



Presented on : 08-06-2018
Registered on : 08-06-2018
Decided on : 29-05-2026
Duration : 7 years 11 months 21 days

**IN THE COURT OF THE CIVIL JUDGE AND J.M.F.C.
SEDAM**

C.C.No.286/2018

Dated this the 29th day of May-2026

**Present: Sri. BALU
B.A. L.L.B,
Civil Judge & JMFC, Sedam.**

Complainant	The State Represented by Sedam Police Station. (By A.P.P.,)
-- Versus --	
Accused	Mahmmad Faraj Ahmmad S/o Mahmmad Abdulraheem, Age: 19 years, Occ: Student, R/o Miskeenpura Sedam, Dist: Kalaburagi. (By Sri. R.M. Advocate)
Date of commission of offence	21.03.2018
Date of report of offence	22.03.2018
Name of the Complainant	Sri. Ashfak S/o Sri. Kamalsab
Date of starting of recording of evidence	02.08.2022
Date of closing of	18.05.2026



recording of evidence	
Offence complained of	U/Sec.279, 338 and 304(A) of IPC
State represented by	Assistant Public Prosecutor
Accused defense by	By Sri. R.M Advocate
Opinion of judge	As per final order

**Sd/-
(Balu)**

C.J. & JMFC., Sedam

J U D G M E N T

The CPI Sedam has submitted charge sheet against the accused for the offence punishable U/Section 279, 338 and 304(A) of Indian Penal Code (For short IPC).

2. The brief facts of the prosecution case is as under;

The Criminal Law has been set into motion based on the First Information Statement of Ashfak S/o Kamalsab. The averments made in the First Information Statement discloses that, on 21.03.2018 at about 07.30 pm on Sedam-Kodangal road near Ranjol cross the accused driven his motor cycle No.KA-32/EK-307 in a rash and negligent manner from Ranjol side due to which the said motor vehicle fallen down at Ranjol cross, due to which the driver of said vehicle/ accused sustained grievous injuries on his lower back, left shoulder and one Khalid Saifulla who seated behind the driver sustained bleeding injuries and grievous injuries on his forehead, face and chin and



succumbed to the injuries on 21.03.2018 at about 11.30 pm during treatment. Thereafter, the Complainant went to the police station and lodged First Information Statement against accused. Based on the first information statement the case in crime No.52/2018 is came to be registered for the offences under section 279, 338 and 304(A) of IPC.

3. The investigating officer after completion of investigation filed the charge sheet against the accused for the offence punishable U/sec.279, 338 and 304(A) of Indian Penal Code.

4. After filing the charge-sheet cognizance is taken for the aforesaid offences as there are sufficient material evidence available to proceed against the accused, after due service of summons, accused appeared through his counsel and obtained bail. Thereafter, prosecution papers are supplied to the accused as per Sec.207 of Code of Criminal Procedure. Substance of Accusations has been read over and explained to the accused in his vernacular. Accused pleaded not guilty and claims to be tried. Therefore, case is posted for prosecution evidence.

5. In order to prove the guilt of the accused, prosecution has examined in all 13 witnesses as PW.1 to PW.13 and got marked Ex.P.1 to 19 documents along with its sub-markings. The accused has been examined under Sec.313 of Cr.P.C. The accused has denied all the incriminating circumstances appearing in the prosecution case and submitted no defense evidence.



6. Heard, arguments of Learned Assistant Public Prosecutor for state and so also heard arguments Learned Advocate for accused.

7. After going through the evidence on record and documents marked in this case and so also on hearing of arguments of both side the following points that would arose for the consideration of this court are as under,

POINTS

1. Whether the prosecution proves beyond all reasonable doubt that, on 21-03-2018 at about 07-30 PM on Kodangal-Sedam road near Ranjol cross the accused driven his motor cycle No.KA-32/EK-307 on the public road in rash and negligent manner so as endanger to human life and safety and thereby he committed an offence punishable U/Sec.279 of IPC?
2. Whether the prosecution proves beyond reasonable doubt that, on the aforesaid date, time and place and due to aforesaid accident, deceased Khalid Saifulla sustained grievous injuries and thereby Accused committed an offence punishable U/Sec.338 of IPC?
3. Whether the prosecution proves beyond all reasonable doubt that, due to aforesaid accident, Khalid Saifulla sustained grievous injuries and succumbed to injuries at about 11-30 PM on 21.03.2018 while taking treatment and thereby the accused



committed an offence punishable
U/Sec.304(A) of IPC?

4. What order/sentence?

8. My answers to the above points are as under

Point No.1 to 3 : In the Negative

Point No.4 : As per final order
for the following.

REASONS

9. Points No.1 to 3:- These points are taken up together for common discussion to avoid repetition of facts and for better appreciation of evidence.

10. It is the fundamental principle of criminal jurisprudence that, prosecution has to prove its case beyond all reasonable doubt. In order to prove the case, the prosecution got examined PW.1 to PW.13 and got marked Ex.P.1 to Ex.P.19 documents along with its sub-markings.

11. PW.1 Ashfak S/o Kamalsab is the complainant/informant, PW-2 Sri. Soyab Malik S/o Babamiya and PW.3 Sri. Syed Shabbir S/o Syed Hameed are the spot panchas, PW-4 to 9 are the witnesses, PW-10 G.K. Biradar is the Motor vehicle inspector, PW.11 is the Doctor, PW.12 and 13 are the investigating officers. CW-2, 3 and 12 are not examined and given up by learned APP. Ex.P-1 is the First Information Statement, Ex.P-2 is the photo, Ex.P-3 is the Spot panchanama, Ex.P.4 is the statement of PW.4, Ex.P.5 is the statement of PW.5,



Ex.P.6 is the statement of PW.6, Ex.P.7 is the statement of PW.7, Ex.P.8 is the inquest panchanama, Ex.P-9 is the statement of PW.8, Ex.P.10 is the statement of PW.9, Ex.P.11 is the motor vehicle accident report, Ex.P.12 is the postmortem report, Ex.P.13 is the First Information Report, Ex.P.14 and 15 are the photographs of deceased, Ex.P.16 is the indemnity bond, Ex.P-17 and 18 are the photographs of offending motor cycle and Ex.P.19 is the wound certificate of accused.

I). EVIDENCE LET IN BY THE PROSECUTION IN RESPECT OF DEATH OF DECEASED IN A ROAD ACCIDENT:

12. In order to prove that deceased Khalid Saifulla died on account of injuries sustained in a road accident, the prosecution has examined PW.1, 4 to 9 and PW-13 and got marked Ex.P.8 inquest panchanama and Ex.P.12 Postmortem Report of deceased Khalid Saifulla. Firstly, I draw my attention to the testimony of PW.1 and he in his examination in chief deposed that the deceased Khalid Saifulla died in the road accident. Secondly, PW-4 to 9 also deposed as per the version of PW-1 so far as concerning to the death of deceased Khalid Saifulla is died in the road accident.

13. PW.13 Mahadev, the investigating officer in his examination in chief deposed that, on 22-03-2018 he conducted the inquest panchanama on deceased Khalid Saifulla in the presence of CW-2 and 3 as per Ex.P-8. Further he deposed that, on 07.04.2018 he received the postmortem report of the deceased Khalid Saifulla. Further it is noted that, the death of the deceased Khalid Saifulla in the road accident has not been disputed by the



accused, because the Ex.P.8 inquest panchanama is marked with the consent of the accused. It is to be noted that, nothing has been suggested by the accused to PW.1, 4 to 9 and 13 in respect of death of Khalid Saifulla, that the deceased not died on account of the injuries sustained in a road accident. Ex.P.12 postmortem report reveals that, deceased Khalid Saifulla died due to Subdural Hemorrhage as a result of head injury sustained in a road traffic accident. As such, it could be concluded that the prosecution has ably proved that the deceased Khalid Saifulla died on account of injuries sustained in the road accident in aid of PW.1, 4 to 9 and 13 and Ex.P.8 inquest panchanama and Ex.P-12 postmortem report.

II. DRIVER ON WHEELS

14. In order to prove that the accused was driving the motor cycle bearing No.KA-32-EK-307 on the alleged date of incident/accident the prosecution has examined PW.1, 4 to 9 and 13. PW-1 has not deposed anything in his examination in chief about the accused was driving the aforesaid motorcycle on the alleged date of incident. But, during the course of cross examination by APP PW.1 admitted that, the accused was driving the motor cycle No.KA-32/EK-307 and suddenly he driven the motor cycle in rash and negligent manner and fallen down. PW.5 to 7 and 9 has deposed in their examination in chief that, the accused was driving the aforesaid vehicle and alleged date of incident. It is to be noted that, the accused has not denied he was driving the aforesaid motorcycle on the alleged date of incident. Notably, it is suggested by Accused to PW-1 "ಎದುರಿನಿಂದ ಒಂದು ಲಾರಿ



ಬರುತ್ತಿದ್ದು, ಆರೋಪಿ ಚಲಾಯಿಸುತ್ತಿದ್ದ ಮೋಟಾರ್ ಸೈಕಲ ಮಣ್ಣಿನಲ್ಲಿ ಸ್ಲೀವ್ ಆಗಿ ಬಿದ್ದು ಅಪಘಾತವಾಗಿರುತ್ತದೆ". Further, PW.6, 7 and 9 in their examination in chief deposed that, the accused was driving the vehicle in slow manner. The aforesaid suggestion put-forth by the accused to PW-1 and the evidence of PW.6,7 and 9 makes it clear that accused was driving the aforesaid motorcycle on the alleged date of incident/accident. As such, it could to be concluded the prosecution has ably proved that the accused was driving the aforesaid motorcycle on the alleged date of incident/accident.

III. SPOT PANCHANAMA/SEIZURE PANCHANAMA

15. In order to prove the place of occurrence/Ex.P.3 spot panchanama and seizure panchanama, the prosecution has examined PW-2 Shoyab Mallik and PW.3 Syed Shabbir and PW.13 Mahadev the investigating officer. PW-2 in his examination in chief identified his signature at Ex.P-3 spot panchanama/seizure panchanama and deposed that, the police have conducted the panchanama near Ranjol cross in the year 2018 and seized one motor cycle having registration No.KA-32-307 from the spot. Further he identified the motor cycle which is marked at Ex.P.2. PW.3 is not supported to the case of prosecution. Though the learned APP cross examined PW.3 with great efforts during which nothing is elicited from his mouth. PW-13 Mahadev in his examination in chief deposed on 22-03-2018 he visited the incident spot and drawn the Ex.P-3 panchanama in the presence of CW-4 and 5 and seized the motor cycle from the spot.



16. It is to be noted that, the accused have not disputed about the seizure of vehicle involved in the accident and place of occurrence. Therefore, it can be easily concluded that, the prosecution has succeed to prove the spot/seizure of aforesaid vehicle.

IV) EVIDENCE LET IN BY THE PROSECUTION IN RESPECT OF RASH AND NEGLIGENT DRIVING BY THE ACCUSED.

17. As discussed above accused has not disputed that he was not driving the motorcycle bearing No.KA-32/EK-307 on the alleged date of incident/accident, in such an event, the only question that is to be ascertained and determined is that whether the accused was driving the aforesaid motorcycle in a rash and negligent manner and was responsible for the death of deceased Khalid Saifulla.

18. At this juncture, I find it appropriate to Court the ruling reported in **2012 AIR SCW** 4659 decided between **Ravi Kapur Vs. State of Rajasthan**, wherein the Hon'ble Apex Court held that:

“A person who drives on the road is held responsible for the act as well as the result, and that, it may not always be possible to determine with reference to the speed of the vehicle whether the person was driving rashly or negligently and that, even, if one is driving the vehicle at a low speed, but recklessly and negligently, it would amount to rash and negligent driving within the meaning of Sec.279 of IPC.

Further the Hon'ble Apex Court at para No.10 also held that, rash and negligent driving has to be examined in the light of the



facts and circumstances of a given case. It is a fact incapable of being construed or seen in isolation. It must be examined in the light of attending circumstances”.

At para NO.11, the Hon’ble Apex Court held that, ‘Negligence’ means omission to do something which a reasonable and prudent person guided by the consideration which ordinarily regulate human affairs would do or doing something which a prudent and reasonable person guided by similar considerations would not do and held that, whether there exists negligence perse or the course of conduct amounts to negligence will normally depend upon the attending and surrounding facts and circumstances which have to be taken into consideration by the court.

19. In the light of the principle laid down above, a careful scrutiny of the oral testimony let in by the prosecution, it reveals that, the only material witnesses to the incident/accident are PW.1, 4 to 9. PW-1 in his examination in chief almost deposed what has been stated in the Ex.P-1 first information statement and he has deposed accident occurred on account of the fault of the driver of the motorcycle during the course of cross examination by learned APP. But, during the course of cross examination by learned counsel for accused he deposed that, the accused has not committed any mistake in the accident. PW-4 and PW-8 are the relatives of the deceased have not supported to the case of prosecution. In spite of effective cross examination by learned APP, nothing worth is elicited from their mouth to prove the rash and negligent driving of accused. PW.5 to 7 and 9 are the eye witnesses to the incident in their examination in chief



similarly admitted that, the accused was driving the vehicle in slow manner.

20. It is to be noted that PW-1 in is cross examination by accused admitted "ಎದುರಿನಿಂದ ಒಂದು ಲಾರಿ ಬರುತ್ತಿದ್ದು, ಆರೋಪಿ ಚಲಾಯಿಸುತ್ತಿದ್ದ ಮೋಟಾರ್ ಸೈಕಲ್ ಮಣ್ಣಿನಲ್ಲಿ ಸ್ಲೀವ್ ಆಗಿ ಬಿದ್ದು ಅಪಘಾತವಾಗಿರುತ್ತದೆ ಎಂದರೆ ನಾನು ನೋಡಿಲ್ಲ. ಅಪಘಾತದಲ್ಲಿ ಆರೋಪಿನದು ಏನು ತಪ್ಪಿಲ್ಲ ಎಂದರೆ ಸರಿ". The said aspect has not been mentioned by PW-1 at Ex.P-1 first information statement. Apart from this PW-5 to 7 and 9 are the only eyewitnesses to the present case on hand examined by the prosecution, but, the said witnesses have not supported to the case of prosecution. Therefore, it can be said that the accused has driven his vehicle in slow manner. Therefore, in the absence of cogent and clinching evidence it can not be said that the accused was driving his motorcycle in a rash and negligent manner so as to endanger to human life and public safety. No doubt, by producing Ex.P-8 and 12 documents prosecution has established that the deceased Khalid Saifulla died in the road accident, but it cannot be said that he died on account of the fault of the accused. Therefore, it could be concluded that the prosecution has totally failed in establishing the guilt of the accused. As such benefit of doubt is extended to the accused and he is entitled for acquittal. Hence, I answer point No.1 to 3 in **Negative**.

21. Point No.4: In view of my findings on point No.1 to 3, I proceed to pass the following:

ORDER

In exercise of power conferred U/sec.,
255(1) of Code of Criminal Procedure the



accused is acquitted for the alleged offences punishable U/Sec. 279, 338 and 304(A) of IPC.

Bail bond and surety bonds stands canceled after completion of appeal period.

(Dictated to the Stenographer directly on computer, typed by her, corrected and then pronounced by me, in the open Court on this the 29th day of May-2026).

**Sd/-
(Balu)
C.J. & JMFC., Sedam.**

ANNEXURE

List of the witnesses examined on behalf of the Prosecution:-

PW.1	:	Ashfak S/o Kmalsab
PW.2	:	Sri. Soyab Malik S/o Babamiya
PW.3	:	Sri. Syed Shabbir S/o Syed Hameed
PW.4	:	Smt. Taslim W/o Shekha Muktar
PW.5	:	Sri. Saifulla S/o Munnavar Pasha
PW.6	:	Sri. Nayan S/o Mohankumar Kattimani
PW.7	:	Sri. Pavan S/o Devindrappa Omkar
PW.8	:	Sri. Shekha Muktar Ahmmad S/o Kamalsab
PW.9	:	Sri. Sohel S/o Mahmmad Rafik
PW.10	:	Goudappa Biradar S/o Kallangouda Biradar
PW.11	:	Dr. Basavaraj Patil S/o Kallangouda Biradar
PW.12	:	Nataraj S/o Shravan Kumar
PW.13	:	Mahadev S/o Jambayya Panchamukhi

List of the witnesses examined on behalf of the Accused:-

-NIL-

List of the documents marked on behalf of Prosecution

Ex.P-1	:	First Information Statement
Ex.P.1(a)	:	Signature of PW-1
Ex.P-1(b)	:	Signature of PW-12
Ex.P-2	:	Photo



Ex.P-3	:	Spot panchanama
Ex.P-3(a)	:	Signature of PW-2
Ex.P-3(b)	:	Signature of PW-3
Ex.P-3(c)	:	Signature of PW-13
Ex.P.4	:	Statement of PW.4
Ex.P-5	:	Statement of PW.5
Ex.P-6	:	Statement of PW.6
Ex.P-7	:	Statement of PW.7
Ex.P-8	:	Inquest panchanama
Ex.P.8(a&b):	:	Signatures of PW.13
Ex.P-9	:	Statement of PW.8
Ex.P-10	:	Statement of PW.9
Ex.P.11	:	MVA Report
Ex.P.11(a)	:	Signature of PW.10
Ex.P.11(b)	:	Signature of PW.13
Ex.P.12	:	Wound certificate
Ex.P.12(a)	:	Signature of PW. 11
Ex.P.13	:	First information statement
Ex.P.13(a)	:	Statement of PW.12
Ex.P.14&15:	:	Two photographs related to Inquest panchanama
Ex.P.16	:	Indemnity bond
Ex.P.16(a)	:	Signature of PW.13
Ex.P.17&18:	:	Photographs
Ex.P.19	:	Wound certificate
Ex.P.19(a)	:	Signature of PW.13

List of the witnesses examined on behalf of Court:-

- NIL -

List of the documents marked on behalf accused:-

- NIL -

Sd/-
(Balu)
C.J. & JMFC., Sedam
