



**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC,
AT HIREKERUR**

**Present: Sri. Nagarathnamma BAL. LL.B.,
Prl. Civil Judge & JMFC,
Hirekerur.**

C.C. No.437 of 2024

DATED THIS THE 06th DAY OF MARCH- 2026

Complainant:- State Rep. by Hamsabavi Police Station
(By A.P.P.)

V/S

Accused :- Makhabulahmad Madarsab Makandar,
Age: 32 years, Occ: Labourer,
R/o. Balaganavar Chala,
Hamsabhavi Village, Hirekerur Taluk,
Haveri District.

(By Sri. B.N.B., Advocate)

Date of commencement of offence : 26-07-2023
Date of report of offence : 31-07-2023
Name of the complainant : Shaheenshya S/o
Rahimanshya Makandar
Date of recording evidence : 06-02-2026
Date of closing of evidence : 18-02-2026
Offences complained of : 279 & 304(A) of IPC.
Opinion of the judge : Accused found not guilty
Judgment date : 06-03-2026.



J U D G M E N T

The Circle Inspector of Hirekerur has filed charge-sheet against the accused alleging that he has committed the offence punishable under Sections 304(A) of IPC.

2. Brief facts of the prosecution's case are as under:-

Within the local limits of Hamsabhavi police station, near Balaganavar Chala on foot path road that on 26-07-2023 around 12.30 PM., accused was driven his motor cycle bearing Registration No.KA-68/K-6856 along pillion rider, his sister namely Naziya W/o Rahamathulla, towards his rented house situated at Hamasabhavi-Balaganur in a rush & negligent manner so as to endanger human life and the said bike got skidded and fell down on the foot path road. In result of which the accused and his sister deceased Naziya fell down on the foot path road and sustained grievous injuries to her head. Thereafter, though she has been shifted to Government Hospital Hamsabhavi and Haveri District Hospital and then Hubballi Sanjeevini Hospital she succumbed from the said accident without effecting the treatment in Hubballi KIMS Hospital on 31-07-2023 at about 7.30 AM., and thereby accused has committed offence punishable under section 304(A) of IPC.

3. On receipt of complaint given by the CW1, the CW13 has registered a case under crime No.101/2023 for the offence P/U/S 304(A) of IPC. After completion of investigation, the investigating officer has filed charge sheet against the accused for the offence



punishable under section 304(A) of IPC. Thereafter, cognizance was taken for the above said offences and process has been issued.

4. Thereafter, on pursuance of summons, the accused has appeared before the court through his counsel and got enlarged him on bail. Charge sheet copies have been furnished to accused in order to compliance of section 207 of Cr.P.C.

5. Charges have been framed for the offences punishable under Sections 279 and 304(A) IPC., o and read over and explained to the accused, wherein, he pleaded not guilty and claimed to be tried.

6. In order to establish the guilt of the accused, the prosecution has got examined witnesses as PW-1 to PW-4. In support of it, the prosecution has got marked the documents as Ex.P1 to Ex.P10.

7. After completion of prosecution evidence, statement of accused as required U/s 313 of Cr.P.C has been dispensed with as since there is no incriminating evidence against the accused.

8. Heard arguments of both side. In view of the prosecution case and materials placed on record the following points would arises for my consideration.



1. Whether prosecution proves beyond all reasonable doubts that on 26-07-2023 at about 12-30 PM., on foot path near Balaganar Chala at Hamsabhavi village, the accused being a rider of motor cycle bearing registration No.KA-68/K-6856 along with Naziya W/o Rahamatulla Makhandar, was driven the said vehicle towards their rented house in a rash and negligent manner so as endanger to human life and the vehicle got skidded and fell down on foot path and thereby, the accused has committed the offence punishable U/s 279 of IPC ?
2. Whether the prosecution further proves that as a result of aforesaid accident, Naziya W/o Rahamatulla Makhandar was succumbed from the said accident and thereby, the accused has committed the offence punishable U/s.304(A) of IPC.?
3. What order?

9. The findings to the above points are as under:

Point No.1 : In the Negative.

Point No.2 : In the Negative.

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

REASONS

10. Points No.1 and 2:- Since these points are inter-linked with each other, hence they are taken up together for common discussion in order to avoid repetition of facts and circumstances.



In order to establish the guilty of the accused, the prosecution has got examined the 4 witnesses as PW-1 to PW-4. In support of it, the prosecution has got marked the documents, which have been marked at Ex.P1 to 10. Out of the above witnesses, the PW-1 is Shaheenshya, who is complainant. PW2 is Jafrulla is mahazar witness, PW3 is Rahamathulla is also mahazar witness. PW4 is witness who is the husband of deceased Naziya. Remaining witnesses have been dropped in leave of hospitality of material witnesses.

11. PW1 being a complainant, has deposed in his chief-examination that, deceased Naziya is daughter of his brother. Further, he deposed that knows the CW2 to 4 and 5 and 6 and also knows the accused. Thereafter, he identified his signature on complaint which has been marked at Ex.P1 his signature has been marked as Ex.P1(a). Further, he deposed that at about 2 years ago when he was at Hamsabhavi Police Station, he signed to said documents at the request of Police. But, he has not aware of the contents of said documents. Further, he deposed that he has no information how accident was occurred. Further, he identified his signature on mahazar which has been marked at Ex.P2 his signature has been marked as Ex.P.2(a). Further, he deposed that he doesn't know when and where he signed to said document. But, he signed at the request of Police, Further, he deposed that he does know about the contents of said document. Further, he identified his signature on seizure mahazar which has been marked at Ex.P3



his signature has been marked as Ex.P3(a). Further, he deposed that, he has not aware of the said documents. But, he signed to said document at the request of Police. Further, he deposed that, Police did not seized any vehicle in his presence. Further, he deposed that, Police have forced him to stand for picture, therefore, he took pictures as per Ex.P4 to 8.

12. PW2 is mahazar witness has deposed and identified his signature on mahazar, which has been marked at Ex.P2 his signature has been marked as Ex.P2(b). Further, he deposed that he does not know when and where he signed to said document. But, he might have signed at the request of Police. He doesn't know the contents of said documents. Further, he identified his signature on seizure mahazar which has been marked at Ex.P3 his signature has been as Ex.P3(b). Further, he deposed that he doesn't know when and where he signed to said document. But, he might have signed at the request of Police. Further, he deposed that Police did not seized any material objects in his presence and they did not made any photograph in that place.

13. PW3 is also mahazar witness and eye witness, has deposed in his chief-examination that, he does not know deceased person. But, he knows about death of deceased. Further, he deposed that he knows the accused and CW1. But, he did not witness the accident and he has no information about the accident. Further, he deposed that, Police did not enquire him and he did not give any statement to Police.



14. PW4 is eye witness has deposed in his chief-examination that, deceased Naziya is his wife, CW1 is his uncle, CW8 is his brother-in-law. Further, he deposed that he knows the accused. Further, he deposed that he did not witness the accident and he has no information about the accident. Police did not enquire him and he did not give any statement to Police. Further, he deposed that he does not know with whom's fault the said accident occurred.

15. As PW1 to 4 being complainant, mahazar and eye witnesses and interested witnesses did not supports to the case of prosecution. To that effect they have been treated as hostile witnesses at the request of Ld. APP. Though they have been subjected to cross-examined by the Ld. APP nothing has been elicited from their mouth which supports of the case of prosecution. As such the prosecution is utterly failed to prove the contents of Ex.P1 to 3 complaint and mahazar.

16. At the instance of the case, the prosecution must be proved beyond reasonable doubt that, that on 26-07-2023 around 12.30 PM., accused was driven motor cycle bearing registration No.KA-68/K-6856 along with deceased Naziya toward their rented house at Hamsabhavi in a rash & negligent manner so as to endanger to human life without controlling the speed of his vehicle and the said vehicle got skidded and fell down on foot path. As a result of which, caused grievous injuries to deceased Naziya. Further, it is proved that, the said Naziya was died at the hospital. Otherwise, benefit of doubt would be extended to the accused.



17. In order to substantiate the case of prosecution, the prosecution has got examined 4 witnesses as PW1 to 4 and got marked the documents, which have been marked at Ex.P1 to 10. PW1 is the complainant, PW2 is mahazar witness, PW3 is eyewitness and PW4 is independent witness to the incident did not support's to the case of prosecution. Therefore, they have been treated as hostile witnesses at the request of Ld. APP, though they have been subjected to cross-examined by the Ld.APP, nothing has been elicited from their mouth, which supports the case of prosecution.

18. If at all accident was occurred as alleged by the prosecution, the prosecution must be place sufficient, convincing & believable evidence in support of its case, but no evidence is brought on record in this case to show that, accused was driven his motor cycle in a rash & negligent manner so as to endanger to human life. Hence, this court of the opinion that, the prosecution is utterly failed to prove it's case as alleged by the prosecution.

19. Further, on perusal of the material placed on record, the PW1 is complainant, PW2 is mahazar, PW3 is eye witness and PW4 is independent witness have not at all supports to the case of prosecution and they have deposed evidence against the case of prosecution. As such, there was no incriminating evidence against the accused persons. Accordingly, statement of accused as required under section 313 of Cr.P.C. has been dispensed with the prayer of Ld. APP that, issue summons to other charge-sheeted witnesses was



hereby rejected on the ground that, since PW1 to 4 being the material witnesses have turned hostile and prosecution have utterly failed to prove the contents of Ex.P1 to 3, if this court issue the summons to other charge-sheeted witnesses purpose would not be served.

20. On perusal of the over all materials placed on record, it appears that, PW-1 to 4 have not supported to case of prosecution and Ex.P1 to Ex.P10, Ex.P1 is compliant, Ex.P2 and 3 are panchanamas, Ex.P9 and 10 are statements are not proved by prosecution. Under these circumstance, this court of the opinion that, the prosecution has failed to prove its case that, the accused has committed the alleged offence. Hence, **point No.1 and 2 are answered in the Negative.**

21. Point No.3:- In view of findings on point No.1 and 2, this Court proceeds to pass the following:

ORDER

Acting U/s 255(1) of Criminal Procedure Code, 1973, accused is acquitted for the offences punishable U/s 279 & 304(A) of IPC.

Bail bond and surety bond stands canceled.

(Dictated to the Stenographer, computerized by him, corrected and signed by me and then pronounced in the Open Court on this **06th day of March- 2026**)

**Prl. Civil Judge & J.M.F.C.
Hirekerur.**



ANNEXURES

The list of witnesses examined on behalf of prosecution:-

- PW-1 - Shahinsha S/o Rahimansab
- PW-2 - Jafrulla S/o Dadapeer
- PW-3 - Rahamathulla S/o Gulam Mahammad
- PW-4 - Rahamathulla S/o Habeebsab Makhandar

List of documents marked on behalf of prosecution:-

- Ex.P1 : Complaint, Ex.P1(a) signature.
- Ex.P2 : Spot panchanama, Ex.P2(a) & (b) signatures
- Ex.P3 : Seizure mahazar, Ex.P3(a) & (b) signatures
- Ex.P4 & 8 : Photographs
- Ex.P9 : Statement of PW3
- Ex.P10 : Statement of PW4

The list of material objects identified on behalf of prosecution:

----- Nil-----

The list of witness examined on behalf of defence:-

----- Nil-----

The list of documents exhibited on behalf of defence:-

----- Nil-----

**PRL. CIVIL JUDGE & JMFC.,
HIREKERUR.**