

KAMD410001582017



Presented on : 13-01-2017

Registered on : 16-01-2017

**IN THE COURT OF THE I ADDITIONAL CIVIL JUDGE
AND J.M.F.C., AT MALAVALLI**

:Present:

SMT. KAVYASHREE H.S.

I Addl.Civil Judge and JMFC.,
Malavalli

C.C.No.90/2017

COMPLAINANT/S: State by
Malavalli Rural Police Station,
Malavalli Taluk, Mandya District.

- Vs-

ACCUSED:

1. Kumara S/o Shivanna,
Aged about 24 years,
R/o Hanchipura Village,
Malavalli Taluk.
2. Putta @ Shivananju,
S/o Late Manchegowda,
Aged about 55 years,
R/o Dugganahalli Village,
Malavalli Taluk,
Mandya District.

Advocate appeared in this case.

Learned APP represented for State.

Sri. H.S.K., advocate for accused persons.

Decided on 25.04.2026

JUDGMENT of the Court delivered by

SMT. KAVYASHREE H.S: Heard the counsel for both sides. The present matter is filed by the Police Sub-Inspector of Malavalli Rural Police Station, who has submitted a final report against the accused, charging them with the offences punishable under Sections 279, 337, 338 of IPC and Sec.3 r/w 180, 3 r/w 181, 177 of IMV Act, and the matter is taken up for final disposal.

2. Briefly stated, as deposed by the complainant, that on 26.02.2016 at about 11:45 AM, near Gattikoppalu Village, within the jurisdiction of Malavalli Rural Police Station, on the Madahalli-Gattikoppalu road in front of the land belonging to Siddaraju, the CW.1 while riding his motorcycle bearing Reg.No.KA.11.EE.5614 from Madahalli towards Gattikoppalu was proceeding on the said road, at that time accused No.1, was driving the said motorcycle in a rash and negligent manner and dashed against the vehicle which was coming from the opposite side. As such, both vehicles were dashed against each other and CW.1 sustained injuries to his leg and fingers and also sustained grievous injuries to

his head. The accused No.2 is the owner of the vehicle bearing Reg.No.KA-11-EF-3431 and he has allowed the accused No.1 to drive the vehicle without having valid license and the said vehicle was not insured. Therefore, the complainant has lodged the complaint against the accused persons. On the basis of complaint lodged by the complainant, the Malavalli Rural Police have registered the case against the accused persons for the offence p/u/Sec. 279, 337, 338 of IPC and Sec.3 r/w 180, 3 r/w 181, 177 of IMV Act. After completing the investigation, charge sheet was filed against the accused persons for the aforesaid offences.

3. At the inception, for the purpose of clarity, the brief factual matrix may be summarized in a tabular form for quick understanding of the case.

Sl. No	Particulars	Details
1	Complaint & FIR	Complainant Sri. Chandrashekara @ Nandisha lodged report before PSI, Malavalli Rural Police Station; case registered in Crime No. 97/2016 and FIR submitted to the Court

2	Incident Details	Allegation of rash and negligent driving resulting in accident causing injuries to the complainant
3	Investigation	IO visited spot, prepared mahazar, recorded statements of witnesses, seized materials and filed final report
4	Court Proceedings	Cognizance taken, accused appeared and enlarged on bail, prosecution papers furnished under Sec. 207 Cr.P.C
5	Trial	Charges framed and explained; accused pleaded not guilty and claimed trial
6	Defence	During Sec. 313 Cr.P.C examination, accused denied allegations and contended false implication

4. To substantiate the case during the trial, the prosecution examined 10 witnesses referred to as PW-1 to P.W.10, and marked documents as Exhibits P-1 to P14 and on the other side defence not marked any documents on their behalf.

5. The points that arise for consideration may be conveniently set out in a tabular column as follows:

Sl. No	Points for Consideration
1	Whether, on the alleged date, time and place, the accused drove the vehicle on a public road in a rash or negligent manner so as to endanger human life or likely to cause hurt or injury, thereby committed an offence punishable under Sections 279, 337 and 338 of IPC?
2	Whether the prosecution further proves that the accused committed offences punishable under Sections 3 r/w 181, 5 r/w 180 and 177 of the IMV Act?
3	Whether the accused is liable for conviction or entitled for acquittal?

6. To strengthen its case, the prosecution relies on the testimonies of PW.1 to PW-10, Documentary evidence marked as Ex.P.1 to P-14 was also submitted, with PW-1, is the complainant witness, P.W.2 is the eye-witness, PW.3 to 5 are the mahazar witnesses, PW.6 is the eye-witness, PW.7 is the eye-witness, PW.8 is the doctor, PW.9 is the police official, PW.10 is the PSI police official.

7. To fortify the oral testimonies presented, the prosecution has submitted 14 documents as evidence., namely Ex.P.1, constitutes

the information provided by CW1 i.e., complaint, Ex.P2 is the spot mahazar, Ex.P3 is the seizure mahazar, Ex.P4 and 5 are the photographs, Ex.P6 is the statement of PW.2, Ex.P7 is the mahazar, Ex.P8 is the Wound Certificate, Ex.P9 is the FIR, Ex.P10 is the notice, Ex.P11 is the reply notice, Ex.P12 and 13 are the indemnity bonds, Ex.P14 is the IMV report.

At the outset, let us first consider the negligence of the act.

8. To prove the negligence, let us go through the documentary evidence such as the;

1. FIR,
2. Complaint,
3. Mahazar
4. IMV report, along with the oral testimony of the concerned witnesses.

9. At the outset, while the evidence on record to determine negligence, it is necessary to scrutinize both oral and documentary evidence in a careful manner.

10. PW1, in his examination-in-chief, has deposed that he was proceeding towards Malavalli on the left side of the road through Gattikoppalu route and that the accused came and dashed against him on the right side. However, it is pertinent to note that

the aspect of "left side movement" is not mentioned in the complaint, which amounts to a material improvement affecting the credibility of his version regarding the manner of the accident. Further, the complainant has not clearly stated the identity of the person who was actually driving the vehicle at the time of the incident.

11. In the cross-examination, PW1 admits that he was hospitalized from 26.02.2016 to 18.03.2016 and that no complaint was lodged immediately after discharge, assigning the reason of a panchayat settlement. However, he admits that he does not know the names of the panchayat members, which renders the explanation for delay doubtful. He further admits that he did not possess a valid driving licence and that though several persons gathered at the spot, no independent witnesses were secured. He also shows ignorance about the IMV report and states that Ex.P1 complaint is computerized, which again creates doubt about its authenticity. Therefore, PW1's evidence is not wholly reliable, as it contains material improvements and inconsistencies with the complaint, particularly regarding the manner of the accident. His testimony, coupled with unexplained

delay and lack of corroboration, fails to inspire confidence to prove negligence.

12. PW2's (eye-witness) evidence does not support the prosecution case, as he states that the complainant had already fallen down before the arrival of the accused and that he does not know how the accident occurred. PW3, the mahazar witness, admits that the spot mahazar (Ex.P2) was conducted nearly two months after the incident, i.e., on 30.04.2016 and the mahazar itself discloses that the road is only 10 feet wide with a mud shoulder and a sloping portion on the southern side, making rash and negligent driving improbable in such conditions.

The relevant statement of Ex.P2 as follows;

“ಸದರಿ ಸ್ಥಳವನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿ ಸದರಿ ಜಾಗ ಈ ಮೇಲೆ ವಿವರಿಸಿರುವಂತೆ ಗಟ್ಟಿಕೊಪ್ಪಲು ಗ್ರಾಮದ ಸಿದ್ದರಾಜು ಬಿನ್ ನೀಲಿಸಿದ್ದೇಗೌಡ @ ಉನೇಗೌಡ ರವರ ಜಮೀನಿನ ನೇರ ಹಾದು ಹೋಗಿರುವ ಟಾರು ರಸ್ತೆ ಹೋಗಿರುತ್ತೆ. ಈ ರಸ್ತೆಯ 10 ಅಡಿ ಅಗಲದ ಟಾರು ರಸ್ತೆಯಾಗಿರುತ್ತೆ. ಈ ರಸ್ತೆಯು ದಕ್ಷಿಣದ ಕಡೆಯಿಂದ ಉತ್ತರದ ಕಡೆಗೆ ಇಳಿಜಾರಿನ ರಸ್ತೆಯಾಗಿದ್ದು ಈ ರಸ್ತೆಯ ಎರಡು ಕಡೆ 3 ಅಡಿ ಅಗಲದ ಪುಟ್ ಪಾತ್ ಮಣ್ಣಿನ ರಸ್ತೆ ಇರುತ್ತದೆ. “

13. He also admits that there is non mentioning of vehicle damage in the mahazar. Therefore PW2, who is the pillion rider and a material witness to the incident, has turned hostile and has not supported the prosecution case. Further his evidence that the

complainant had already fallen down before the arrival of the accused creates serious doubt about the alleged negligence.

14. PW4 to PW7, who are seizure mahazar witnesses, have turned hostile and have not supported the prosecution case. Thereafter, the delay in lodging the complaint, as seen from Ex.P9, wherein the incident is dated 26.02.2016 but the complaint is lodged on 29.04.2016, remains unexplained. No independent panchayat members or public witnesses have been examined, though the place is a public road. Therefore evidence of PW4 to PW7, who are cited as seizure mahazar witnesses, have turned hostile and have not supported the prosecution case. Their evidence does not prove the seizure or the alleged involvement of the vehicles in the accident. Hence, their testimony does not advance the case of the prosecution and creates doubt about the genuineness of the seizure.

15. Importantly, Ex.P14 IMV report indicates that there is no damage to both vehicles,

The relevant portion of Ex.P14 as follows;

“MO.I accused KA-11.EF-3432 and MO.II accused KA-11-EE-5614”.

“No any damages found on both MV’s at the time of Inspection”.

16. The after thought report i.e., Ex.P14 which creates serious doubt about the occurrence of the accident in the manner alleged. Moreover, No sketch or photographs of the scene have been produced. Further, there is absolutely no material regarding the speed of the vehicle; no approximate speed (in km/hr) is stated either in the complaint or in the oral evidence. Further on a narrow and sloping road as described in Ex.P2, the allegation of high speed appears improbable, and mere use of the expression “high speed” has no evidentiary value.

17. Further, as per Road rules and general traffic regulations, every driver is expected to keep to the left side, maintain reasonable speed, and exercise due care especially on narrow or sloping roads. In the present case, there is no clear evidence to show violation of any specific traffic rule or regulation by the accused. There is also no material to establish lane discipline, point of impact, or manner of driving in terms of accepted road safety norms.

18. Thus, mere occurrence of an accident is not sufficient; the prosecution must establish rashness and negligence with cogent and convincing evidence. On cumulative, the prosecution has failed to prove the essential ingredients of the offence, and the case appears to be based on afterthought and material improvements.

19. Secondly, with regard to the offences under Sections 337 and 338 IPC, the nature of injuries and medical evidence require careful scrutiny.

PW8, the Doctor, has deposed that PW1 sustained injuries such as;

- a. auto-amputation of toe,
- b. lacerated wound on the scalp region,
- c. and fractures of metatarsal and phalanx bones.

20. However, it is pertinent to note that some of these injuries, particularly the fracture details, are not mentioned in the original complaint, thereby amounting to material improvement at a later stage. This creates doubt regarding the true nature and cause of injuries.

21. Further, Ex.P14 IMV report clearly discloses that there was “no damage to either of the vehicles”. In such circumstances, the alleged serious injuries appear improbable, as ordinarily such injuries would correspond with visible damage to the vehicles. The absence of such damage creates serious doubt about the prosecution version.

22. It is also significant that immediately after discharge from the hospital, no complaint was lodged, which again weakens the nexus between the alleged accident and the injuries sustained. The medical evidence, it is well settled, is only an opinion and not conclusive proof. In the cross-examination, PW8 admits that the age of injuries and exact time of treatment are not specifically mentioned, and further admits that such injuries are possible even if a person falls on his own.

23. Moreover, none of the independent eyewitnesses have supported the case, and the related witnesses have failed to corroborate the prosecution version. In the absence of reliable ocular evidence, the medical evidence alone cannot establish that the injuries were the direct result of rash and negligent driving by the accused.

24. Therefore, in view of the inconsistencies, improvements, absence of vehicle damage, and doubtful medical testimony, the prosecution has failed to satisfactorily prove the ingredients of Sections 337 and 338 IPC.

25. PW9, the Police Officer, has deposed that he received the investigation records and wound certificate and thereafter submitted the charge sheet. However, in the cross-examination, he admits that the MLC was not furnished and that he had not visited the spot, which creates a serious lacuna in the investigation.

26. PW10, the Investigating Officer, in his chief examination, states that he received the complaint of CW1 and conducted the spot mahazar on 30.04.2016 and thereafter carried out the investigation. However, in the cross-examination, he admits that the complaint was lodged after nearly 60 days of the incident and that no independent witnesses were examined. He further admits that due to the delay, no proper information was available at the spot at the time of mahazar.

27. It is also admitted by him that in the seizure mahazar there is no damage noted to the vehicles, and he concedes that if two vehicles collide, normally there would be damage to both vehicles. This admission directly contradicts the prosecution case.

28. Thus, the FIR, spot mahazar and IMV report suffer from serious irregularities and inconsistencies. The delay in complaint, delayed mahazar, absence of independent witnesses, and lack of vehicle damage cumulatively create doubt about the manner of accident and the alleged negligence. The investigation appears to be perfunctory and does not inspire confidence.

29. It is further relevant to note that the complainant had filed MVC No. 189/2017 seeking compensation, which has been dismissed. This circumstance also creates a doubt regarding the genuineness of the alleged accident and the manner in which it is projected before this Court.

30. Insofar as the offences under the IMV Act are concerned, though certain statutory violations are alleged, the same are not substantiated by cogent evidence. In view of the inconsistencies in the prosecution case, delay in lodging the complaint, absence

of proof regarding actual driving by the accused, and lack of material to show violation of specific statutory provisions, the ingredients required to attract the IMV offences are not established.

31. When the very foundation of the accident itself becomes doubtful, the question of statutory violation under the IMV Act does not survive. Hence, in the present case, the IMV offences are not attracted.

32. In view of the reasons stated while answering Points for consideration, I hold that accused persons are not found guilty of the offences punishable under Sections 279, 337, 338 of IPC and Sec.3 r/w 180, 3 r/w 181, 177 of IMV Act. In the result, I proceed to pass the following:

ORDER

***Acting under Sec.255(1) of Cr.P.C., the
Accused persons are hereby acquitted for the
offences punishable under Sec. 279, 337, 338 of
IPC and Sec.3 r/w 180, 3 r/w 181, 177 of IMV Act.***

The bail bonds and surety bonds of the accused stand cancelled.

(Dictated to the Stenographer computerized by him, taken print out and revised and corrected by me then pronounced in the open court, this 25th day of April 2026)

(KAVYASHREE H.S)
I Addl.Civil Judge & JMFC.,
Malavalli.

ANNEXURE

LIST OF WITNESSES EXAMINED FOR PROSECUTION:

PW.1- Chandrashekar Urf Nandeesha
PW.2- Ravi
PW.3- Hanumanthu
PW.4- T.L.Rajashekara
PW.5- Devaraju
PW.6- Manchaiah
PW.7- Nagaraju
PW.8- Dr.Shankar
PW.9- Ravikumar .M
PW.10- V.C.Ashok

LIST OF DOCUMENTS EXHIBITED FOR PROSECUTION :

Ex.P.1- Complaint
Ex.P.1(a)(b)- Signatures
Ex.P.2- Spot Mahazar
Ex.P.2(a)to(c)- Signatures

Ex.P.3- Seizure Mahazar
Ex.P.3(a)to(d)- Signatures
Ex.P.4 to 5 - Photographs
Ex.P.6- Statement of PW.2
Ex.P.7- Seizure Mahazar
Ex.P.7(a)to(c)- Signatures
Ex.P.8- Wound certificate
Ex.P.8(a)(b)- Signatures
Ex.P.9- FIR
Ex.P.9(a)- Signature
Ex.P.10- Notice
Ex.P.10(a)- Signature
Ex.P.11- Reply notice
Ex.P.11(a)- Signature
Ex.P.12,13- Indemnity bonds
Ex.P.12(a),13(a)- Signatures
Ex.P.14- IMV Report
Ex.P.14(a)- Signature

FOR DEFENCE: - Nil -

LIST OF MATERIAL OBJECTS MARKED:-

- Nil -

(**KAVYASHREE H.S**)
I Addl.Civil Judge & JMFC.,
Malavalli.