submitted a charge against the accused person for the offences punishable under Section 279 and 338 of IPC and Section 181 of IMV Act.,

2. The brief facts of the prosecution case as under :-
That on 29.12.2020 around 2.30 P.M., near Kunduru-Basavapattana Village within the jurisdictional limits of Honnali Police Station the accused has drove the Goods Auto bearing Reg.No.KA-17-D-6320 from Kunduru towards Basavapattana in a rash and negligent manner so as to endanger human life and dashed to the bike bearing Reg.No.KA-17-HB-9641 which was coming from Kunduru towards Basavapattana, due to which the CW4 is being the rider of the bike and CW1 is being the pillion rider of the bike were fell down along with bike and CW1 was sustained grievous injuries. Further the accused knowing fully drove the said vehicle without having valid driving license. Thereby, the accused person has committed to the alleged offences.

3. With regard to the above accident, the CW1 given the information to the CW11. On the basis of the said information, he has registered First information Report against the accused person for the alleged offences punishable under Section 279 and 338 of IPC., and same has been transmitted to the Court as well as to his superior officers. Further after completion of the investigation submitted a charge sheet against the accused person for the alleged offences punishable under Section 279 and 338 of IPC and Section 181 of IMV Act.,

4. Based on the materials available on record, this Court has taken cognizance for the above said alleged offences and issued summons to the accused person. In response to summons issued by this Court, the accused person has appeared through his learned counsel and supplied the charge-sheet copies in compliance of Section 207 of Cr.P.C., The accused person has released on bail. Thereafter, plea was recorded, read over and explained to the accused person wherein he has denied the accusation leveled against him and claimed to be tried.

5. In order to prove the guilt of the accused person, the prosecution has examined 8 witnesses i.e., PW1 to PW8 and produced 34 documents which have been marked as Ex.P1 to Ex.P34. After completion of the prosecution evidence. Since

there is incriminating circumstances appear in the evidence of the prosecution witnesses, hence accused statement under Section 313 of Cr.P.C., has been recorded and wherein the accused person has denied the incriminating circumstances appears in the evidence and submit that he has no defence evidence.

6. Heard the arguments on both sides.

7. The following points would arise for determination of this Court as under :-

1. Whether the prosecution proves beyond all reasonable doubt that on 29.12.2020 around 2.30 P.M., near Kunduru-Basavapattana Village within the jurisdictional limits of Honnali Police Station the accused has drove the Goods Auto bearing Reg.No.KA-17-D-6320 from Kunduru towards Basavapattana in a rash and negligent manner so as to endanger human life and dashed to the bike bearing Reg.No.KA-17-HB-9641 which was coming from Kunduru towards Basavapattana, due to which the CW4 is being the rider of the bike and CW1 is being the pillion rider of the bike were fell down along with bike. Thereby, the accused person has committed an offence punishable U/s 279 of I.P.C.,?
2. Whether the prosecution further proves beyond all reasonable doubt that on the aforesaid date, time and place, the accused drove the vehicle in the aforesaid

manner and caused accident, Due to the impact, the CW1 was sustained grievous injuries. Thereby, the accused has committed an offence punishable U/S 338 of I.P.C.,?

3. Whether the prosecution further proves beyond all reasonable doubt that, accused has drove the aforesaid vehicle knowing fully that he was not having valid driving license. Thereby the accused has committed an offence punishable U/Sec.181 of IMV Act.,?

4. What order?

8. This Court has findings on the above said points are as under:-

Point No.1 and 2 : In the Negative
Point No.3 : In the Affirmative
Point No.4 : As per the final order for
the following:

:: REASONS ::

9. POINTS Nos.1 and 2:- Since these points are interconnected with each other and arising out of same incident. Hence taken together for common discussion for the purpose of brevity and convenience and to avoid the repetition of evidence.

10. In order to bring home the guilt of the accused for the offence punishable under Section 279 IPC., prosecution

must prove that he was driving a vehicle on public way in a rash or negligent manner endangering to human life or is likely to cause hurt of injury to any other person. In order to prove charge for the offence punishable under Section 338 IPC., prosecution must prove that grievous hurt to any person by doing any rash and negligent act endangering to human life or personal safety of others.

11. It is well laid that in a criminal case the entire burden of proof rest upon the prosecution and the accused need prove nothing. Suffice for the accused to create doubt about the case of the prosecution and the reliability of the witnesses for prosecution. With this back ground, this proceed to discuss the evidence available on record.

12. The prosecution got examined complainant as PW1. He has testified that, about 5 years ago while he and CW4 were went in bike and by that time there was accident caused to him, but he did not know how and from whose negligence the accident would be caused and he did not given the complaint to the police and he has made signatures in police station upon the request of the police on the documents without knowing the contents and the police have not conducted the spot as well as seizure mahazar in his presence and not prepared the rough sketch and identified his depict in the photos, but he did not know for what purpose the police have captured the photos. The complaint which is marked as

Ex.P1 and wherein his signature marked as Ex.P1(a), the spot mahazar which is marked as Ex.P2 and wherein his signature marked as Ex.P2(a), the rough sketch which is marked as Ex.P3 and wherein his signature marked as Ex.P3(a), the photos which are marked as Ex.P4 and Ex.P5, the seizure mahazar which is marked as Ex.P6 and wherein his signature marked as Ex.P6(a), the photos which are marked as Ex.P7 and Ex.P8 and CD which is marked as Ex.P9. The learned APP treated him as hostile and during his cross-examination denied the suggestions made by the learned APP and nothing has been elicited from his mouth in order to prove the prosecution case.

13. Further the prosecution got examined spot/seizure mahazar witnesses as PW2 and PW6. Further testified that, about 5 years ago they went to the police station on their personal work and by that time upon the request of the police officials, they have made signatures on the documents, but they did not know the contents of the documents and in their presence police have not conducted the spot as well as seizure mahazar and identified their depict in the photos, but they did not know for what purpose the police have captured photos and in this regard they did not given the statement to the police. The spot mahazar which is marked as Ex.P2 and wherein their signatures marked as Ex.P2(b) and Ex.P2(c), the rough sketch which is marked as Ex.P3 and wherein their signatures marked as Ex.P3(b) and Ex.P3(c), the seizure

mahazar which is marked as Ex.P6 and wherein their signatures marked as Ex.P6(b) and Ex.P6(c), the notices which are marked as Ex.P10 and Ex.P11 and wherein their signatures marked as Ex.P10(a & b), Ex.P11(a & b), The learned APP treated them as hostile and during their cross-examination denied the suggestions made by the learned APP and nothing have been elicited from their mouth in order to prove the prosecution case.

14. The prosecution got examined eye witnesses as PW3 to PW5 and PW7. Further they have testified that, about 5 years ago while CW1 and CW4 were went in bike and by that time there was accident caused to CW4, but they did not know how and from whose negligence the accident caused and they did not given any statements to the police. They have made signatures on the documents upon the request of the police officials and they did not know the contents of the said documents. The bond pertains to PW3, PW5 and PW7 which are marked as Ex.P13, Ex.P16 and Ex.P20 and wherein their signatures marked as Ex.P13(a), Ex.P16(a) and Ex.P20(a). The learned APP treated them as hostile and during their cross-examination denied the suggestions made by the learned APP and nothing has been elicited from their mouth in order to prove the prosecution case.

15. The prosecution got examined police official as PW8. He has testified that, on 06.01.2021 around 8.00 p.m., he had

received the information from CW1 and based on the information registered the FIR and same has been transmitted to the Court as well as to his superior officers. Further testified that, on 07.01.2021 he has got issued notice to CW2 and CW3 and then conducted the spot mahazar as shown by CW1 in the presence of CW2 and CW3 in between 11.00 a.m., to 12.00 p.m., and also prepared the rough sketch and captured the photos. Further testified that, then returned to the police station and he has got issued notice to CW2 and CW3 and then in their presence conducted the seizure mahazar in between 1.00 p.m., to 2.00 p.m., and captured the photos. Further testified that, on 11.01.2021 he has got issued notice to the accused and obtained reply notice from him and wherein specifically stated that, he being the driver of the Goods Auto and he was not having driving license as on the date of the accident and same has been mentioned in PF and reported before this Court. Further he has testified that, the accused person has appeared before the police station voluntarily and after completion the arrest procedure got released him on bail. Further testified that, on 15.01.2021 he has got issued notice to the CW4 and obtained reply notice, indemnity bond and other documents and then got released the bike to him. Further testified that, he has recorded the statement of CW4 to CW7 and also obtained the bond from them. Further testified that, on 20.01.2021 he has given requisition to the CW9 and also received the wound certificate from CW1. Further testified that, on 11.01.2021 he has given

requisition to the CW8 and on 04.02.2021 he has received the IMV report from CW8 and also recorded the statement of CW2 and CW3 and recorded the further statement of CW2. Further testified that, on 07.01.2021 he has received the 65B certificate from CW10 and after completion of investigation he has submitted the final report against the accused person before the Court. The complaint which is marked as Ex.P1 and wherein his signature marked as Ex.P1(b), the spot mahazar which is marked as Ex.P2 and wherein his signature marked as Ex.P2(d), the rough sketch which is marked as Ex.P3 and wherein his signature marked as Ex.P3(d), the photos which are marked as Ex.P4, Ex.P5, Ex.P7 and Ex.P8, the seizure mahazar which is marked as Ex.P6 and wherein his signature marked as Ex.P6(d), the police notices which are marked as Ex.P10 and Ex.P11 and wherein his signatures marked as Ex.P10(c) and Ex.P11(c), the statement of CW3 which is marked as Ex.P12 and wherein his signature marked as Ex.P12(a), the bond pertain to CW4 which is marked already as Ex.P13 and wherein his signature marked as Ex.P13(b), the statement of CW4 which is marked as Ex.P14 and wherein his signature marked as Ex.P14(a), the statement of CW5 which is marked as Ex.P15 and wherein his signature marked as Ex.P15(a), the bond pertain to CW6 which is marked as Ex.P16 and wherein his signature marked as Ex.P16(b), the statement of CW2 and CW6 which are marked as Ex.P17 and Ex.P18 and wherein his signatures marked as Ex.P17(a) and Ex.P18(a), the further statement of

CW2 which is marked as Ex.P19 and wherein his signature marked as Ex.P19(a), the bond pertain to CW7 which is marked as Ex.P20 and wherein his signature marked as Ex.P20(b), the statement of CW7 which is marked as Ex.P21 and wherein his signature marked as Ex.P21(a), the FIR which is marked as Ex.P22 and wherein his signature marked as Ex.P22(a), the report given by CW9 which is marked as Ex.P23 and wherein his signature marked as Ex.P23(a), the requisition given to CW9 which is marked as Ex.P24 and wherein his signature marked as Ex.P24(a), the wound certificate pertain to CW1 which is marked as Ex.P25 and wherein his signature marked as Ex.P25(a), the IMV reports which are marked as Ex.P26 and Ex.P27 and wherein his signatures marked as Ex.P26(a) and Ex.P27(a), the 65B certificate which is marked as Ex.P28 and wherein his signature marked as Ex.P28(a), the notice given to CW4 which is marked as Ex.P29 and wherein his signature marked as Ex.P29(a), the reply given by CW4 which is marked as Ex.P30 and wherein his signature marked as Ex.P30(a), the indemnity bond which is marked as Ex.P31 and wherein his signature marked as Ex.P31(a), the police notice given to the accused which is marked as Ex.P32 and wherein his signature marked as Ex.P32(a), the reply notice given by the accused which is marked as Ex.P33 and wherein his signature marked as Ex.P33(a) and the indemnity bond which is marked as Ex.P34 and wherein his signature marked as Ex.P34(a). During the course of cross-examination he has denied suggestions

made by the learned counsel for the accused and nothing has been elicited from his mouth in order to disprove the prosecution case.

16. In the light of the above material available on record, the learned APP argued that, informant and the independent witnesses have supported the case of prosecution. So also the evidence of the independent witnesses has been corroborated by the official witnesses. No doubt there are some minor discrepancies in the case but the same are not fatal to disbelieve the case of prosecution. Therefore, the learned APP prayed to convict the accused person.

17. The learned counsel for the accused strongly argued that the case of prosecution is full of doubts. Further argued that the informant, eye witnesses and all the material witnesses are turned hostile. Further argued that all the witnesses are related to each other and also the evidence is not corroborative to each other. So also the case is not worth to be believed. Therefore, he prayed to acquittal the case.

18. On Marshaling entire evidence and on meticulous perusal of the documentary proof it is crystal clear that the prosecution has failed to place the cogent, corroborative and reliable evidence to prove the guilt of the accused. The initial burden is always on the prosecution. The specific assertion of the prosecution is that the accused is being the driver of the

Goods Auto and drove the same in a rash and negligent manner and dashed to the bike. Due to which caused CW1 has sustained grievous injuries to him. On perusal of the case set up by the prosecution it is worth to know whose negligence the accident was occurred.

19. The PW1 is the complainant-cum-injured and while he and PW3 were went in bike and by that time there was accident caused to him, but he did not know how and from whose negligence the accident would be caused and he did not given the complaint, but he has made signatures on the some documents without knowing the contents and he did not know from whose negligence the accident would be occurred and he has turned hostile and he has not at all supported the prosecution case. Further PW3 to PW5 and PW7 are the eye witnesses and they have turned hostile and they are not at all supported the prosecution. Further PW2 and PW6 are the spot as well as seizure mahazar witnesses and they have completely turned hostile and they are not at all supported the prosecution case. Hence the evidence of PW1 to PW7 are the material witnesses and they have turned hostile and they did not supported the prosecution. Hence their evidence is not helpful to the prosecution to prove its case. Further PW8 is the police officials and he has deposed his evidence in his official capacity what he has done and he has not witnessed the rash and negligent act of the accused. Therefore, only on

the basis of sole testimony of PW8 this Court cannot convict the accused.

20. It is pertinent to note that, there is no iota of evidence to prove the rash and negligent act of the accused. CW1 only with an intention to get the compensation foisted false case against the accused. The prosecution has proved the accident, but failed to prove the negligent act of the accused. Thus, the evidence made available by the prosecution falls short of legal evidence to establish the accusations leveled against the accused. Thus, under the above circumstances, this Court is of the clear opinion that, the prosecution has failed to bring home the guilt of accused. Hence, this Court is of the firm opinion that, this is a fit case wherein benefit of doubt can be given to the accused. Accordingly, this Court has answered Point No.1 and 2 in the "Negative."

21. Point No.3 : It is the specific case of prosecution is that, the accused drove the Goods Auto without having driving license and in this connection on perusal of the Ex.P32 it is reveals that, the police have given notice to accused and in response to the police notice, he has given reply notice as per Ex.P33 wherein he has stated that he has drove the said Goods Auto at the time of alleged accident and he has not having valid driving license and same has not been disputed by the accused person. Hence, the prosecution has

successfully proved that at the time of accident the accused has drove the said Goods Auto without having driving license. Accordingly, this Court answered Point No.3 in the affirmative.

22. Point No.4:- In view of discussion on the aforesaid point, this Court has proceed to pass the following:

:: ORDER ::

Acting U/s.255(1) of Cr.P.C., the accused is hereby acquitted for the offences punishable U/s.279 and 338 of IPC.,

Acting U/s.255(2) of Cr.P.C., the accused is hereby convicted for the offence punishable U/ sec.181 of IMV Act.,

The accused is sentence to pay fine amount of **Rs.2000/-** for the offence punishable under Section 181 of IMV Act., In default of payment of fine amount, he shall undergo simple imprisonment for a period of five days.

Acting under section 437(A) of Cr.P.C it is order that the bail bond executed by the Accused shall be in force for six (6) months.

(Dictated to the stenographer directly on computer, corrected by me and then pronounced in the open Court today the 22nd day of April, 2026)

(Devadas H.)
Prl.Civil Judge & JMFC,
Honnali.

:: A N N E X U R E ::

1. List of witnesses examined for prosecution:

- PW1 : Umesha H.R.
- PW2 : Manjunatha K.H.
- PW3 : Shrinivasa T.L.
- PW4 : Madesha @ K.M.Mahadevappa
- PW5 : Murulidhara Naik P.
- PW6 : H.B.Somashekhara
- PW7 : Lokeshappa S.R.
- PW8 : B.V. Lakshmana

2. List of documents marked for prosecution:

- Ex.P1 : Complaint
- Ex.P1(a & b) : Signatures of PW1 & PW8
- Ex.P2 : Spot mahazar
- Ex.P2(a to d) : Signatures of PW1, PW2, PW6 & PW8
- Ex.P3 : Rough sketch
- Ex.P3(a to d) : Signatures of PW1, PW2, PW6 & PW8
- Ex.P4 & 5 : Photos
- Ex.P6 : Seizure mahazar
- Ex.P6(a to d) : Signatures of PW1, PW2, PW6 & PW8
- Ex.P7 & 8 : Photos
- Ex.P9 : CD
- Ex.P10 & 11 : Notice to panchas
- Ex.P10(a to c) : Signatures of PW2, PW6 & PW8
- Ex.P11 (a to c)
- Ex.P12 : Statement of PW2
- Ex.P12(a) : Signature of PW8
- Ex.P13 : Bond pertain to PW3

- Ex.P13(a) : Signatures of PW3 & PW8
- Ex.P14 : Statement of PW3
- Ex.P14(a) : Signature of PW8
- Ex.P15 : Statement of PW4
- Ex.P15(a) : Signature of PW8
- Ex.P16 : Bond pertain to PW5
- Ex.P16(a & b) : Signatures of PW5 & PW8
- Ex.P17 : Statement of PW5
- Ex.P17(a) : Signature of PW8
- Ex.P18 : Statement of PW6
- Ex.P18(a) : Signature of PW8
- Ex.P19 : Further statement of PW6
- Ex.P19(a) : Signature of PW8
- Ex.P20 : Bond pertain to PW7
- Ex.P20(a) : Signatures of PW7 & PW8
- Ex.P21 : Statement of PW7
- Ex.P21(a) : Signature of PW8
- Ex.P22 : FIR
- Ex.P22(a) : Signature of PW8
- Ex.P23 : Report given by the CW9
- Ex.P23(a) : Signature of PW8
- Ex.P24 : Requisition given to CW9
- Ex.P24(a) : Signature of PW8
- Ex.P25 : Wound certificate
- Ex.P25(a) : Signature of PW8
- Ex.P26 : IMV report
- Ex.P26(a) : Signature of PW8
- Ex.P27 : IMV report
- Ex.P27(a) : Signature of PW8

- Ex.P28 : 65B certificate
- Ex.P28(a) : Signature of PW8
- Ex.P29 : Police notice
- Ex.P29(a) : Signature of PW8
- Ex.P30 : Reply notice
- Ex.P30(a) : Signature of PW8
- Ex.P31 : Indemnity bond
- Ex.P31(a) : Signature of PW8
- Ex.P32 : Police notice given to accused
- Ex.P32(a) : Signature of PW8
- Ex.P33 : Reply notice given by the accused
- Ex.P33(a) : Signature of PW8
- Ex.P34 : Indemnity bond
- Ex.P34(a) : Signature of PW8

3. List of witnesses examined and Documents marked for Accused: -Nil-

4. List of material objects marked: -Nil-

(Devadas H.)
Pri.Civil Judge & JMFC,
Honnali.