

KAKB720018872015



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Presented on : 29-12-2015
Registered on : 29-12-2015
Decided on : 28-04-2026
Duration : 10 years 3 months 30 days

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

C.C.No.769/2015

Dated this the 28th day of April-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	Rahul S/o Shankar Kundar, Age: 20 years, Occ: Coolie, R/o Sedam, Tq: Sedam. (By Sri. A.M. Advocate)
Date of commission of offence	20.09.2015
Date of report of offence	21.09.2015
Name of the Complainant	Sri. Vasudev S/o Bhimanna Kachur
Date of starting of recording of evidence	26.05.2022
Date of closing of recording of evidence	13.03.2026



Offence complained of	U/Sec.279, 304(A) IPC R/w 187 IMV Act
State represented by	Assistant Public Prosecutor
Accused defense by	By Sri. A.M Advocate
Opinion of judge	As per final order

Sd/-
(Balu)
C.J. & J.M.F.C.,
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, 304(A) of Indian Penal Code (For short IPC) R/w 187 of Indian Motor Vehicles Act (In short for IMV).

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 Vasudev S/o Bhimanna Kachur. The averments made in the First Information Statement discloses that, on 20-09-2015 at about 09-30 PM the accused driven his motor cycle No.KA.34/V-4108 from Sedam-Kodangal State High No.15, near Sedam-Vasavadatta Cement factory road and dashed to Abhilas who is crossing the road after taking darshan of Ganesh which is established in front of Akash Dhaba and fled away from the spot due to which the said Abhilash sustained



grievous injuries on the left side of his head and died on the way while shifting to Kalaburagi for higher treatment. Thereafter, the Complainant went to the police station and First Information Statement against accused. Based on the first information statement the case in crime No.231/2015 is came to be registered for the offences under section 279, 304(A) of IPC R/w 187 of Indian Motor Vehicles Act (In short for IMV).

3. The investigating officer after completion of investigation filed the charge sheet against the accused for the offence punishable U/sec.279, 304(A) of IPC R/w 187 of Indian Motor Vehicles Act (In short for IMV).

4. After filing the charge-sheet cognizance is taken for the aforesaid offences as there are sufficient of material 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 no 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 10 witnesses as PW.1 to PW.10 and got marked Ex.P.1 to 10 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 arise for the consideration of this court are as under,

POINTS

1. Whether the prosecution proves beyond all reasonable doubt that, on 20-09-2015 at about 09-00 PM on Sedam-Kodangal main road No.15 near Sedam-Vasuvadatta cement factory the accused driven his motor cycle No.KA.34/V-4108 in rash and negligent manner so as endanger to human life and safety and thereby he committed an offence punishable U/Sec.279 IPC?
2. Whether the prosecution proves beyond all reasonable doubt that, on the aforesaid date time and place the driven his motor cycle No.KA-34-V-4108 in rash and negligent manner and dashed to Abhilash due to which said Abhilash sustained grievous head injuries and succumbed to death on the way to hospital and thereby the accused committed an offence punishable U/Sec.304(A) IPC?



3. Whether prosecution proves beyond all reasonable doubt that, on the aforesaid date and time after accident the accused being driver of motorcycle bearing Reg.No.KA-34-V/4108 fled from the spot without giving first aid treatment and informing police thereby committed an offence punishable U/sec.187 of IMV act?

4. What order?

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.10 and got marked Ex.P.1 to Ex.P.10 documents along with its sub-markings.

11. PW.1 Babu S/o Ramchandra is the eye witness, PW-2 is the Saroja W/o Vasudev Kachur is the deceased mother, PW-3 is the Parameshwar S/o Chandrashekar and PW-4



Chandrashekar S/o Malashetty are the spot and inquest panchas, PW-5 Maruthi S/o Basanna is the eyewitness, PW-6 is the Shobavathi W/o Tipanna Chincholi is the circumstantial witness, PW-7 S.C Nagavanda is the RTO Officer, PW-8 Vasudev S/o Bhimanna Kachur is the informant, PW-9 Gourishankar and PW-10 Bapugouda Patil are the investigating officers. CW-10 is given up by learned APP. CW-12 is died. Ex.P-1 is the spot panchanama, Ex.P-2 is the inquest panchanama, Ex.P-3 is the statement of PW-5, Ex.P-4 is the Motor vehicle accident report/First Information statement, Ex.P-5 is the First Information report, Ex.P-6 is the Photo, Ex.P-7 is the post mortem report, Ex.P-8 is the Indemnity bond, Ex.P-9 and 10 are the photos of motor vehicle involved in the accident.

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

12. In order to prove that deceased Abhilash died on account of injuries sustained in a road accident, the prosecution has examined PW.1 and 5 and got marked Ex.P.2 inquest panchanama and Ex.P.7 Postmortem Report of deceased Abhilash. Firstly, I draw my attention to the testimony of PW.1 and he in his examination in chief deposed that Abhilash died in the road accident. PW-5 being the eye witness to the accident has not supported to the case of prosecution. PW-2, 6 and 8 are also the family members of deceased Abhilash have deposed in their examination in chief that the said Abhilash died in the road accident.



13. PW.9 Babugouda, the investigating officer in his examination in chief deposed that, as per the oral order of CW-12 he conducted the inquest panchanama of deceased Abhilash in the presence of CW-2 and CW-3 under Ex.P-2. It is to be noted that, Ex.P-7 post mortem report of deceased Abhilash is marked with the consent of accused therefore, it can be said that the accused has not disputed the death of accused. Further, it is noted that, nothing has been suggested by the accused to PW.1 and 5 in respect of death of Abhilash, that the deceased not died on account of the injuries sustained in a road accident. Ex.P.7 postmortem report reveals that, deceased Abhilas died due to cordio respiratory arrest. As such, it could be concluded that the prosecution has ably proved that the deceased Abhilas S/o Vasudev died on account of injuries sustained in the road accident in aid of PW.1 and 5 and Ex.P.7 postmortem report.

II. DRIVER ON WHEELS

14. In order to prove that the accused was driving the motorcycle bearing No.KA-34-V-4108 on the alleged date of incident/accident the prosecution has examined PW.1 and 5. PW-1 in his examination in chief deposed that accident occurred on the account of the fault of the driver of motorcycle and he has identified the accused. Further, it is noted that PW-1 in his examination chief deposed that he cannot identify the accused if it is shown to him. 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



ಗುಲಬರ್ಗಾ ಕಡೆಗೆ ಸಾಗುವ ರಸ್ತೆಯಲ್ಲಿ ರೋಡ ಹಂಶ ಇರುತ್ತವೆ ಎಂದರೆ ಸರಿ. ಆದ್ದರಿಂದ ವಾಹನಗಳು ಸವಕಾಶಾಗಿ ಬರುತ್ತವೆ ಎಂದರೆ ಸರಿ. Further, it is suggested by counsel for accused to PW-2 ಅಪಘಾತ ಆಗಿದೆ ಎನ್ನಲಾದ ಸ್ಥಳದಲ್ಲಿ ಸಾಕಷ್ಟು ವಾಹನಗಳ ಓಡಾಟ ಇರುತ್ತದೆ ಎಂದರೆ ಸರಿ. ಆಕಾಶ ಧಾಬಾ ಮುಂದೆಗಡೆ ರಸ್ತೆ ಮೇಲೆ ರೋಡ ಹಂಶ ಇರುತ್ತವೆ ಎಂದರೆ ನಾನು ನೋಡಿಲ್ಲ. ಆಕಾಶ ಧಾಬಾ ಮುಂದುಗಡೆ ರೋಡಿನ ಆ ಬದಿಯಿಂದ ಈ ಬದಿಗೆ ಮತ್ತು ಈ ಬದಿಯಿಂದ ಆ ಬದಿಗೆ ಜನರ ಓಡಾಡುತ್ತಾರೆ ಎಂದರೆ ಸರಿ. ಆದ್ದರಿಂದ ಅಲ್ಲಿ ವಾಹನಗಳು ಸಹಕಾಶವಾಗಿ ಬರುತ್ತವೆ ಎಂದರೆ ಸರಿ. Further, it is to be noted that PW-5 being the eye witness has not supported to the case of prosecution though the learned APP cross examined him nothing worth has been elicited from his mouth. The aforesaid suggestion put-forth by the accused to PW-1 and 2 makes it clear that accused was driving the aforesaid motorcycle on the alleged date of incident/accident. As such, it could 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.1 spot panchanama and seizure panchanama, the prosecution has examined PW-3 Parameshwar and PW-4 Chandrashekar. PW-3 in his examination in chief identified his signature at Ex.P-1 spot panchanama/seizure panchanama and deposed that on 21-09-2015 he affixed his signature on Ex.P-1 in the government hospital. Further, he deposed that the police have conducted the spot panchanama on the occurrence place. PW-4 being one of the pancha witness to Ex.P-1 have not supported to the case of



prosecution. Further, it is noted that the Ex.P-9 and 10 photos of offending vehicle have been marked with the consent of accused.

16. It is to be noted that it is the case of the prosecution that CW.12, the investigating officer has seized the motorcycle involved in the accident under Ex.P.1 seizure panchanama and to prove the same, the prosecution has examined PW.3 who is the seizure pancha to Ex.P.1. PW-3 deposed that the police have seized the aforesaid vehicle in his presence from the spot. Ex.P-1 seizure panchanam discloses that, the investigating officer has seized the motorcycle bearing No.KA-34/V-4108 in the presence of CW-2 and 3. Further, it is worth mention here that the accused have not disputed about the seizure of vehicles involved in the accident. Therefore, it can be easily concluded that, the prosecution has succeed to prove the seizure of aforesaid vehicles.

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-34/V-4108 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 Abhilash. 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.



18. 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 and eye witness to the incident/accident are PW.1 Babu S/o Ramchandra Rathod and PW-5 Maruthi. PW.1 in his examination in chief deposed that the said accident is occurred due to the fault of accused but it is worth to mention here that PW-1 during the course of chief examination has deposed that he cannot identify the bike even he it is shown to him.

19. It is to be noted that PW-1 in his examination in chief they have deposed that ಅಪಘಾತವು ಮೋಟಾರ್ ವಾಹನ ಚಲಾಕನ ತಪ್ಪಿನಿಂದ ಆಗಿರುತ್ತದೆ. During the course of cross examination PW-1 admitted that ಗುಲಬರ್ಗಾ ಕಡೆಗೆ ಸಾಗುವ ರಸ್ತೆಯಲ್ಲಿ ರೋಡ್ ಹಂಶ ಇರುತ್ತವೆ ಎಂದರೆ ಸರಿ. ಆದ್ದರಿಂದ ವಾಹನಗಳು ಸವಕಾಶಾಗಿ ಬರುತ್ತವೆ ಎಂದರೆ ಸರಿ. Further, PW-1 deposed that ದ್ವಿಚಕ್ರ ವಾಹನ ಇಷ್ಟು ವೇಗ ಮತ್ತು ಹೇಗೆ ಬರುತ್ತಿತ್ತು ಎಂದು ನನಗೆ ಹೇಳಲು ಬರುವುದಿಲ್ಲ ವೆಂದರೆ ನಾನು ನೋಡಿಲ್ಲ. PW-1 further admitted that ವಾಹನ ಯಾವ ಕಲರ ಅದರೆ ಪಾಸಿಂಗ್ ನಂಬರ ಯಾವದಿತ್ತು ಎಂದರೆ ನನಗೆ ಹೇಳಲು ಬರುವುದಿಲ್ಲ. The said aspect has not been mentioned by PW-1 in his statement. Apart from this PW-5 is the another eyewitness to the present case on hand examined by the prosecution. PW-5 has not supported to the case of prosecution. Though the learned APP cross examine him with great efforts during which nothing worth is elicited his mouth so as to prove the rash and negligent act of the accused. PW-2, 6 and 8 being the family members of deceased Abhilash and they being hearsay witnesses their evidence cannot support to the case of prosecution to prove the rash and negligent act of the accused.



The testimony of PW-1 make it clear that there is a speed breaker at the place of occurrence. Therefore, it can be said that the accused has driven his vehicle in slow manner. Further, the testimony of PW-1 make it clear that he does not know how the accused was driving his vehicle. 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. Further, there is not evidence placed on record by the prosecution so as to prove that the accused had fled away from the spot after accident without giving first aid treatment to the injured. No doubt, by producing Ex.P-2 and 6 documents prosecution has established that the deceased Abhilash 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**.

20. Point No.3: In view of my findings on point No.1 and 2, 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, 304(A) of
IPC R/w 187 of Motor Vehicle Act.



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 28th day of April-2026).

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

ANNEXURE

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

PW.1	:	Babu S/o Ramchandra
PW.2	:	Saroja W/o Vasudev
PW.3	:	Parameshwara S/o Chandrashekar
PW.4	:	Chandrashekar S/o Malashetty
PW.5	:	Maruthi S/o Basanna
PW.6	:	Shobha S/o Tipanna
PW.7	:	Nagavan S/o Channabasappa
PW.8	:	Vasudev S/o Bhimanna
PW.9	:	Gourishankar S/o Eshwarappa
PW.10	:	Bapugouda S/o Siddangouda Patil

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

-NIL-

List of the documents marked on behalf of Prosecution

Ex.P-1	:	Spot panchanama
Ex.P.1(a)	:	Signature of PW-3
Ex.P-1(b)	:	Signature of PW-4
Ex.P-2	:	Inquest panchanama
Ex.P.2(a)	:	Signature of PW-3
Ex.P-2(b)	:	Signature of PW-4
Ex.P-2(c)	:	Signature of PW-10
Ex.P-3	:	Statement of PW-5



- Ex.P-4 : MVA report/First information statement
- Ex.P.4(a) : Signature of PW-9
- Ex.P-4(b) : Signature of PW-10
- Ex.P-5 : First Information statement
- Ex.P-6 : Photo
- Ex.P-7 : Post mortem report
- Ex.P-8 : Indemnity bond
- Ex.P.9 & 10: Photos of bike

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
