

KADG520026852019



Presented on : 27-12-2019
Registered on : 27-12-2019
Decided on : 01-04-2026
Duration : 6 years, 3 months, 5 days

IN THE COURT OF THE PRL.CIVIL JUDGE AND JMFC.,
AT HONNALI.

Dated this 1st day of April 2026

Present:

Sri.Devadas H., B.A, LL.B.,
Prl.Civil Judge and JMFC.,
Honnali.

C.C.No.1915/2019

COMPLAINANT : Honnali Police Station.

(By learned APP. Honnali.)

- Vs -

ACCUSED : 1. Karibasappa K.G. S/o Kotrappa
Aged about 53 Years.

2. Kotresh K.G. S/o. Karibasappa K.G.
(Plead Guilty)

Aged about 21 Years

Both are R/at. Holesirigere Village

Harihar Taluk, Davangere District

* * * * *

1. Date of commission of offence : 26.05.2019

2. Date of report of offence : 27.05.2019
3. Arrest of the Accused :
- a)Date of arrest of the accused :
- b)Date of release on bail : Accused are on bail
- c)The period undergone in custody : Not Applicable
4. Name of the complainant : Chandrappa A.K.
5. Date of recording evidence : 09.05.2025
6. Date of closing evidence : 21.02.2026
7. Offence complained of : U/s.279, 337, 304(A)of IPC
and Sec.3(1),5,180 & 181
of IMV., Act
8. Opinion of the Judge : As per the final order.

* * * * *

: J U D G M E N T :

The Police Inspector of Honnali Police station has submitted the final report against the accused persons for the offences punishable under Section 279, 337 and 304(A) of Indian Penal Code and Section 3(1), 5, 180 & 181 of Motor Vehicle Act.

2. The brief facts of the prosecution case are as follows :- It is alleged that, on 26.05.2019 around 7.00 P.M., near Narasagondanahalli Village Bus stand within the jurisdictional limits of Honnali Police Station the accused No.1 has ride the motor cycle bearing Reg.No.KA-17-EY-2153 along with pillion rider as CW11 from Honnali towards Harihara in a rash or negligent manner so as to endanger human life and dashed to the back side of the scooty bearing engine No.OG3AG2513241 and Chassis No.MD626BG33G2i20921 which was ride by

Nagaraja S.H. from Honnali towards Harihara, due to the impact CW11 was sustained simple injuries and one Nagaraja was sustained grievous injuries and was succumbed to death. Further the accused No.1 ride the bike belonged to accused No.2 knowing fully that without having valid driving license and the accused No.2 is being the owner of the said motor bike and given the said motor cycle to the accused No.1 knowing fully that the accused No.1 did not having valid driving license. Thereby the accused persons have committed the alleged offences.

3. With regard to the above incident, CW1 set the criminal law into motion by giving information before CW22. On the basis of the said information he has registered the First Information Report in Cr.No.132/2019 for the offences punishable under Section 279 and 337 of Indian Penal Code against the accused persons and same has been transmitted to the Court as well as to his superior officer. Thereafter investigating officer has proceeded to conduct the investigation and after completion of the investigation submitted the final report against the accused persons for the offences punishable under Section 279, 337 and 304(A) of Indian Penal Code and under Section 3(1), 5, 180 & 181 of Motor Vehicle Act against the accused persons.

4. After receipt of charge sheet, this Court took cognizance for the aforesaid offences under section 190 of Cr.P.C. and issued summons to the accused person. Upon issuance of summons, the accused persons have appeared before the Court through

their learned counsel, released on bail and all the copies of the prosecution papers were furnished to the learned counsel for the accused in compliance of Section 207 of Cr.P.C., The accused No.2 is pleaded guilty on payment of fine amount.

5. Since there are grounds for presumed that the accused persons have committed an offences triable by this Court. Hence this Court learned predecessor in office has recorded the plea and substance of accusation was read over and explained to the accused No.1, wherein he has pleaded not guilty, but claimed to be tried.

6. The prosecution in order to prove its case got examined 11 witnesses out of 24 witnesses as PW1 to PW11 and got exhibited 38 documents as per Ex.P1 to Ex.P38. With the consent of the learned counsel for the accused inquest mahazar, P.M., report, Police Notice given to accused No.2, reply Notice given by the accused No.2, Indemnity bond, IMV report and wound certificate of the accused No.1 which are marked as Ex.P15 to Ex.P21 and thereby the learned APP submit that CW6, CW17 to CW21 are may be given up. Hence, CW6, CW17 to CW21 are given up. CW9, CW12 and CW22 are reported as death. Since there was incriminating circumstances appears in the evidence, the statement of accused No.1 under Section 313 of Cr.P.C., has been recorded, wherein he has denied the incriminating circumstances appears in the evidence and opted not to adduce any defence evidence.

7. Heard arguments on both sides.

8. On the basis of the above said facts, the following points arises to this Court for determination:-

1. Whether the prosecution proves beyond all reasonable doubt that, on 26.05.2019 around 7.00 P.M., near Narasagondanahalli Village Bus stand within the jurisdictional limits of Honnali Police Station the accused person ride the motor cycle bearing Reg.No.KA-17-EY-2153 along with pillion rider as CW11 from Honnali towards Harihara in a rash or negligent manner so as to endanger human life and dashed to the back side of the scooty bearing engine No.OG3AG2513241 and Chassis No.MD626BG33G2i20921 which is ride by Nagaraja S.H. from Honnali towards Harihara, due to the impact CW11 was sustained simple injuries and one Nagaraja was sustained grievous injuries and thereby the accused No.1 has committed an offence punishable U/S.279 of Indian Penal Code?
2. Whether the prosecution further proves beyond all reasonable doubt that on the aforesaid date, time and place accused No.1 ride the said vehicle in the aforesaid manner and caused accident. Due to the impact the CW11 has sustained simple injuries. Thereby the accused No.1 has committed an offence punishable U/S.337 of Indian Penal Code?
3. Whether the prosecution further proves beyond all reasonable doubt that on the aforesaid date, time and place accused No.1 ride the said bike in the aforesaid

manner and caused accident. Due to the impact one Nagaraja S.H. was sustained grievous and succumbed to death. Thereby the accused No.1 committed an offence punishable U/S.304(A) of Indian Penal Code?

4. Whether the prosecution further proves beyond all reasonable doubt that, on the aforesaid date, time and place, the accused No.1 ride the bike belonged to accused No.2 knowing fully that he did not having valid driving license. Thereby the accused No.1 committed an offence punishable U/s.181 of Motor Vehicle Act?

5. What order?

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

Points No.1 to 3 : In the Negative
Point No.4 : In the Affirmative
Point No.5 : As per the final order
for the following:

:: R E A S O N S ::

10. POINTS Nos.1 to 3 :- 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.

11. 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 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.

12. The prosecution in order to prove its case got examined complainant as PW1. He has testified that, about 5 years ago he has received the information from CW16 that the accused No.1 has dashed to scooty of Nagaraja with his motor cycle and due to which his brother by name Nagaraja was sustained injuries and CW13 and CW14 have shifted him to the hospital and his brother took further treatment at Sahyadri Narayana MultiSpeciality hospital Shivamogga and Yenepoya Hospital, Mangaluru and thereafter said Nagaraja was succumbed to death at house and in this regard he has given the complaint to the police. The complaint which is marked as Ex.P1 and wherein his signature marked as Ex.P1(a) and complaint given on 26.09.2019 which is marked as Ex.P2 and wherein his signature marked as Ex.P2(a). The learned APP treated him partly hostile and during his cross-examination admitted that the accident caused on account of rash and negligent riding of the accused No.1 and admitted that, on 28.05.2019 the police have conducted the spot mahazar in his

presence as well as in the presence of CW7 as place of accident shown by CW8 and prepared the rough sketch and captured the photos. Further admitted that, the police have conducted the seizure mahazar in his presence as well as in the presence of CW7 to CW10 and seized the vehicles and captured the photos and in this regard he has given the re-statement to the police. The spot mahazar which is marked as Ex.P3 and wherein his signature marked as Ex.P3(a), the rough sketch which is marked as Ex.P4 and wherein his signature marked as Ex.P4(a), two photos which are marked as Ex.P5 and Ex.P6, the seizure mahazar dated:25.09.2019 which is marked as Ex.P7 and wherein his signature marked as Ex.P7(a), two photos which are marked as Ex.P8 and Ex.P9, the seizure mahazar dated:29.05.2019 which is marked as Ex.P10 and wherein his signature marked as Ex.P10(a) and two photos and CD., which are marked as Ex.P11 to Ex.P13. During the course of his cross-examination admitted he has not personally seen the alleged accident and denied the suggestions made by the learned counsel for the accused and nothing has been elicited from his mouth in order to disprove the prosecution case.

13. Further prosecution got examined seizure mahazar witness as PW2. He has testified that, on 25.09.2019 the police have issued notice to him and CW9 and conducted the seizure mahazar in his presence as well as in the presence of CW1 and CW9 and seized the scooty and captured the photos and in this regard he has given the statement to the police. The police notice which is marked as Ex.P14 and wherein his signature

marked as Ex.P14(a), seizure mahazar which is marked as Ex.P7 and wherein his signature marked as Ex.P7(b) and photos which are marked as Ex.P8 and Ex.P9. During his cross-examination admitted and denied the suggestions made by the learned counsel for the accused No.1 and nothing has been elicited from his mouth in order to disprove the prosecution case.

14. The prosecution got examined eye witnesses as PW3 to PW5. They have testified that, they went to the police station on their personal work and upon the request of police officials they have made signatures on the said documents and they did not know how and from whose negligence the alleged accident would be occurred. In this regard they have not given statements and further statements to the police. The bond pertain to them which are marked as Ex.P22 and Ex.P25 and wherein their signatures which are marked as Ex.P22(a) and Ex.P25(a). The learned APP treated them as hostile and subjected to cross examination. During their cross-examination the learned APP nothing has been elicited from their mouth in order to prove the prosecution case.

15. The prosecution got examined spot/seizure mahazar witness as PW6. He has testified that, about 5 years ago he went to the police station on their official work and by that time he has made signatures on the documents upon the request of the police officials and he did not know the contents of the said documents and the police have not conducted the spot mahazar and not prepared rough sketch and not seized any vehicles in his

presence and identified his depict in the photos, but he did not know for what purpose the police have captured. The police notice which is marked as Ex.P30 and wherein his signature marked as Ex.P30(a), the seizure mahazar which is marked as Ex.P31 and wherein his signature marked as Ex.P31(a). The prosecution treated him hostile and during his cross-examination denied the suggestions made by the learned APP and nothing have been elicited from his mouth in order to prove the prosecution.

16. The prosecution got examined police official as PW7. He has testified that, on 25.09.2019 he has received the records from CW22 and then proceeded to conduct the investigation and he has given notice to CW9 and CW10 and seized the scooty in their presence of CW1, CW9 and CW10 and captured the photos and same has been mentioned in the PF and submitted before the Court. He has recorded the statement and bonds pertain to CW9 and CW10. Further testified that, on 26.09.2019 CW1 has given another complaint with regard to the death of deceased Nagaraja and then he has given the requisition before the Court seeking for addition the under Section 304(a) of IPC., and he has deputed to CW21 in order to supervise the dead body of deceased Nagaraja and then handed over the records to CW24 for further investigation. The complaint which is marked as Ex.P2 and wherein his signature marked as Ex.P2(b), the requisition which is marked as Ex.P34 and wherein his signature marked as Ex.P34(a), the seizure mahazar which is marked as Ex.P7 and wherein his signature marked as Ex.P7(c), the photos which are marked as Ex.P8 and Ex.P9 and the notice given to

CW9 and CW10 which is marked as Ex.P14 and wherein his signature marked as Ex.P14(b). During his cross-examination denied the suggestions made by the learned counsel for the accused and nothing has been elicited from his mouth in order to disprove the prosecution case.

17. The prosecution got examined police official as PW8. He has testified that, on 12.10.2019 he has received the records from CW23 and then proceeded to conduct the investigation and he has recorded the further statements of CW1, CW11 to CW16 and also obtained the bond from CW16 and 65B certificate from CW21. Further testified that, on 19.10.2019 he has received the PM report from CW18 and after completion of investigation he has submitted the final report against the accused persons. the PM report which is marked as Ex.P16 and wherein his signature marked as Ex.P16(a), the further statement of CW13, CW14 and CW11 which are marked as Ex.P24, Ex.P27 and Ex.P29 and wherein their signatures marked as Ex.P24(a), Ex.P27(a) and Ex.P29(a), the bond pertain to CW16 which is marked as Ex.P35 and wherein his signature marked as Ex.P35(a) and 65B certificate which is marked as Ex.P36 and wherein his signature marked as Ex.P36(a). During his cross-examination denied the suggestions made by the learned counsel for the accused and nothing has been elicited from his mouth in order to disprove the prosecution case.

18. The prosecution got examined spot mahazar witness as PW9. He has testified that, around 8 years ago the police have conducted the spot mahazar in his presence as well as in the

presence of CW1 and CW7 and prepared the rough sketch and captured the photos. The spot mahazar which is marked as Ex.P3 and wherein his signature marked as Ex.P3(b), the rough sketch which is marked as Ex.P4 and wherein his signature marked as Ex.P4(b) and the photos which are marked as Ex.P5 and Ex.P6. The learned APP treated him partly hostile and during his cross-examination admitted that the police have issued notice to him and the police have conducted the seizure in his presence as well as in the presence of CW1 and CW7 and seized the motor cycle and in this regard he has given the statement and re-statement to the police. The seizure mahazar which is marked as Ex.P10 and wherein his signature marked as Ex.P10(b), the photos which are marked as Ex.P11 and Ex.P12, the notices issued at the time of spot as well as seizure mahazar which are marked as Ex.P30 and Ex.P31 wherein his signatures marked as Ex.P30(b) and Ex.P31(b). During his cross-examination admitted and denied the suggestions made by the learned counsel for the accused and nothing has been elicited from his mouth in order to disprove the prosecution case.

19. The prosecution got examined hear witness as PW10. He has testified that, he went to the police station on his personal work and upon the request of police officials he has made signatures on the said documents and he did not know how and from whose negligence the alleged accident would be occurred. In this regard he has not given statement to the police and he did not seen the alleged accident personally. The bond pertain to him which is marked as Ex.P35 and wherein his signature which is marked as Ex.P35(b). The learned APP treated

him as hostile and subjected to cross examination. During his cross-examination the learned APP nothing has been elicited from his mouth in order to prove the prosecution case.

20. The prosecution got examined other witness as PW11. He has testified that, upon the version of CW1, he has written the complaint and in this regard he has given statement to the police. The complaint which is marked as Ex.P1 and wherein his signature marked as Ex.P1(b) and bond pertain to him which is marked as Ex.P38 and wherein his signature marked as Ex.P38(a). During the course of cross-examination denied the suggestions made by the learned counsel for the accused person and nothing has been elicited from his mouth in order to disprove the prosecution case.

21. 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 persons.

22. The learned counsel for the accused persons 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.

23. 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 No.1. The initial burden is always on the prosecution. The specific assertion of the prosecution is that the accused No.1 is being a rider of the bike, ride the same in a rash or negligent manner and dashed to the scooty of deceased Nagaraja and the rider of the scooty was fell down and sustained injuries and was succumbed to death and CW11 is being the pillion rider of the motor cycle of the accused No.1 and she was fell down and was sustained simple injuries. Due to his negligence the alleged accident was occurred. On perusal of the case set up by the prosecution it is worth to know whose negligence the accident was occurred.

24. The prosecution in order to prove its case relied on the evidence of PW1 is the complainant and he has deposed that, he has received the information through CW16 with regard to the accident took place between deceased and accused No.1 and the accident took place on account of rash and negligent riding of the accused No.1 and in his presence the police have conducted the spot as well as seizure mahazar and captured the photos. During the course of his cross-examination admitted that, he did not seen the accident personally. Further in the instant case there is no dispute that the accident caused between the scooty and motor cycle and there is dispute that whether the alleged accident would be occurred on account of

rash and negligent riding of the accused No.1 or not and during his cross-examination admitted that, he has not seen the alleged accident personally and thereby his evidence is not helpful to the prosecution to prove its case.

25. Further PW2, PW6 and PW9 are the spot as well as seizure mahazar witnesses. Further PW2 and PW9 are supported the prosecution case and in their evidence they have deposed that, the police have conducted the spot as well as seizure mahazar and prepared the rough sketch and captured the photos. Further in the instant case there is no dispute that the accident caused between the scooty and motor cycle and there is dispute that whether the alleged accident would be occurred on account of rash and negligent riding of the accused No.1 or not. Further PW6 is the spot/seizure mahazar witness and he has turned hostile and he did not supported the prosecution case. Hence the evidence of PW2, PW6 and PW9 is not helpful to the prosecution to prove its case.

26. Further PW3 to PW5 are the eye witnesses and material witnesses and they have turned hostile and they did not supported the prosecution case. Hence their evidence is not helpful to the prosecution to prove its case. Further PW10 is the hear say witness and the PW11 is the other witness and their evidence is not helpful to the prosecution to prove its case. Further PW7 and PW8 are the police officials and they have deposed their evidence in their official capacity what they have done and they have not witnessed the rash or negligent riding of the accused No.1. Therefore, only on the basis of sole testimony

of PW7 and PW8 this Court cannot convict the accused.

27. It is pertinent to note that, there is no iota of evidence to prove the rash or negligent driving of the accused No.1. The PW.1 only with an intention to get the compensation foisted false case against the accused persons. The prosecution has proved the death of deceased person, but failed to prove the negligent act of the accused No.1. Thus, the evidence made available by the prosecution falls short of legal evidence to establish the accusations leveled against the accused No.1. Thus, under the above circumstances, this Court is of the clear opinion that, the prosecution has failed to bring home the guilt of accused No.1. 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 Nos.1 to 3 in the "Negative."

28. Point No.4 : It is the specific case of prosecution is that, the accused No.1 ride the bike without having driving license and the accused No.2 is being the owner of the aforesaid vehicle and given the aforesaid vehicle to the accused No.1 knowing fully that, the accused No.1 is not having driving license and in this connection on perusal of the Ex.P17 it is reveals that, the police have given notice to accused No.2 and in response to the police notice, he has given reply notice as per Ex.P18 wherein he has stated that accused No.1 has ride the said bike at the time of alleged accident and the accused No.1 has not having valid driving license. Hence, the prosecution has successfully proved that at the time of accident the accused

No.1 has ride the said bike without having driving license. Accordingly, this Court answered Point No.4 in the affirmative.

29. POINT No.5 :- 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 are hereby acquitted for the offences punishable U/s.279, 337 and 304(A) of IPC.,

Acting U/s.255(2) of Cr.P.C., the accused No.1 is hereby convicted for the offence punishable U/sec.181 of IMV Act.

The accused No.1 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 persons shall be in force for six (6) months.

(Dictated to the stenographer directly and typed by her, corrected by me and then pronounced in the open Court today the 1st day of April 2026)

(DEVADAS H.)
Prl. Civil Judge & J.M.F.C.,
Honnali.

A N N E X U R E

1. List of witnesses examined for prosecution:

PW1 : Chandrappa

PW2 : G.M. Rajappa
PW3 : Manjappa A.K.
PW4 : Mallikarjuna H.
PW5 : Mallamma
PW6 : Basavaraj
PW7 : Thippeswamy T.N.
PW8 : Devaraj
PW9 : Ramappa A.K.
PW10 : Rudresha
PW11 : Nagappa

2. List of documents marked for prosecution:

Ex.P1 : Complaint
Ex.P1(a & b) : Signatures of PW1 & PW11
Ex.P2 : Complaint
Ex.P2(a & b) : Signatures of PW1 & PW7
Ex.P3 : Spot Mahazar
Ex.P3(a & b) : Signatures of PW1 & PW9
Ex.P4 : Rough Sketch
Ex.P4(a & b) : Signatures of PW1 & PW9
Ex.P5 & 6 : Photos
Ex.P7 : Seizure Mahazar
Ex.P7(a to c) : Signatures of PW1, PW2 & PW7
Ex.P8 & 9 : Photos
Ex.P10 : Seizure Mahazar
Ex.P10(a & b) : Signatures of PW1 & PW9
Ex.P11 & 12 : Photos
Ex.P13 : CD
Ex.P14 : Notice to Panchas
Ex.P14(a & b) : Signatures of PW2 & PW7
Ex.P15 : Inquest Mahazar

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|---------------|---|--------------------------|
| Ex.P16 | : | PM Report |
| Ex.P16(a) | : | Signature of PW8 |
| Ex.P17 | : | Police Notice |
| Ex.P18 | : | Reply Notice |
| Ex.P19 | : | Indemnity bond |
| Ex.P20 | : | IMV Report |
| Ex.P21 | : | Wound Certificate |
| Ex.P22 | : | Bond pertain to PW3 |
| Ex.P22(a) | : | Signatures of PW3 |
| Ex.P23 | : | Statement of PW3 |
| Ex.P24 | : | Re-Statement of PW3 |
| Ex.P24(a) | : | Signature of PW8 |
| Ex.P25 | : | Bond pertain to PW4 |
| Ex.P25(a) | : | Signature of PW4 |
| Ex.P26 | : | Statement of PW4 |
| Ex.P27 | : | Re-Statement of PW4 |
| Ex.P27(a) | : | Signature of PW8 |
| Ex.P28 | : | Statement of PW5 |
| Ex.P29 | : | Re-Statement of PW5 |
| Ex.P29(a) | : | Signature of PW8 |
| Ex.P30 | : | Notice to Panchas |
| Ex.P30(a & b) | : | Signatures of PW6 & PW9 |
| Ex.P31 | : | Notice to Panchas |
| Ex.P31(a & b) | : | Signatures of PW6 & PW9 |
| Ex.P32 | : | Statement of PW6 |
| Ex.P33 | : | Further Statement of PW6 |
| Ex.P34 | : | Requisition |
| Ex.P34(a) | : | Signature of PW7 |
| Ex.P35 | : | Bond pertain to PW10 |
| Ex.P35(a & b) | : | Signature of PW8 & PW10 |

- Ex.P36 : 65B Certificate
Ex.P36(a) : Signature of PW8
Ex.P37 : Statement of PW10
Ex.P38 : Bond pertain to PW11
Ex.P38(a) : Signature of PW11

3. List of witnesses examined for defence :- NIL

(DEVADAS H)
Prl.Civil Judge & J.M.F.C.,
Honnali.

