

KAHS610035992022



**IN THE COURT OF I ADDL CIVIL JUDGE AND JMFC  
AT CHANNARAYAPATNA, HASSAN  
Presided Over by  
Sri.Purushothama T.P**

**B.A., L.L.B.,**  
I Addl. Civil Judge and JMFC,  
Channarayapatna.

**DATED 6<sup>th</sup> DAY OF JUNE, 2026**

**C.C.1271/2022**

**Complainant :** State represented by  
Channarayapatna Rural Police.  
(By Learned APP.,)

**-V/s-**

**Accused :** Vijay Kumar K.N  
S/o Nanjundegowda,  
Aged about 27 years,  
R/o : Kodihalli Village,  
Doddakunche Post,  
Halekote Hobli,  
Holenarsipura Taluk,  
Hassan District.

(By Sri.S.S.P., – Adv.,)

1. Date of commission of offence : 01.05.2022
2. Date of report of offence : 01.05.2022
3. Name of the Complainant : K.P Yathish  
Kumar
5. Date of Recording of evidence : 24.07.2025
6. Date of closing of evidence : 27.03.2026
7. Offence complained of : U/Sec.279 and  
304(A) of IPC
8. Opinion of the Judge : Accused found not  
guilty

### **J U D G M E N T**

The jurisdictional police have filed the charge sheet against the accused alleging commission of offences punishable under Section 279 and 304(A) of IPC.

**2. The brief facts of the Prosecution case are as follows:-**

On 01.05.2022 at 7.30 A.M in Potanahalli Village, within the jurisdiction of Chnnarayapatana Rural Police Station. The Accused was riding his KA-

13-EV-4066 Honda Dio bike with Nanjundegowda Pillar rider which was being ridden by vijaykumar was going towards channarayaptana at Channarayapanta-Holenarasipura Road. At Potanahalli cross at that time the accused was riding his bike in a high speed and negligent manner and in the turning he was suddenly applied the brakes. When the Nanjundegowda, who was Pillion rider of bike, lost control and fell on the road. As a result, Nanjundegowda sustained a head injury. The injured were brought to the hospital by witness No. 2 and 3 in ambulance. The injured Nanjundegowda was dead on 03.05.2022 at 11.00 a.m due to accident, as confirmed by the postmortem report of the deceased. In view of the above the accused is alleged to have committed the aforesaid offences.

3. After registration of FIR, the investigation officer taken up the investigation and after collecting

all the materials filed the charge sheet against the accused. This court took cognizance of the offenses and issued summons to the accused. In pursuance of summons accused appeared before the court and was enlarged on bail. Charge sheet copy and other prosecution papers were furnished to the accused. Charges framed and read over to the accused. The accused pleaded not guilty and claimed to be tried.

4. To establish the guilt of the accused, the prosecution has examined PW.1 to PW.9, marked Ex.P-1 to Ex.P-13. After the closure of the prosecution side, the accused was examined U/s.313 of Cr.P.C. Accused denied the incriminating circumstances and not opted to lead any defense evidence.

5. Thereafter arguments heard on both sides.

6. Now the points that arise for consideration of this court are as under:

1. *Whether the prosecution proved beyond all reasonable doubt proved that on 01.05.2022 at 7.30 A.M in Potanahalli Village, within the jurisdiction of Chnnarayapatana Rural Police Station. The Accused was riding his KA-13-EV-4066 Honda Dio bike with 215 Nanjundegowda Pillar rider which was being ridden by vijaykumar was going towards channarayaptana, Channarayapanta-Holenarasipura Road. Potanahalli chess at that time the accused was riding his bike in a high speed and negligent manner so as to endanger human life and the personal safety of others and thereby accused has committed an offence punishable U/Sec.279 of IPC?*
2. *Whether the prosecution has proved beyond all reasonable doubt proved that on the above said date, time, place and circumstances, due to the above said accident, the accused caused the death of one Nanjudegowda on 03.05.2022 at 11.00 a.m due to accident, as cofirmed by the postmortem report of the deceased and thereby accused has committed an offence punishable U/Sec.304 (A) of IPC?*
3. *What Order?*

7. The findings of the court on above points are as under:

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

### **R E A S O N S**

8. **Point Nos.1 and 2:-** These Points are taken together for a discussion to avoid repetition of facts and reasoning as they are interconnected with each other.

9. The case of the prosecution is already narrated at the inception of this judgment hence without repeating the same, this court proceeds to appreciate the material evidence only.

10. To establish the guilt of the accused, the prosecution examined PW-1 to PW-9 and Ex.P-1 to Ex.P-13 got marked. PW-1 is first informant, PW-2 and 3 are eye witness, PW-4 to 7 are mahazer

witness, PW-8 and 9 are Investigation officers. Ex.P-1 is copy of complaint, Ex.P-2 is Mahazer, Ex.P-3 is Sketch, Ex.P-4 and 5 are witness statement, Ex.P-6 is Mahazer, Ex.P-7 is Inquest report, Ex.P-8 is postmortem report, Ex.P-9 is IMV report, Ex.P-10 is Sec.133 notice, Ex.P-11 is reply, Ex.P-12 is F.I.R Ex.P-13 is Indemnity bond. All the documents marked on behalf of the prosecution aren't of equal importance, hence without wasting much time this court proceeds to appreciate the relevant documents only.

11. PW-1 is the first informant and mahazer witness to the case, he filed first information before the Jurisdictional Police as per Ex P-1 and Mahazar witness of Ex P-2. However, he is not an eyewitness to the incident, hence his evidence is formal in nature and is not of much help to the prosecution .

12. PW-2 and 3 are eyewitness but they are completely turned hostile to the prosecution and they

stated that they have not saw the accident and not give the statement to the Police in this regards.

13. PW-4 and 5 are the spot mahazar witness. They identified the signatures on mahazar document. They are not eye the witness to the incident. Hence, their evidence is formal in nature and is not of much help to the prosecution.

14. PW-6 and 7 are witness of sized mahazar and they are turned completely hostile to the prosecution.

15. PW-8 and 9 are Police witness they deposed regarding registration of F.I.R, investigation and charge sheet, however as they are not eyewitnesses to the accident, hence, evidence is formal in nature and is not of much help to the prosecution.

16. In the present case material witnesses such as PW-2 and 3 turned hostile to the prosecution case. It is a settled position of law that mere suggestions are not sufficient to dislodge or disprove the case of a

party. Suggestions in cross examination have no evidentiary value. In absence of any evidence, nor any material traced in the cross-examination in support thereof, the court can't base its decision on suggestions. ***The Hon'ble High Court Gujarat in Legal Heirs of Umedmiya R Rathod Vs State of Gujarat*** in First Appeal No. 5952 of 1995 affirmed the above proposition of law. In the present case The learned APP made several suggestions to witness during the cross- examination but the witness denied all material suggestions, except mere suggestions and denials nothing worth, was elicited in the cross-examination, hence there is no reason to disbelieve the version of the witness.

17. It is a wrong proposition that for any motor accident negligence of the driver should be presumed. An accident of such a nature as would prima-facie show that it cannot be accounted to anything other

than the negligence of the driver of the vehicle may create a presumption and in such a case the driver has to explain how the accident happened without negligence on his part. A rash act is primarily an overhasty act. It is an act done without due care and caution. Criminal negligence is the failure to exercise duty with reasonable and proper care and precaution guarding against injury to the public generally or to any individual in particular. It is the imperative duty of the driver of a vehicle to adopt such reasonable and proper care and precaution. ***The Hon'ble Apex Court in Mohd. Aynuddin v. State of A.P., (2000) 7 SCC 72*** affirmed the above proposition of law. In the present case, the witnesses did not support the case of prosecution properly and the entire case has to be decided on circumstantial evidence. Further, all accidents do not take place because of rash or negligent act of parties, sometimes they happen due to error in judgment, bad road conditions, etc., hence

the accused entitled to benefit of doubt.

18. Further, in order to punish the accused for rash or negligent driving the prosecution witnesses have to state in what manner the vehicle in question was driven by the accused, it is not sufficient to state that it was driven at high speed. Further, when the witnesses state that the vehicle was driven at high speed they are required to state the approximate speed of the vehicle also as the speed prohibited in one road may be permitted on other road or highway. The above proposition of law has being affirmed in ***Rajendra V/s.State of Karnataka 2019 (4) KCCR 3461 and State of Himachal Pradesh V/s. Pankaj Guleria 2018 Cri. L.J 1755***. In the present case the witnesses did not state exactly the manner in which the offending vehicle was driven, did not state the approximate speed of the offending vehicle and did not state the speed permitted on that road. Hence, in view of the

above two judgments the accused is entitled to acquittal.

19. It is the paramount duty of the prosecution to establish the guilt of the accused beyond all reasonable doubt. Unless the guilt is established beyond all reasonable doubt, the accused cannot be held guilty of the alleged offenses.

20. It is an accepted principle of criminal jurisprudence that the burden of proof is always on the prosecution and the accused is presumed to be innocent unless proved guilty. The prosecution has to prove its case beyond reasonable doubt and the accused is entitled to the benefit of the reasonable doubt. The reasonable doubt is one that occurs to a prudent and reasonable man. The doubt which the law contemplates is not of a confused mind but of prudent man who is assumed to possess the capacity to “separate the chaff from the grain”. ***The Hon’ble***

***Apex Court in Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537*** affirmed the above proposition of law. In the present case the witnesses did not support the case properly and evidence of formal witnesses is not sufficient to sustain conviction and the accused is entitled to benefit of the doubt.

21. In view of the above reasons and discussions I hold prosecution has failed to adduce cogent, corroborative, trustworthy, believable evidence before the court and the available evidence doesn't inspire the confidence of this court. For the foregoing reasons and discussions, this court is of the opinion that the prosecution failed to prove the accusations leveled against the accused beyond reasonable doubt. Hence this court answers Points No.1 and 2 in the **Negative**.

22. **Point No.3:-** In view of the aforesaid reasons. I proceed to pass the following:

**ORDER**

Accused found not guilty acting U/Sec.255(1) of Cr.P.C accused is acquitted for the offences punishable U/Sec. 279 and 304(A) of IPC and he is set at liberty for those offences.

The bail bond of the accused and surety bond shall continue for a period of six months from the date of this Judgment.

(Dictated to the stenographer directly on computer, typed by her, corrected and then pronounced by me in the open court on this 6<sup>th</sup> day of June 2026)

**(PURUSHOTHAMA T.P)**

I Addl. Civil Judge and JMFC  
Channarayapatna

**:-ANNEXURE:-****LIST OF WITNESSES EXAMINED BY PROSECUTION:**

|      |   |                 |
|------|---|-----------------|
| PW.1 | - | Yathisha        |
| PW.2 | - | Dyavegowda      |
| PW.3 | - | Shivananjegowda |

|      |   |            |
|------|---|------------|
| PW.4 | - | Dyavegowda |
| PW.5 | - | Punith     |
| PW.6 | - | Ananth     |
| PW.7 | - | Nanjgowda  |
| PW.8 | - | Kariyappa  |
| PW.9 | - | Rekhabai   |

**LIST OF DOCUMENTS MARKED BY PROSECUTION:**

|             |   |                    |
|-------------|---|--------------------|
| ExP.1       | - | Complaint          |
| ExP.1(a&b)  | - | Signatures         |
| ExP.2       | - | Mahazer            |
| ExP.2(a-d)  | - | Signatures         |
| ExP.3       | - | Sketch             |
| ExP.3(a-d)  | - | Signatures         |
| Ex.P.4&5    | - | Witness statements |
| Ex.P.6      | - | Seizer mahazer     |
| Ex.P.6(a-c) | - | Signature          |
| Ex.P.7      | - | Inquest report     |
| Ex.P.8      | - | Postmortem report  |
| Ex.P.8(a)   | - | Signature          |
| Ex.P.9      | - | IMV report         |
| Ex.P.9(a)   | - | Signature          |
| Ex.P.10     | - | Sec. 133 notice    |
| Ex.P.10(a)  | - | Signature          |
| Ex.P.11     | - | Reply              |

|            |   |                |
|------------|---|----------------|
| Ex.P.11(a) | - | Signature      |
| Ex.P.12    | - | FIR            |
| Ex.P.12(a) | - | Signature      |
| Ex.P.13    | - | Indemnity bond |
| Ex.P.13(a) | - | Signature      |

**LIST OF WITNESSES EXAMINED BY DEFENCE:**

-Nil-

**LIST OF DOCUMENTS MARKED BY DEFENCE:**

-Nil-

**MATERIAL OBJECTS MARKED BY DEFENCE:**

-Nil-

**(PURUSHOTHAMA T.P)**  
I Addl. Civil Judge and JMFC  
Channarayapatna.