

KAMS300011422023



**IN THE COURT OF I ADDITIONAL SENIOR CIVIL JUDGE AND
JMFC, HUNSUR**

Dated this the 29th day of June 2026

**Presided Over by Smt. Bhagyamma
B.Com. L.L.B.,**

CC./463/2023

COMPLAINANT:

State by Hunsur Rural Police Station

(By learned APP)

//Vs//

ACCUSED:

Mohammed Azaruddin,
S/o Mohammed Rafi,
Aged about 23 years,
R/at House No.68,
Shabbir Nagar,
Hunsur Town,
Mysuru District.

(By Sri GNK, Adv.)

Date of commission of offence : 15.01.2023

Date of report of offence : 15.01.2023

Name of the complainant : Sri Mubarak Pasha

Date of recording evidence : 14.12.2023

Date of closing evidence : 02.04.2026

Offences complained of : Sec.279, 337, 304(A) of I.P.C. and Sec.187 of IMV Act.

Opinion of the Judge : Accused found not guilty.

JUDGMENT

This is a Charge Sheet filed by Police Inspector, Hunsur Rural Police Station, Hunsur against the accused for the offences punishable under Sec.279, 337, 304(A) of I.P.C. and Sec.187 of IMV Act.

2. The brief facts of the prosecution case are that:

That on 15.01.2023, at about 12:50 p.m., within the jurisdiction of Hunsur Rural Police Station, near the 4th Unit Gate at Nagapura Hadi on the Veeranahosalli–Hunsur Road, the accused was riding a Suzuki Access scooter bearing Registration No. KA-45-EC-5786 from Hunsur towards Veeranahosalli village in a rash and negligent manner. It is alleged that, despite the road having several curves, the accused rode the scooter on the wrong side of the road in a zigzag manner. At that time, one Rafiq Khan, the driver of the goods auto bearing Registration No. KA-45-6776, was proceeding from Veeranahosalli village towards Hunsur. On noticing the accused approaching on the wrong side of the road in such a manner as to likely collide with the goods auto, Rafiq Khan applied sudden brakes in an attempt to avoid the accident. As a result, the goods auto overturned and Rafiq Khan fell onto the road. The auto fell on him, causing grievous injuries to his head, left eye, left knee, left thigh, right thigh, right hand, and chest. He also sustained bleeding from his ears, nose, and mouth. Immediately after the accident, the injured were shifted to the Government Hospital, Hunsur. On the advice of the doctors, Rafiq Khan was referred to a hospital at Mysuru for further treatment. However, while being shifted to Mysuru, near Bannikuppe, at about 2:45 p.m., he

succumbed to the injuries sustained in the accident. It is further alleged that CW-1, who was also travelling in the said goods auto at the time of the accident, sustained simple injuries to his left shoulder due to the overturning of the vehicle. The accused, being the rider of the Suzuki Access scooter bearing Registration No. KA-45-EC-5786, neither informed the nearest police station about the accident nor rendered any assistance to the injured persons. Instead, he fled from the spot without providing any help or facilitating medical treatment for the injured. Therefore, it is alleged that the accused committed the offences punishable under Sections 279, 337, and 304A of the Indian Penal Code and Section 187 of the Indian Motor Vehicles Act. In this regard, CW-1 lodged the first information before the police, on the basis of which the case was registered.

3. Upon receipt of information, the police registered a case in Crime No.16/2023 and submitted FIR to the learned Magistrate. Thereafter, the Police Inspector of Hunsur Rural Police Station investigated the matter and on completion of investigation, filed charge sheet before this court for the offences punishable U/Sec 279, 337, 304(A) of I.P.C. and Sec.187 of IMV Act.

4. After issuance of summons to the accused, he appeared before the court through his counsel along with bail application and obtained bail by offering surety. The copies of charge sheet supplied to the accused person as contemplated U/Sec 207 of Cr.P.C.

5. Thereafter plea was recorded and the substance of accusation was read over and explained to the accused in the language known to him. The accused denied the plea and claimed to be tried. Hence, the case posted for trial.

6. In order to bring home the guilt of accused, the prosecution has examined in all 8 witnesses as PW-1 to 8 and 23 documents got marked as per Ex.P-1 to 23. The statement of accused as required U/Sec 313 of Cr.P.C. was recorded and he denied the incriminating evidence of the prosecution witnesses and claimed to be innocent. Even so, he has not chosen to lead any defence evidence.

7. Heard the arguments of both learned APP and counsel for accused. Perused the materials available on record.

8. On the basis of the above facts, the points that arise for my consideration are as under:

1. Whether the Prosecution proves beyond reasonable doubt that on 15.01.2023 at about 12.50 p.m. at Nagapura Hadi, 4th unit gate on Veeranahosalli-Hunsur Road, the accused was riding the Suzuki Axis scooter bearing Reg.No.KA-45-EC-5786 and was proceeding from Hunsur towards Veeranahosalli village in a rash and negligent manner though the road was with full of curves and was on right side of the road in a wrong side and was riding in a zig zag manner, thereby the accused committed an offence punishable U/Sec.279 of I.P.C?
2. Whether the prosecution proves beyond reasonable doubt that on the aforesaid date, time, and place, the accused rode the scooter in a rash and negligent manner, causing the driver of the goods auto bearing Registration No. KA-45-6776 to apply sudden brakes, resulting in the auto overturning and CW-1 sustaining simple injuries to his left shoulder, thereby committing an offence punishable under Section 337 of the Indian Penal Code ?
3. Whether the prosecution proves beyond reasonable doubt that on the aforesaid date, time, and place, due to the rash and negligent riding of the accused, the goods auto overturned, causing its driver, Rafiq Khan, to sustain grievous injuries, to which he succumbed while being shifted to the hospital, thereby committing an offence punishable under Section 304A of the Indian Penal Code ?

4. Whether the prosecution proves beyond reasonable doubt that on the above said date, time and place after the accident the rider / accused of the Suzuki Axis scooter bearing Reg.No.KA-45-EC-5786 did not inform the nearest police station about the accident and fled away from the spot without even helping the injured person for treatment, thereby the accused committed an offence punishable U/Sec.187 of IMV Act?
5. What Order?
9. After the close scrutiny of the entire evidence and after hearing the arguments my findings to the above Points are as follows:

Point No.1 to 4 : In the Negative

Point No.5 : As per the final Order
for the following:-

REASONS

10. **POINTS No. 1 to 4** : These points are interlinked to each other. Hence, I have taken up these points together for discussion in order to avoid repetition of facts and reasons.

It is the specific case of the prosecution that on 15.01.2023, at about 12:50 p.m., at Nagapura Hadi near the 4th Unit Gate on the Veeranahosalli–Hunsur Road, the accused, while riding the Suzuki Access scooter bearing Registration No. KA-45-EC-5786 from Hunsur towards Veeranahosalli village, rode the vehicle in a rash and negligent manner on the wrong side of the road. On account of the said act, the driver of the goods auto bearing Registration No. KA-45-6776, namely Rafiq Khan applied sudden brakes to avoid a collision, causing the auto to overturn. As a result, Rafiq Khan sustained grievous injuries and later succumbed to the same while being shifted to the hospital. CW-1, who was travelling in the goods auto, also sustained simple injuries. It is further alleged that the accused fled from the spot without informing the police or rendering

assistance to the injured. Hence, it is alleged that the accused committed the offences punishable under Sections 279, 337 and 304A of the Indian Penal Code and Section 187 of the Indian Motor Vehicles Act, and the prosecution is required to prove the ingredients of the said offences beyond reasonable doubt.

11. To prove the guilt of accused, the prosecution has to establish the following ingredients:-

U/Sec.279 of IPC: Whoever drives any vehicle on any public way, in a rash and negligent manner so as to endanger human life or likely to cause hurt or injury.

U/Sec.337 of IPC: whoever causes hurt by an act which endangers human life or the personal safety of others.

U/Sec.304(A) of IPC: whoever caused to death of any person by doing any act rashly or negligently to endanger human life or personal safety of others.

Section 187 of the Indian Motor Vehicles Act, 1988, imposes penalties for failing to comply with provisions related to accidents, such as Section 132, Section 133 and Section 134, which require drivers to report accidents and provide information.

12. In order to substantiate the case of prosecution, it has examined in all 8 witnesses as PW-1 to 8. Of witnesses, CW-1 is the complainant witness who got examined as PW-1; CW-3 is the mahazar witness who got examined as PW-2; CW-2 is the eye witness who got examined as PW-3; CW-4 is the mahazar witness who got examined as PW-4; CW-5 is the seizure mahazar witness who got examined as PW-5; CW-6 is also the seizure mahazar witness who got examined as PW-6; CW-18 & 19 are the Investigating Officers who got examined as PW-7 & PW-8. In

corroboration of oral evidence, the prosecution got marked Ex.P.1 to 22 documents.

13. PW.1, Mubarak Pasha, the complainant as well as the injured eye-witness, deposed that the deceased, Rafiq Khan, was his uncle-in-law. He stated that on 15.01.2023, he and the deceased were returning to Shabbira Nagar in a goods auto bearing Registration No. KA-45-6776 after attending the Hejjur fair. According to him, while he was standing inside the cabin of the goods auto, a white Honda Activa scooter came from the opposite direction in a zig-zag manner. On noticing the scooter approaching in that manner, the deceased applied sudden brakes in order to avoid a collision, as a result of which the goods auto overturned and fell on the deceased. He further deposed that the rider of the scooter, who is the accused before the Court, stopped near the spot for a short while but fled from the place on seeing the public gathering. He identified the registration number of the scooter as KA-45-EC-5786.

14. PW.1 further deposed that, due to the accident, the deceased sustained grievous injuries to his head, chest and other parts of the body, while he himself sustained injuries near his left eye, left hand and chest. According to him, both of them were shifted to the Government Hospital, Hunsur, where the doctors advised that the deceased be shifted to Mysuru for better treatment. However, while being shifted to Mysuru in an ambulance, the deceased succumbed to the injuries near Bilikere. Thereafter, the body was brought back to the Government Hospital, Hunsur, whereby he lodged the complaint before the Hunsur Rural Police. The complaint has been marked as Ex.P1 and he identified his

signature as Ex.P1(a). He specifically attributed the accident to the rash and zig-zag riding of the scooter by the accused.

15. PW.1 further deposed that the police conducted the spot mahazar and prepared the rough sketch in his presence, during which they obtained his signature. He identified the spot mahazar and rough sketch marked as Ex.P2 and Ex.P3 respectively along with his signatures marked as Ex.P2(a) and Ex.P3(a). He also identified the photographs of the offending scooter and the goods auto marked as Exs.P4 to P7 as well as CD containing the photographs marked as Ex.P8. He further identified the accused present before the Court as the rider of the offending scooter.

16. Since certain portions of his testimony were found to be inconsistent with his previous statement recorded during the course of investigation, the learned APP sought and obtained permission of the Court to treat PW.1 as partly hostile. During his cross-examination, the learned APP confronted him with the relevant portions of his previous statement recorded U/sec.161 Cr.P.C. in an attempt to establish that the accused was riding the scooter in a rash and zig-zag manner, that the accused fled from the scene after the accident, and that PW.1 had earlier stated these facts before the Investigating Officer. However, despite the cross-examination, no material favourable to the prosecution was elicited except to the extent recorded in the evidence.

17. In the cross-examination by the learned counsel for accused he admitted that the accused did not actually collide with the auto, the accident occurred because the auto overturned after sudden braking. He was treated partly hostile and the complaint

itself was lodged after the incident when the deceased had already succumbed. Thus, though PW-1 speaks about negligent driving, his evidence does not conclusively establish that the accused directly caused the accident

18. Herein, CW.3 / PW.2 – Syed Yunis who alleged to be a mahazar witness has deposed that he has identified his signatures on Ex.P2 and 3 – spot mahazar as Ex.P2(b) & 3(b), which he signed two years ago at Hunsur Rural police station between 2.00 p.m. to 4.00 p.m. As he identified two photographs, they got marked as Ex.P9 & 10. At this stage, the learned APP prays to treat the witness as partly hostile. PW-2 merely identified his signatures on the spot mahazar and sketch. He admitted that he signed the documents at the police station and not at the place of occurrence. He did not support the prosecution regarding preparation of the mahazar at the spot and was treated partly hostile. Hence, Ex.P2 and Ex.P3 receive very little corroboration through PW-2.

19. Herein, CW.2 / PW.3 – Syed Yunis who alleged to be an eye witness has completely turned hostile to the case of prosecution. In the cross-examination by the learned APP except denial nothing has been elicited from the mouth of this witness.

20. CW.4 / PW.4 – Riyaz Pasha, who is also a mahazar witness has identified his signatures on Ex.P3 & 4 – mahazar and sketch as Ex.P2(c) & 3(c), he signed them in the police station when he went to get release his vehicle and on the request of police between 4.30 p.m. At this stage, the learned APP prays to treat the witness as hostile. In the cross-examination by the learned APP

except denial nothing has been elicited from the mouth of this witness.

21. CW.5 / PW.5 – Fayaz Khan, who is also a mahazar witness has identified his signature on seizure mahazar Ex.P13 as Ex.P13(a), which he signed two years ago in the police station when he had been to release his scooter on the request of police. CW.4 was with him and he signed the same between 4.30 p.m. to 5.00 p.m. At this stage, the learned APP prays to treat the witness as hostile. In the cross-examination by the learned APP except denial nothing has been elicited from the mouth of this witness.

22. CW.6 / PW.6 – Syed Salman, who is a seizure mahazar witness has identified his signature on seizure mahazar Ex.P13 as Ex.P13(b), which he signed two years ago near canteen of Hunsur Town police station premises in respect of accident at about 11.00 a.m. and he turned hostile, but nothing is elicited in the cross-examination as well.

23. CW.18 / PW.7 – S. Radha, who is alleged to Investigating Officer has deposed that when she was working as PSI at Hunsur Rural Police station, on 15.01.2023 when she was SHO, at about 3.00 p.m. complainant Mubarak Pasha / CW.1 came to the police station and gave a computerised complaint, received and registered the same in Cr.No.16/2023 for the offences punishable under Sec.279, 337, 304(A) IPC and submitted the FIR to the court and to her higher officers. The complaint already got marked as Ex.P1 and she identified her signature on it which got marked as Ex.P1(b). She identified her signature on Ex.P18 / FIR as Ex.P18(a). Since the offences are serious, she handed over the case file to CW.19.

24. The evidence of PW-7 proved registration of FIR, receipt of complaint and forwarding of FIR to the Court. Her evidence is purely procedural and establishes registration of Crime No.16/2023.

25. CW.19 / PW.8 – Ravi C.V., is also an Investigating Officer has deposed that after receiving the case file from PW.7 on 15.01.2023, he took up further investigation. He visited the scene of occurrence, conducted the spot mahazar and prepared the rough sketch in the presence of panch witnesses, seized the goods auto involved in the accident and took photographs of the vehicles. He also conducted the inquest over the dead body of the deceased, recorded the statements of the witnesses and subsequently issued notice under Section 133 of the Motor Vehicles Act to the owner of the offending scooter and obtained the reply.

26. PW.8 further deposed that after the production of the scooter, he seized the same under a seizure mahazar in the presence of panch witnesses and recorded further statements of the material witnesses regarding identification of the accused. During the course of investigation, he collected the wound certificate of PW.1, the post-mortem report of the deceased, the IMV report, case sheet and other relevant documents. He also obtained the necessary indemnity bonds and certificate under Section 65-B of the Indian Evidence Act, completed the investigation and filed the charge sheet against the accused. He identified the relevant mahazars, notices, reports and other documents marked as Ex.P2 to Ex.P23.

27. Thus, PW-8 spoke about investigation, preparation of spot mahazar, seizure of vehicles, notices under Section 133 MV Act, inquest, IMV report, wound certificate, post-mortem report and

filing of charge sheet. His evidence proves investigation but does not by itself establish rashness or negligence unless corroborated by reliable eyewitnesses.

28. In the case on hand, the prosecution has mainly relied upon the testimony of PW.1, the complainant and injured witness to establish the guilt of the accused. PW.1 has deposed that on 15.01.2023 he was travelling in the goods auto driven by the deceased Rafiq Khan after attending a fair. According to him, while they were returning, the accused rode the Suzuki Access scooter in a zig-zag and rash manner, compelling the deceased to apply sudden brakes in order to avoid a collision. As a result, the goods auto overturned, causing fatal injuries to Rafiq Khan and simple injuries to PW.1. He has identified the accused before the Court and has also identified the complaint, spot mahazar, sketch and photographs relating to the accident.

29. Though the evidence of PW.1 inspires confidence to the extent that an accident had in fact occurred resulting in the death of Rafiq Khan, his testimony does not conclusively establish the criminal liability of the accused. A careful reading of his evidence reveals that there was no actual collision between the scooter ridden by the accused and the goods auto. According to his own version, the deceased himself applied sudden brakes in an attempt to avoid the scooter, resulting in the goods auto overturning. Thus, the immediate cause of the accident was the overturning of the auto after sudden braking and not any direct impact caused by the scooter. Further, PW.1 was treated as partly hostile and certain portions of his evidence do not fully support the prosecution case. The complaint was also lodged only after the injured was shifted to

the hospital and after the death of Rafiq Khan. Though PW.1 is an injured witness and his testimony deserves due weight, it requires independent corroboration on the material particulars regarding rashness and negligence, which is conspicuously absent in the present case.

30. PW.2, who was examined as a spot mahazar witness, has not supported the prosecution in its entirety. Though he identified his signatures on Ex.P2 and Ex.P3, he has categorically stated that he signed the documents at the police station and not at the place of occurrence. His evidence, therefore, creates a serious doubt regarding the manner in which the spot mahazar and sketch were prepared. As he has not supported the prosecution on the material aspect of preparation of mahazar at the scene of occurrence, he was treated as partly hostile. Consequently, the evidentiary value of Ex.P2 and Ex.P3 stands considerably weakened.

31. PW.3, who was projected as the independent eyewitness to the occurrence, has completely turned hostile. He has not supported the prosecution on any material aspect of the incident. Even during the cross-examination conducted by the learned Assistant Public Prosecutor, nothing useful has been elicited to support the prosecution case. The hostility of PW.3 assumes great significance because he was expected to provide independent corroboration regarding the manner in which the accident occurred. In the absence of such corroboration, the prosecution case substantially rests only upon the interested testimony of PW.1. Likewise, PW.4, another mahazar witness, has admitted only his signatures on the mahazar and sketch. He has specifically stated that he signed those documents in the police station while obtaining

the release of his vehicle and not at the place of occurrence. He has also failed to support the prosecution regarding the actual preparation of the mahazar and was treated as hostile. Similarly, PW.5 and PW.6, who were examined as seizure mahazar witnesses, have merely admitted their signatures on Ex.P13 but have categorically stated that they signed the documents at the police station. Neither witness has supported the prosecution regarding the seizure proceedings or the recovery of the vehicle. They too were declared hostile. Consequently, the seizure mahazar loses much of its corroborative value and cannot be treated as independent evidence establishing the prosecution case. PW.7, the then Station House Officer, has deposed regarding the receipt of the complaint, registration of Crime No.16/2023 and forwarding of the FIR to the Court. Her evidence is purely formal and procedural in nature. It only establishes the registration of the criminal case and does not throw any light on the manner in which the accident actually occurred.

32. PW.8, the Investigating Officer, has spoken about the investigation conducted by him, preparation of the spot mahazar and sketch, seizure of the vehicles, issuance of notice under Section 133 of the Motor Vehicles Act, conduct of inquest, collection of post-mortem report, IMV report, wound certificate and filing of the charge sheet. Though his evidence establishes that the investigation was conducted in accordance with law, it is well settled that the testimony of the Investigating Officer cannot substitute substantive evidence regarding the occurrence of the accident or the rashness and negligence attributed to the accused. In the absence of reliable and trustworthy ocular evidence, the investigation by itself cannot prove the guilt of the accused beyond reasonable doubt.

33. The documentary evidence produced by the prosecution, namely Ex.P1 to Ex.P23, consisting of the complaint, FIR, spot mahazar, sketch, photographs, seizure mahazar, inquest report, post-mortem report, wound certificate, IMV report, notices issued under Section 133 of the Motor Vehicles Act, indemnity bonds and other connected documents, undoubtedly establishes that a road traffic accident had occurred, that one person sustained fatal injuries and another sustained simple injuries and that investigation was carried out by the police. However, these documents are only corroborative in nature. They cannot, by themselves establish that the accused drove the scooter in a rash or negligent manner or that his conduct was the direct and proximate cause of the accident.

34. On a careful appreciation of the entire oral and documentary evidence, this Court finds that the prosecution has failed to establish the essential ingredients of the offences alleged against the accused. The prosecution case substantially rests upon the evidence of PW.1, whose testimony suffers from material infirmities and lacks independent corroboration. The most material eyewitness, PW.3, has completely turned hostile. The mahazar witnesses as well as the seizure witnesses have also not supported the prosecution. Their evidence seriously affects the credibility of the investigation and deprives the prosecution of independent corroborative evidence. Significantly, the prosecution has failed to establish that there was any actual collision between the scooter ridden by the accused and the goods auto. The admitted factual position is that the goods auto overturned after its driver applied sudden brakes. In criminal law, mere presence of a vehicle at the place of occurrence or the fact that another driver applied sudden brakes does not automatically constitute rashness or negligence

punishable under Sections 279 or 304A of the I.P.C. To attract criminal liability under Section 304A IPC, the prosecution must prove that the rash or negligent act of the accused was the direct, efficient and proximate cause of the death without the intervention of any independent cause. Such evidence is wholly lacking in the present case.

35. The law is well settled that suspicion, however strong, cannot take the place of legal proof. The prosecution is required to establish every essential ingredient of the offence beyond all reasonable doubt. Whenever the evidence gives rise to two possible views, the view favourable to the accused must necessarily be adopted. In the present case, the evidence placed on record creates substantial and reasonable doubt regarding the manner in which the accident occurred and the actual role of the accused. The prosecution has failed to establish beyond reasonable doubt that the accused alone was responsible for the accident or that his alleged rash and negligent driving was the proximate cause of the death of Rafiq Khan. Consequently, the accused is entitled to the benefit of doubt. Accordingly, this Court holds that the prosecution has failed to prove the offences punishable under Sections 279, 337 and 304A of the I.P.C. as well as Section 187 of the Motor Vehicles Act beyond reasonable doubt. So, the accused is entitled to an order of acquittal. Therefore, all the points for determination are answered in the **Negative**.

36. **POINT NO.5:-** In view of the discussions and conclusions arrived at Points No.1 to 4, the accused persons are entitled for acquittal. Hence, this court proceeds to pass the following:

O R D E R

Acting U/Sec 255(1) of Cr.P.C, accused is acquitted of the offences punishable U/Sec.279, 337, 304(A) of I.P.C., and Sec.187 of IMV Act.

The bail bond and surety bond already executed by the accused and his surety holds good for 6 months as contemplated U/Sec. 437(A) Cr.P.C.

(Dictated to the stenographer directly on computer, typed by him, corrected, signed and then pronounced by me in the open court this 29th day of June 2026)

(BHAGYAMMA)
I ADDL. SENIOR CIVIL JUDGE & JMFC.
HUNSUR

ANNEXURE**WITNESS EXAMINED FOR THE PROSECUTION.**

PW-1 : Mubarak Pasha
PW-2 : Syed Yunis
PW-3 : Shivanna
PW-4 : Riyaz Pasha
PW-5 : Fayaz Khan
PW-6 : Syed Salman
PW-7 : S. Radha
PW-8 : Ravi C.V.

DOCUMENTS MARKED FOR THE PROSECUTION

Ex.P-1 : Complaint
Ex.P-1(a) : Signature of PW-1
Ex.P-2 : Spot Mahazar
Ex.P-3 : Sketch
Ex.P-4 & 5 : Photos of scooter
Ex.P-6 & 7 : Photos of Goods auto
Ex.P-8 : CD

Ex.P-9 & 10 : Photo of spot of incident
Ex.P-11 : Statement of PW.3
Ex.P-12 : Further statement of PW.3
Ex.P-13 : Seizure mahazar
Ex.P-13(a) : Signature of PW.5
Ex.P-13(b) : Signature of PW.6
Ex.P-14 : Inquest Mahazar
Ex.P-15 : P.M. Report
Ex.P-16 : IMV Report
Ex.P-17 : Wound Certificate
Ex.P-18 : FIR
Ex.P-19 : Notice u/sec.133 of IMV Act
Ex.P-20 : Reply
Ex.P-21 : Indemnity bond
Ex.P-22 : Certificate u/s 65(b) of Indian Evidence Act
Ex.P-23 : Indemnity bond

WITNESS EXAMINED ON BEHALF OF THE ACCUSED.

Nil

DOCUMENTS MARKED ON BEHALF OF THE ACCUSED.

Nil

(BHAGYAMMA)
I ADDL. SENIOR CIVIL JUDGE & JMFC.
HUNSUR