

KADW050005212025



Presented on : 22-02-2025
Registered on : 22-02-2025
Decided on : 18-03-2026
Duration : 01 year, 00months 24 days

**IN THE COURT OF THE PRL. SENIOR CIVIL JUDGE AND CJM,
DHARWAD**

PRESENT

**Sri. Venkatesha Naika V, B.Com., LL.B.
Prl. Senior Civil Judge & CJM,
Dharwad.**

Dated this the 18th day of March, 2026

Criminal Case No.170/2025

Complainant : The State represented by
Police Inspector,
Traffic police station, Dharwad.

- Vs -

Accused : 1. Uddappa Vittal Honakuppi,
Age: 36 yrs, Occ: Driver,
R/o Sattigeri, Tq. Savadatti, Belagavi.

2. *Ramesh Durgappa Hanchinamani,*
Age: 35 yrs, Occ: Driver
*R/o Kelageri, Madar oni, Dharwad.***(Abated)**

1. Date of commission of offence : 20.10.2024
2. Date of reporting of offence : 20.10.2024
3. Arrest of the accused : 21.10.2024

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4. Name of the complainant : Channabasappa S/o.
Holeyappa Malagi
5. Date of commencement of evidence : 20.09.2025
6. Date of closing of evidence : 13.01.2026
7. Offences complained u/sec : U/sec.281, 125(a),
125(b), 106(1) of BNS and
U/s. 134(a) & (b) r/w/s
187 of M.V Act.
8. Opinion of Judge : **The accused No.1 is
hereby acquitted for the
offence punishable U/s.
281, 125(a), 125(b) and
106(1) of BNS.**
**The accused No.1 is
found guilty for the
offences punishable
U/s.134(a) & (b) r/w/s
187 of M.V.Act.**
**The accused no.2 is
abated.**
9. Complainant represented by : Sr. A.P.P.
- 10 Accused No.1 defense by : Advocate Sri. C.P.M Adv.,

(Venkatesha Naika V)
Prl. Senior Civil Judge & CJM,
Dharwad.

: J U D G M E N T :

The Inspector of Police, Dharwad Traffic Police
Station, Dharwad has filed a report under Crime No.
153/2024 against the accused, alleging that the accused

No.1 committed an offence punishable under Section 281, 125(a), 125(b) and 106(a) of BNS and u/section 134(a) and 134(b) r/w section 187 of MV Act.

2. The sum and substance of the prosecution case is hereunder:

On 20.10.2024 at about 04.40 a.m. on Dharwad-Goa Road near Sampige Nagar Bus Station, the accused No. 1, being the driver of the lorry bearing registration number GA.06/T/907 proceeding from German Circle towards Kelageri public way in a rash and negligent manner so as endanger to human life and dashed the autorikshaw bearing registration number K25/D/3725 which was coming in opposite direction of his lorry. As a result and impact of an accident, the driver of the autorikshaw Ramesh Durgappa Hanchinamani was thrown out from the autorikshaw due to the impact of the accident and the lorry rammed on the driver of the autorikshaw. As a result, Said Ramesh Durgappa Hanchinamani succumbed at the spot itself. further the inmates of the autorikshaw one Mareyavva alias Mareyamma w/o Lingappa Hanchimani, Pranav Hanchinmani and Pruthvi Hanchimani sustained

grievous injuries and they succumbed to the injuries while under treatment at hospital. Another inmate by name Renuka Hanchinamani also sustained grievous injuries. The accused No.1 was the driver of the said lorry. Soon after the accident he has not tried to attend the injured to shift hospital or he has tried to inform the concerned police having regard to the alleged accident. Accordingly, the accused committed an offence punishable under Sections 134(a) and 134(b) r/w Section 187 of the Motor Vehicles Act.

3. After receipt of the charge sheet, cognizance taken for the offence alleged against the accused No.1. Pursuant to summons, the accused No.1 appeared before the court and enlarged on bail. Copies of the prosecution case papers supplied in terms of Section 230 of BNSS. The substance of accusation stated to the accused and the accused pleaded not guilty and claims to make defence.

4. In order to bring home the guilt of the accused, the prosecution has examined all nine witnesses as PW1 to PW9 and marked the documents at Ex.P1 to Ex.P52.

The properties seized during the course of investigation are marked as M.O.No. 1 and 2. After the conclusion of the recording of evidence for the prosecution, the accused's statement was recorded as per Section 351 of BNSS, explaining the incriminating circumstances that appeared against the accused in the prosecution evidence. The accused denied the entire evidence and did not opt to lead any defence evidence.

5. The accused statement under Section 351 of the B.N.S.S. was recorded. The accused No.1 denied incriminating evidence appeared against him and not chosen to lead defence evidence.

6. Heard the arguments on both sides.

7. The following points have arisen for my consideration:

POINTS FOR CONSIDERATION

- 1) **Whether the prosecution proves beyond all reasonable doubt that, on 20.10.2024 at about 04.40 a.m. on Dharwad-Goa road near Sampige Nagar bus stop, the accused No. 1 being the driver of the lorry bearing Reg.No.GA No.60-T-9097 proceeding from German Circle towards Kelageri road on public way in high speed in a rash and negligent manner so as endanger to human**

life and dashed the oncoming autorikshaw bearing Reg.No.K25-D-3725 and accordingly the accused committed an offence punishable under Section 281 of BNS?

- 2) Whether the prosecution further proves beyond all reasonable doubt that , said date time and place the accused being the driver of the said lorry drove in a rash and negligent manner so as endanger to human life and dashed oncoming auto rickshaw bearing Reg.No.K25-D-3725, as a result the inmates of the auto rickshaw by name Smt.Renuka W/o. Ravi Hanchinamani sustained simple injuries and thereby the accused committed an offence punishable under Section 125(a) of BNS ?**
- 3) Whether the prosecution further proves beyond all reasonable doubt that, said date time and place the accused being the driver of the said lorry drove in a rash and negligent manner so as endanger to human life and dashed oncoming auto rickshaw bearing Reg.No.K25-D-3725, as a result the inmates of the auto rickshaw by name Smt.Renuka W/o. Ravi Hanchinamani sustained grievous injuries and thereby the accused committed an offence punishable under Section 125(b) of BNS ?**
- 4) Whether the prosecution further proves beyond all reasonable doubt that, on the above said date, time and place they accused being the driver of the aforesaid Lorry drove the same in rash and negligent manner so as endanger to human life and dashed oncoming auto rickshaw bearing Reg.No.K25-D-3725 and thereby the driver of autorikshaw by name Ramesh Hanchinamani sustained fatal injuries and succumbed at the spot, inmate Mariyavva, Pranav and Prethvi are sustained a fatal injuries and they are succumbed due**

injuries sustained accordingly they accused committed an offence punishable under section 106(1) of BNS?

- 5) **Whether the prosecution further proves beyond all reasonable doubt that, on the above said date, time and place they accused being the driver of the aforesaid Lorry failed to attend the injured persons for medical treatment or tried to convey the injured to the nearest hospital or taken reasonable steps to extend medical aid/assistance and thereby committed an offence punishable under Section 134(a) r/ w Section 187 of the Motor Vehicle Act ?**
- 6) **Whether the prosecution further proves that the accused failed to furnish his name, address, and vehicle particulars to the police or the concerned authority as required under statute thereby, the accused committed an offence punishable under Section 134(b) of the Motor Vehicles Act?**
- 7) **What order?**
8. The above points are answered as under:

Point No.1 : In the Negative.

Point No.2 : In the Negative.

Point No.3 : In the Negative.

Point No.4 : In the Negative.

Point No.5 : In the Affirmative.

Point No.6 : In the Affirmative.

**Point No.7 : As per final order for
the following :**

: R E A S O N S :

9. **Point Nos.1 to 4:** *Since these points are interrelated thus considered for common discussion to avoid repetition.*

10. Here the prosecution alleged that the accused has committed an offence punishable under Section 281, 125(a), 125(b), 160(1) of B.N.S. and U/Section 134(a) and 134(b) R/w Section 187 of Motor Vehicles Act. In this context, the prosecution was required to satisfy that the accused being the driver of the lorry bearing Reg.No GA06-T-9097 proceeding towards Goa from Dharwad German Circle to Kallegher Road on a public way, in a rash and negligent manner, so as endangering to human life or likely to cause hurt or injury to any person or property.

11. Here the prosecution made allegations of Section 281, 125(a), 125(b) and Section 106(1) of the Bharatiya Nyaya Sanhita, 2023. Thus the prosecution was required to establish that the accused No.1 drove his Lorry in a rash or negligent manner resulting in an alleged accident. Apart from those facts, the prosecution was required to prove that, soon after the accident the

accused No.1 fled away without attending the injured to the hospital and even without furnishing any relevant information pertaining to the driver as well as the vehicle involved in the alleged accident to the nearest police station. Accordingly, these facts are required to be established by the prosecution with reliable, cogent and corroborative evidence beyond reasonable doubt.

12. In this context, the prosecution has examined the first informant Channabasappa Malagi as PW1 and deposed that, on 28.10.2024 at about 4.40 a.m. Mariyavva went in autorikshaw bearing Reg.No.KA-25-D-3725 of Ramesh Hanchinamani along with her daughter in law Smt.Renuka, grand children Pranav and Prithvi to Dharwad railway station. Later he had received a phone call from Renuka Hanchinamani and learnt that their autorikshaw was met with an accident near Sampige Nagar Bus stop. Accordingly he rushed to the scene of crime and an enquiry Smt. Renuka Hanchinamani she told that, when they are proceeding in their autorikshaw the Lorry came in their opposite direction from German Hospital towards Kelageri in a

rash and negligent manner and dashed their autorikshaw, resultant the autorikshaw overturned and the inmate of autorikshaw are thrown out and the lorry rammed on Ramesh Hanchinamani thus he was succumbed at the scene of crime itself. further Mariyavva also succumbed at the spot itself. as she also sustained severe injuries. Renuka also sustained grievous injuries to her head and leg, similarly Pranav sustained grievous injuries to his hands and leg and his right leg was amputated. Prithvi also sustained severe head injuries. further deposed that he learnt that the driver of the truck/Lorry bearing Reg.No.GA-06-T-9097 fled away leaving the lorry at the scene of crime itself. Further deposed that thereafter he has shifted the injured persons and the dead bodies of Ramesh and Mariyavva to the Civil Hospital, Dharwad. The witness further deposed that he had lodged a complaint and accordingly on 20.10.2024 the police conducted spot inspection and drew spot panchanama in his presence. The witness further deposed that the investigation officer recorded his further statement in respect to conduct

spot panchanama and in respect to injured Pranav was succumbed at KIIMS Hospital while he was under treatment. The witness further deposed that he also gave further statement in respect to the death of Prithvi due to the accidental injuries as he was under treatment.

13. Devendrappa Bevinagidad and Siddappa Mother are examined as PW2 and PW3. These witnesses appear to be signatory to the spot panchanama and accordingly identified their signatures appeared on spot punchanama and also identified the photographs as taken at the scene of crime. Hence, the prosecution treated them as hostile witnesses and accordingly, cross examined at length by suggesting relevant facts in support of the version of the prosecution. However, these witnesses do not admit any of the facts as suggested for the prosecution.

14. The witness by name Shivanand Huligeppanavar was examined as PW4. According to the prosecution, the witness appears to be an eye witness to the alleged accident. However, the witness turned hostile and he is not supported by the prosecution. Despite the

witness being cross examined at length by suggesting relevant facts in support of the prosecution case, the witness even not admitted any of the facts and accordingly he was completely turned hostile.

15. Smt.Renuka Hanchinamani was examined as PW5. According to the prosecution version, the witness was also one of the inmates of the autorikshaw met with an accident and she was the eye witness to the alleged accident. Moreover, the witness appears to be the mother of Prithvi and Pranab who lost their lives in the alleged accident. The witness deposed that on 20.10.2024 early in the morning herself, her mother-in-law Mariyavva, her children Pranav and Prithvi went to Byadagi. Accordingly they are proceeding in the autorikshaw of Ramesh Hanchinamani bearing Reg.No.K25-D-3725. When their autorikshaw reached near Sampige Nagar bus stop, at that time, one lorry came from the opposite direction from German Circle towards Kelageri in a rash and negligent manner so as to endanger human life and accordingly dashed their autorikshaw. Resultantly the autorikshaw was toppled

and the inmates of the autorikshaw were thrown out and accordingly the lorry rammed over the head of Ramesh Harchimani thus he succumbed at the scene of crime itself. further her mother-in-law Smt.Marevva sustained head injury and she also succumbed at the scene of crime itself, herself Pranav and Pruthvi also sustained severe injuries all over their body and the right leg of Pruthvi was broken and severed. The driver of the Lorry bearing Reg.No. GA-06-T-9097 fled away from the scene of crime leaving his motor vehicle at the scene of crime itself. Accordingly she has conveyed the message through phone conversation to Channabasappa Malagi. Thereafter, they are shifted to Civil Hospital, Dharwad. The witness further deposed that her son Pranav succumbed to the injury while he was under treatment at Civil Hospital. The witness further deposed that on 21.10.2024 when she was at KIIMS Hospital, the police brought the accused and accordingly she was identified. The witness further deposed that due to the rash and negligent manner of driving of the lorry by the accused resulting in alleged accident.

16. Thippanna Kamble was examined as PW6. According to the version of the prosecution, the witness appears to be an eye witness to the alleged accident. As per the version of PW6, on 20.10.2024 at early in the morning he was proceeding in his car towards Jubilee Circle from Kelagaeri and when he reached near Sampige Nagar bus stop, one truck was coming from German Circle towards Kelageri in high speed with high-beam head light and accordingly dashed one rickshaw proceeding towards German Hospital. Due to the impact of the accident, the autorikshaw was toppled and the inmates of the autorikshaw were also thrown out and sustained severe injuries. He stopped his vehicle and rushed and with the aid of the people gathered there they tried to rescue the inmates of the autorikshaw and saw that one woman succumbed to the injury at the spot itself and the driver of the autorikshaw also succumbed at the spot. Further one lady and two children also sustained severe injuries and one of the child's legs was broken. The driver of the said truck has fled away from the scene of crime, leaving his lorry

bearing Reg.No.GA-06-T-9097 at the scene of crime. The registration number of the autorikshaw met in accident was KA-25-D-3725. Immediately they called for an ambulance and the injured as well as the dead bodies of Ramesh and Mariyamma were shifted to the Civil Hospital, Dharawad. The witness further deposed that on 21.10.2024 the police had called him and shown the accused and accordingly he was identified as he was the driver of the lorry at the relevant point of time and accordingly his further statements were recorded by the concerned police. Further he learnt that on 29.10.2024 one of the injured succumbed while he was under treatment at hospital. The witness further deposed that due to the rash and negligent manner of driving of the Lorry resulting in alleged accident. The witness further deposed that he was enquired about the injured by name Smt. Renuka and he further learnt that the other injured are Pranava and Pruthvi; they are the children of Smt. Renuka, the driver of the auto-rikshaw was Ramesh Hanchinamani and another deceased was Mariyavva who was the mother-in-law of Smt. Renuka.

17. Another witness Manjunath Hanchinamani was examined as PW7, the witness appears to be an eye witness to the alleged accident. The witness deposed that at around one year back when he was at his residence had a phone call and received information about the accident through CW1. Immediately he rushed to the scene of crime and enquired Smt.Renuka and he learnt that, when they are proceeding in the autorikshaw bearing Reg.No.KA.25-D-3725 belongs to one Ramesh Hanchinamani proceeding towards Dharwad railway station and reached near Sampige Nagar bus stop at that juncture, one driver of the truck was proceeding from German Hospital towards Kelageri in a rash and negligent manner so as endanger to human life and accordingly dashed their autoriksha, resultant the inmates of the autoriksha are thrown out and they are sustained severe injuries. The driver of the Autorikshaw, Ramesh Hanchinamani was also sustained severe injury as the wheel of truck rammed over his head and Mareyavva also succumbed as she sustained severe head injuries. Pranav also sustained severe injury

and accordingly his right leg was broken. Another child Prithvi also sustained severe injury and the Smt. Renuka also sustained severe injuries. After seeing the people gathering at the scene of crime, the accused fled away by leaving the lorry at the scene of crime itself. The witness further deposed that he learnt that Pranav succumbed to the injuries while he was under treatment at KIMS Hospital and he gave further statement in respect to the death of Prithvi Hanchinamani.

18. Kareppa Hanchinamani was examined as PW8, the witness appears to be an eye witness to the alleged accident deposed that at around one year back when he was at his residence, he learnt about the alleged accident through CW1. Immediately he rushed to the scene of crime and enquired Smt.Renuka and he learnt that, when they are proceeding in the autorikshaw bearing Reg.No.KA.25-D-3725 belongs to one Ramesh Hanchinamani proceeding towards Dharwad railway station and reached near Sampige Nagar bus stop at that juncture, one driver of the truck was proceeding from German Hospital towards Kelageri in a rash and

negligent manner so as endanger to human life and accordingly dashed their autoriksha, resultant the inmates of the autoriksha are thrown out and they are sustained severe injuries. The driver of the Autorikshaw, Ramesh Hanchinamani was also sustained severe injury as the wheel of truck rammed over his head and Mareyavva also succumbed as she sustained severe head injuries. Pranav also sustained severe injury and accordingly his right leg was broken. Another child Prithvi also sustained severe injury and the Smt. Renuka also sustained severe injuries. After seeing the people gathering at the scene of crime, the accused fled away by leaving the lorry at the scene of crime itself. The witness further deposed that he learnt that Pranav succumbed to the injuries while he was under treatment at KIMS Hospital and he gave further statement in respect to the death of Prithvi Hanchinamani.

19. One Shrinivas Meti, the Police Inspector and Investigating Officer of the case was examined as PW9. The witness appears to be the police inspector who has registered the case and conducted investigation in detail

and after conclusion of the investigation submitted a final report against the accused. The witness deposed that on 28.10.2024, at about 07.15 a.m., when he was in charge of the police station, one Cannabasappa Malagi came to the police station and lodged a written complaint. pursuant to his written first information he has registered the case and transmitted FIR to the jurisdictional court. On the same day, he went to the place of accident along with CW1-Channabasappa accompanying CW2 and CW3 and accordingly drawn spot panchanama at the place shown by CW1. Further, he has collected the rubber affixed with the wind glass of the autorikshaw and also collected the steel balls pertaining to lorry. The witness further deposed that he had transmitted the property Form to the court having jurisdiction. The witness further deposed that when he was at the scene of crime received information from his station house officer that one of the injured by name Pranav Hanchinamani succumbed to the injuries at KIMS Hospital. Accordingly he has given a memo to his staff with a direction to conduct the inquest

Panchenama of the deceased and report the same. The witness further deposed that thereafter he rushed to the Civil Hospital, Dharwad and drew the inquest Panchanama of Smt. Marevva.

20. The witness further deposed that he has caused a memo to his staff/CW18, with a direction to produce the motor vehicles involved in the alleged accident. Accordingly, he has seized the autorikshaw bearing Reg.No.KA.25-D-3725 in the presence of CW2 and CW3 by drawing a seizure Panchanama. The witness further deposed that he also seized the lorry bearing Reg.No.GA-06-T-9097 at Vivekananda Circle of Dharwad City in the presence of CW2 and CW3. After seizure of the motor vehicles he has transmitted the property Form to the jurisdictional court and reported the seizure of the vehicles. The witness further deposed that he had written a letter to the Department of Transport for examination of the motor vehicles involved in the accident and called for opinion and report.

21. The witness further deposed that on 21.10.2024, the accused No. 1 appeared before him and

accordingly he was called for CW1, 10 and 11 and they identified the accused as a driver of the offending vehicle. Accordingly he has recorded the further statement of the witnesses. At the same time he has sent the accused to the Civil Hospital for drawing blood samples for scientific analysis. Thereafter he has arrested the accused following due procedure and enlarged the accused on bail.

22. The witness further deposed that he has conducted further investigation and accordingly caused a notice under Section 133 of Motor Vehicles Act to CW16 and obtained the play and the relevant documents pertaining to the vehicle and thereafter released the vehicle to the interim custody of CW16 on execution of the indemnity bond.

23. The witness further deposed that on 25.10.2024, he collected the blood sample of Ramesh and accused No. 1 and accordingly, transmitted the scientific analysis to RFSL Belagavi. On 29.10.2024, another injured by name Pruthvi Hanchinamani succumbed to the injury while he was under treatment.

Accordingly again he has caused a memo to his staff /CW29 and directed to conduct an inquest and report. further deposed that he has collected the Inquest Panchanama and report.

24. The witness further deposed that on 04.11.2024 CW17 appeared before him and produced an affidavit, thus he caused a notice under Section 133 and received reply and relevant materials pertaining to autorickshaw and thereafter released to his interim custody. The witness further deposed that on 08.11.2024 he transmitted the DVD to the court having regard to the videography conducting of spot panchanama and drawing of Inquest Panchanamas of the deceased persons. The witness further deposed that on 06.12.2024 he received a report from RFSL Belgavi and again transmitted the report of RFSL for the opinion of the doctor. The witness further deposed that he has collected the wound certificate of the injured person and on completion of investigation he has satisfied with the materials collected during the course of investigation that there was a prima facie material appear against the

accused to prosecute in accordance with law thus submitted the detailed report to the court.

25. Now on the basis of the testimony of PW1 to 9 coupled with the documentary evidence placed on record, it is just and necessary to decide whether the alleged accident occurred due to the sole rash and negligent manner of the driving of the driver Lorry bearing Reg.No.GA-06-T-9097 by the accused. So far as to decide the fact in issue regarding the rash and negligent manner of driving by the accused without taking any precaution, resultant in alleged accident concerned in my view, the evidence of Smt. Renuka Hanchinamani/PW5 and the testimony of Thippanna Kamble/PW6, evidence of PW9/Investigating Officer and the spot Panchanama/Ex.P8, the hand sketch annexed therewith, the report of RFSL, Belagavi coupled with the opinion of the doctor in respect to chemical analysis of the blood samples of both the accused No.1 and 2 (deceased Ramesh Hanchinamani) are play material role.

26. Before going to discuss the evidence placed on record it seems just and relevant to quote the decision

relied on by the prosecution as the evidence required to appreciate in the light of the said decision. ILR 2004 Kar.1459 between Iswar Sadeppa Nandennavar v/s. State of Karnataka. The Hon'ble High Court held that:

Para No.9: As noted earlier, in the present case, except few futile suggestions by P.W.5 and other eyewitnesses, absolutely I find no ground or explanation posed on the side of the accused as to how exactly the incident took place. On the other hand, in the absence of such explanation and on the basis of the material produced by the prosecution, I am of the view that the Courts below have rightly invoked the doctrine of Res Ipsa Loquitor which is found applicable by the Apex Court as long back in the case of SYAD AKBAR Vs STATE OF KARNATAKA.

27. On the basis of law laid in the aforementioned decision, it is argued for the State that, as per the evidence placed for the prosecution, the prosecution successfully established that the accused being the driver of the lorry bearing Reg.No.GA-06-T-9097 proceeding from Dharwad towards Kelageri in a rash and negligent manner and he has not taken precaution

to avoid accident even on seeing the oncoming vehicles and the accused drove his vehicle extreme wrong side of the road thus the accused shall liable to explain how his vehicle went on his extreme right side and the accused failed to explain these aspects thus the law laid down in the aforementioned decision is aptly applicable to the facts and circumstances of the case.

28. On the other hand the learned counsel for the accused argued that, the spot Panchanama/Ex.P8 and hand sketch annexed therewith it self created or prepared by P.W.9 even we assume for sake of convince as at the scene of crime, but the witness/P.W.1 was not an eye witness to the alleged accident. hence, the Ex.P8 itself cannot be admissible as sole piece of evidence to decide the rash and negligent act of the accused holding that the accused has not tried to avoid accident and he has not went to wrong side of the road and even Ex.P8 not throwing light that the Lorry of the accused went wrong side of the road except the testimony of Ex.P8. Further no evidence on record to show that the alleged accident occurred at the scene of crime as mentioned in

Ex.P8 and Ex.P2 to 5 the photographs of the scene of crime. Absolutely there was no evidence on record to prove that the accused drove his lorry to its right side. Even the eye witnesses are also not deposed about the fact that the accused would take his Lorry to the extreme right side resulting in an alleged accident. Further argued that, there were charges against the driver of the autorickshaw that he drove his motor vehicle under the influence of alcohol thus the court cannot come to conclusion merely relying the testimony of the witnesses examined for the prosecution that the accused himself was a wrong doer. Hence, the decision relied on for the prosecution is not applicable to the facts and circumstances of the case on hand and thus the principle of Res Ipsa Loquitur also has no application.

29. In this context now I would like to appreciate the evidence both oral and documentary placed on record to decide the disputed facts. It is undisputed fact that the alleged accident occurred in between the lorry bearing Reg.No.GA-06-T-9097 and autorikshaw bearing

Reg.No.KA-25-D-3725. Further due to the impact of the accident three inmates and the driver of the auto rickshaw i.e. four persons in number succumbed to the fatal injuries and one more inmate sustained grievous injuries. further it is undisputed fact that the alleged accident did not occur due to any mechanical defects of the vehicles involved in the alleged accident. Further it is undisputed fact that the accused was the driver of the said lorry and one Ramesh Hanchinamani was the driver of the autorikshaw. Mere these facts are not sufficient to hold that the alleged accident occurred due to sole rash and negligent manner of driving of the lorry by the accused unless and until the said fact is established with reliable, cogent and corroborative evidence.

30. In this case, Chanbasappa Malagi /P.W.1 appears to be first informant and he has lodged a complaint vide Ex.P1. According to his own version, he was rushed to the place of the accident soon after learnt about the alleged incident. Hence, his testimony itself speaks that he was not an eye witness to the alleged accident. Hence, the testimony of P.W.1 may not be

relevant to hold that the said witness witnessed the alleged accident and thus the place shown by P.W.1 to draw Ex.P8 itself is the place of accident. Further perusal of Ex.P2 to 5 coupled with Ex.P8 no such materials or even any mark not revealed about occurrence of alleged accident. It is pertinent to note the other two independent panch witnesses are also not stated about drawing of Ex.P8 in their presence and at the scene of crime itself. Hence, merely relying on the testimony of P.W.1 and it is not proper to say that the accused drove his lorry extremely to his right side resulting in an alleged accident.

31. So far as to decide the rash and negligent manner of driving of the Lorry by the accused concerned the testimony of P.W.1 coupled with the the testimony of P.W.2,3,5,6 and P.W.9 play material role. It is pertinent to note that the witnesses as examined for the prosecution are not cross examined effectively, but merely the said fact that itself not suffice to hold that the prosecution succeeded in their attempt to prove the alleged offence. The burden lies on the prosecution to

prove the alleged commission of offence by the accused with reliable and cogent evidence. Even though PW1 being a first informant, his testimony may not come to the aid of the prosecution for the proof of alleged offence as he was not an eye witness and he has lodged complaint vide Ex.P1 based on the information of P.W.5. Hence, the testimony of P.W.1 itself is not a deciding factor of alleged rash and negligent act of the accused. While cross-examination of PW1, the witness admitted that he rushed to the place of the accident upon information received from Renuka through a phone that itself suffices to arrive at the conclusion that PW1 was not an eye witness to the alleged accident. One Shivanand Hulaguppanavar was examined as P.W.4 and according to the version of prosecution he was also one of the eye witnesses to the alleged accident. But the witness was not supported to the version of the prosecution and he has not deposed that due to the sole rash and negligent manner of driving of the lorry by the accused resultant in alleged accident. Though the witness was cross examined at length for the

prosecution by suggesting the relevant facts, however, the witness did not admit any of the facts. Hence, the testimony of PW4 also may not come to an aid of the prosecution for the proof of alleged offence.

32. Now, it is just and necessary to appreciate the evidence of injured/eye witness i.e. P.W.5 and another eye witness i.e.P.W.6. It is pertinent to note that the injured eyewitnesses that are PW5 and PW6 are cross examined for the defence, but there was no effective cross examination except simple denial. But it is the duty of the court to assess the evidence of the witnesses coupled with the materials placed on record to hold the guilt or the innocence of the accused. But both P.W.5 and 6 are deposed about the manner in which the alleged accident occurred between two motor vehicles. But the testimony of PW5 and 6 play an important role in deciding the rash and negligent act of the accused. The facts elicited through the mouth of PW5 and 6 by way of cross-examination may not create any doubt in the mind of the court that the accused being the driver of the lorry was proceeding from German Circle towards

Kelageri in normal speed following traffic rules. But the testimony of these two witnesses require to assess with testimony as placed on record that the Ex.P2 to 5 the photographs of the scene of crime, the spot Panchanama marked as Ex.P8, the P.M.Report of Ramesh Hanchinamani, RFSL Report Ex.P37.

33. However, the learned counsel representing the accused argued that though the accident occurred in between lorry and the autorikshaw, but, such accident was due to the sole negligent act of the driver of the autorikshaw as he was driving the same at relevant point of time under the influence of alcohol. Hence it cannot be assumed that the person who drove his motor vehicle under the influence of alcohol drove the same following traffic rules and moreover holding control over the vehicle. Hence, the testimony of P.W.5 and 6 cannot be considered as a sole parameter to hold that the accused drove his lorry in a negligent manner resulting in an alleged accident.

34. It is true that the court required to analyse the materials placed on record in whole and mere

considering the oral testimony of P.W.5 and 6 that itself may not suffice to arrive at conclusion that the accused himself has committed an alleged offence unless appreciating the evidence both oral and documentary placed on record in whole. It is an undisputed fact that the driver of the autorikshaw by name Ramesh Hanchinamani drove his auto rickshaw under the influence of alcohol. The said fact is evident from Ex.P37 itself and such evidence cannot be ignored by the court while deciding the facts in issue. As per Ex.P37 itself shows that the driver of the autorikshaw drove his auto rickshaw under the influence of intoxication and the prosecution was required to prove that such manner of driving under the influence of intoxication may not constitute any contribution to alleged accident.

35. Perusal of Ex.P37 it appears that a strong piece of evidence was placed by the prosecution to show that the driver of the auto rickshaw Ramesh Hanchinamani was driving his motor vehicle at the relevant point of time under the influence of intoxication. Hence, the contribution of the driver of the autorikshaw cannot be

ruled out merely relying on the testimony of P.W.5 and 6. Further it is pertinent to note that both P.W.5 and 6 are not deposed that the accused drove his lorry on the wrong side of the road but their specific allegation that he drove the same in rash and negligent manner. To decide the rash and negligent manner of driving of Lorry by the accused concerned it requires reliable and cogent evidence. At the same time it is also relevant to note the manner in which the driver of the autorikshaw drove his vehicle also played a material role. Absolutely there was no evidence on record to establish that the accused drove his Lorry on the extreme right side or wrong side of the road.

36. Further it is pertinent to note that there was no evidence on record about the density of vehicles flying on road particularly at the place of accident and relevant point of time. Hence the alleged accident occurred early in the morning under such circumstances usually the moving or flying of vehicles in the morning less comparatively in day time. Further there was no evidence on record to demonstrate the crowd of people at

the scene of the accident at the relevant point of time. Hence all these facts goes to show that both the driver of the Lorry and auto rickshaw could have more chances to avoid occurrence of such accidents. But the prosecution made specific allegations against the accused that the accused himself drove the Lorry in rash and negligent manner resulting in alleged accident. But the version of the prosecution itself is not justified unless it is established that even a person who can consume alcohol or under the influence of intoxication can drive the motor vehicle in the safest manner abiding traffic rules. Going through the materials placed on record no such evidence forthcoming for the prosecution, hence, the testimony of P.W.5 and 6 may not come to an aid of the prosecution to hold the guilty of the accused.

37. Though PW2 and PW3 are not stated about drawing of spot Panchenama in their presence, but that itself not suffice to hold that the PW9 has not conducted spot panchenama at the scene of crime itself. MO No. 1 and 2 are recovered by PW.9 from the scene of crime, but these facts are not elicited through the mouth of

PW1 to 3. Hence by referring these facts, the learned counsel for the accused argued that MO 1 and 2 are not pertaining to the vehicles involved in the alleged accident and no such facts as forthcoming in the testimony of PW1 to PW3 and P.W.9 at first time deposed having regard to seizure of M.O.1 and 2 at the scene of crime. Hence, there was no corroboration in the evidence of PW1 and PW9, coupled with PW2 and PW3, having regard to the seizure of said material objects.

38. PW2 and PW3 are the independent witnesses and they are not supported by the version of prosecution. The evidence of PW9 required corroboration having regard to the material collected from the scene of crime. Since P.W.1 was not an eye witness to the alleged accident under such circumstances even we assume that Ex.P8 drew at the scene of crime but the place as highlighted and marked as scene of crime cannot be construed that the alleged accident occurred at the said place itself. Hence in my considered and humble view, the Ex.P8 and the photographs as marked as Ex.P2 to 5 may not come to an aid of the prosecution to arrive at

the conclusion that the rash and negligent manner of driving of Lorry by the accused is established.

39. In order to decide the alleged act of rash and negligent manner of driving of Lorry by the accused concerned it is relevant to appreciate the facts in the light of Ex.P33 the P.M. Report of Ramesh and Ex.P37 the chemical analysis report. As per Ex.P37, it appears that the articles pertaining to one Rameshan Hanchinamani are detected ethyl alcohol, The Ex.P33, the post mortem report of Ramesh reveals that the cause of death is injury to vital organ, brain and hemorrhagic shock. The materials examined by the Scientific Analysis of Regional Forensic Science Laboratory, Belagavi, out of four articles, Article No. 1 and 2 belong to Ramesh Hanchinamani are detected ethyl alcohol but the Articles 3 and 4 pertaining to the accused have not detected alcohol, hence, Ramesh Hanchinamani the driver of Autorikshaw arrayed as the accused No.2 and thus **abated charge sheet was filed**. Now, the court is required to further appreciate the relevant facts by referring to Ex.P37, whether the accused was solely

responsible for the alleged accident or not.

40. Apart from those facts the court required to appreciate the evidence placed on record referring to Ex.P37 also. Ex.P37 itself is a vital piece of evidence to decide the rash and negligent manner of driving either by the accused or by the accused No.2 Ramesh Hanchinamani. Ex.P37 plays a material role as the aid document cannot be considered lightly. The reason is that Rames Hanchinamani, being the driver of the autorickshaw, was driving his motor vehicle under the influence of alcohol. The learned counsel for the accused argued that since the driver of the autorikshaw himself drove his autorikshaw in a rash and negligent manner and without having control over his vehicle and dashed the Lorry. The effect of alcohol on the mental condition of a driver of a motor vehicle plays a material role. The scientific analysis /RFSL Report/ Ex.P37 reveals ethyl alcohol in the blood of the deceased Ramesh Hanchinamani, who was the driver of the autorikshaw, that itself indicates that the deceased Ramesh drove his auto rickshaw under the influence of alcohol that itself

cannot be say that despite consuming alcohol the accused No.2 drove his vehicle safely holding control over the vehicle and abiding traffic rules. Per contra it is established that the driving of autorikshaw under the influence of intoxication that itself reveals that the driver of the autoriksha also contributed to the alleged accident. It is a well-settled principle of law that the rash and negligent act must be proved with reliable and cogent evidence. A mere involvement of the motor vehicle in the alleged accident that itself is not enough to hold that the accused was guilty of the offence. It is well established principles of law that the driver of the motor vehicle drove his vehicle in an intoxicated condition shall be assumed and treat himself as having contributed to the alleged accident hence, obviously the benefit doubt must be in favour of the accused. The prosecution tried to prove the alleged factum of the accident through the testimony of PW5 and PW6 coupled with Ex.P8, but, Ex.P37 that itself holds no substance in the allegations made against the accused.

41. From overall consideration of the material available on record, the detection of ethyl alcohol in the blood sample of deceased Ramesh itself creates serious doubt about the prosecution case. The possibility of contributory negligence by Ramesh could not be ruled out. Considering these relevant facts, I am of the view that though the material witnesses support the case of the prosecution, that itself is not sufficient to arrive at the conclusion that the accused drove his lorry in rash and negligent manner resulting in an alleged accident. There was no corroboration in the evidence of PW9 having regard to the drawing of spot Panchanama/Ex.P8 by the testimony of PW1 to PW3. Hence by merely considering the testimony of PW1, PW5 and PW6 coupled with Ex.P8, it is not proper to hold that the accused was solely responsible for the alleged accident. Since the possibility of lasting control over the autorikshaw cannot be ruled out, Hence, I am of the view that the ingredients of Section 281 of BNS itself is not established by the prosecution. Absolutely there was no crystal clear evidence for prosecution to prove the

alleged act of rash and negligent manner of driving of lorry by the accused and on the other hand the driver of the other vehicle involved in the accident was intoxicated. Going through the available evidence on record, it is clear that there is no clear proof of rash or negligent driving by the accused. Hence, the benefit of doubt extended in favour of the accused. Considering these material facts, I am of the view that the prosecution miserably failed to prove the alleged act of rash and negligent manner of driving of the Lorry by the accused. Hence, the **points No.1 to 4 are answered in the negative.**

42. **Point No.5 and 6:** It is the further allegations of the prosecution that the accused being the driver of the Lorry involved in the accident was not performing the statutory duties as postulated by statute required to take steps and abide by the law soon after the accident. Hence the accused contravened the provisions of the Motor Vehicles Act.

43. Here the accused not denied or disputed his presence at the place of accident and admitted that the

accused was driving the offending vehicle at the relevant point of time. As per the provision of the M.V. Act, the accused is required to prove that he did not contravene the provision of law and there was no violation of any provision of the M.V.Act. Hence in my view it is duty bound by the accused and the same was not properly discharged. The Law mandates that after an accident the driver of such offending vehicle is required to take care of the injured and attend immediately for the medical assistance in his vehicle or any mode of conveyance or even an ambulance. But such an exercise could not be done by the accused. Even the accused has not tried to place reliable evidence for compliance of statutory provision and tried to furnish all relevant information to the concerned or nearest police having regard to the accident, the insurance, particulars of person/s who is injured in the accident, name of the driver, and particulars of the driving licence etc. Here the accused did not account about the allegations made against him having regard to violation of the provision of M.V.Act. The notice, reply relied on by the prosecution are not

challenged or even disputed for the defence. Hence there is no reason to disbelieve the Ex.P42 and 43 as relied on by the prosecution for the proof of presence of the accused. Further despite affording opportunity to the accused he did not offer any explanation and even he did not opt to make defence and tried to place contra evidence. Hence, in my view the prosecution discharged initial burden successfully and accordingly proved the charges leveled against the accused beyond all reasonable doubt thereby it is held that the accused committed an offence punishable under Section 134 (a) and (b) R/w Section 187 of M.V Act and hence, **point No.5 and 6 are answered in the Affirmative.**

44. **Point No.7** : That for the reasons discussed supra, the following;

: O R D E R :

Exercising powers confirmed under Section 278 of the B.N.S.S., the accused No.1 is hereby acquitted for the offence punishable under Sections 281, 125(a), 125(b) and 106(1) of BNS.

The accused is found guilty for the offences punishable under Section 134(a) (b) r/w/s 187 of M.V Act. Under section

255(2) of Cr.P.C., the accused is convicted for the offence punishable under Section 134(a) r/w/s 187 of M.V Act. The accused shall pay a fine of Rs.1,000/- or in default undergo S.I. for a period of 30 days.

Under Section 255(2) of Cr.P.C., the accused is convicted for the offence punishable under Section 134(b) r/w/s 187 of M.V Act. The accused shall pay a fine of Rs.1,000/- or in default undergo S.I. for a period of 30 days.

Interim custody of the vehicle was made absolute after completion of appeal period.

The office is directed to furnish the copy of judgment at free of cost in terms of Section 404 of BNSS to the accused.

(Judgment dictated adalath AI software directly thereafter the same is corrected and order is pronounced in the open Court by me on the 18th day of March, 2026).

**(Venkatesha Naika V)
Prl. Senior Civil Judge & CJM.,
Dharwad.**

:ANNEXURE:

1. List of witnesses examined for the prosecution:

- | | |
|-------|-------------------------------------|
| P.W.1 | : Channabasappa Holeppa Malagi |
| P.W.2 | : Devendrappa Kareppa Bevinagidad |
| P.W.3 | : Siddappa Kareppa Madar |
| P.W.4 | : Shivanand Suresh Huligeppanavar |
| P.W.5 | : Renuka Ravi Hanchinamani |
| P.W.6 | : Tippanna Sahadevappa Kamble |
| P.W.7 | : Manjunath Fakkirappa Hanchinamani |

P.W.8 : Kareppa Ningappa Hanchinamani
P.W.9 : Shrinivas Chandrappa Meti

2. List of documents marked for the prosecution:

Ex.P.1 : Complaint
Ex.P.2-5 : Photographs
Ex.P.6 : Statement of P.W-1
Ex.P.7 : Notice
Ex.P.8 : Spot mahazar
Ex.P.9 : Notice
Ex.P.10 : Seizure Mahazar
Ex.P.11-15 : Photographs
Ex.P.16 : Seizure Mahazar
Ex.P.17-21 : Photographs
Ex.P.22-25 : Inquest Mahazars
Ex.P.26 : Statement of PW.4
Ex.P.27 : Statement of PW.4
Ex.P.28 : Statement of PW.4
Ex.P.29&30 : Certificate U/s 63(4)(c) of B.S.A
Ex.P.31 : MVI report
Ex.P.32 : Wound certificate
Ex.P.33-36 : P.M reports
Ex.P-37 : RFSL report
Ex.P.38 : Final opinion report
Ex.P.39 : FIR
Ex.P.40 : Notice
Ex.P.41 : Notice
Ex.P.42 : Notice U/s 133 of M.V Act
Ex.P.43 : Reply
Ex.P.44 : Indemnity bond
Ex.P.45 : Notice U/s 133 of M.V Act
Ex.P.46 : Reply
Ex.P.47 : Indemnity bond
Ex.P.48 : Affidavit
Ex.P.49-51 : DVD
Ex.P.52 : RFSL report

3. List of witnesses examined for the accused:
- Nil-
4. List of documents marked for the accused:
- Nil-
5. List of material objects produced the prosecution:
- Nil -

(Venkatesha Naika V)
Prl. Senior Civil Judge & CJM.,
Dharwad.