

KAVP030070772023



Presented on : 11-09-2023

Registered on : 11-09-2023

Decided on : 07-10-2024

Duration : 1 years, 0 months, 26 days

**IN THE COURT OF III ADDL.CIVIL JUDGE & J.M.F.C
VIJAYAPURA**

: PRESENT :

Smt.Smitha Mahaveer Malaganve

B.A., LL.B.

**III Addl. Civil Judge & JMFC,
Vijayapura**

Criminal Case No.4214/2023

Dated on this the 07th day of October 2024

Complainant:

The State of Karnataka
Represented by CPI Rural Circle,
Vijayapura.

(By Asst. Public Prosecutor)

Vs.

Accused:

Basavaraj S/o Kallappa Agsar,
Age: 30 years, Occ: Coolie,
R/o: Honaganahalli
Tq:Dist.Vijayapur.

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

1	Date of commission of offence	22.08.2022
2	Date of report of offence	23.08.2022
3	Date of opening of evidence	06.02.2024
4	Date of closing of evidence	20.08.2024
5	Offences complained of	U/s. 279, 337, 338 & 304(A) of IPC
6	Opinion of Judge	Accused acquitted

J U D G M E N T

The CPI of Rural Circle, Vijayapura has filed this Charge Sheet against the accused for the offences punishable U/Sec.279 337, 338 and 304(A) of IPC.

2. **The case of the prosecution in brief is as under:**

On 22.08.2022 at about 8.00 pm on the road of Tikota-Vijayapur, near the land of Sabu s/o Krishna Bajabale, the accused drove the motorcycle bearing No.KA.28/EM 4585 with pillion rider by name Varun S/o Irappa Agasar, in a rash

and negligent manner so as to endanger human life and personal safety of others, lost control over the motorcycle and caused accident. Due to this impact the accused and the said Varun fell down and the said Varun sustained grievous head injuries and died at the spot and accused also sustained simple and grievous injuries to the right hand and leg. Thereafter CW.1 lodged complaint before Tikota police station and police registered the case under crime No.112/2022 for the offences punishable U/sec.279 and 338 and 304(A) of IPC.

3. The Investigating Officer filed charge-sheet against the accused for the offences punishable U/Sec.279, 337 and 338 and 304(A) of IPC. This court took cognizance of the said offence and summons was issued to the accused. Thereafter, the accused appeared before the court and enlarged on bail. The copies of charge sheet &

prosecution materials have been supplied to accused in compliance of Sec.207 of Cr.P.C. Accordingly, Plea was recorded for the offences punishable U/Sec.279, 337, 338 and 304(A) of IPC and it was read over and explained to the accused in language known to him. Accused pleaded not guilty and claims to be tried.

4. Prosecution to prove its case, in all got examined seven witnesses as PW.1 to PW.7 and got marked the documents as per Ex.P.1 to Ex.P.20.

5. After closure of evidence of the prosecution side, the statement of the accused has been recorded U/Sec.313 of Cr.P.C. so as to enable the accused to answer the incriminating circumstances appearing against him in the evidence of the prosecution witnesses. The accused denied the entire incriminating evidence appeared

against him and did not choose to lead any defence evidence on his behalf.

6. Heard the arguments of learned A.P.P. for the State and advocate for the accused. Perused entire materials on record.

7. On careful examination of contentions of both the sides and evidence on record, the following points arise for consideration of this court:

POINTS

1. *Whether the prosecution has proved beyond all reasonable doubt that, on 22.08.2022 at about 8.00 pm on the road of Tikota-Vijayapur near the land of Sabu s/o Krishna Bajabale, the accused drove the motorcycle bearing No.KA.28/EM 4585 with pillion rider by name Varun S/o Irappa Agasar in a rash and negligent manner so as to endanger human life and personal safety of others, lost control over the motorcycle and caused accident and*

thereby committed the offence punishable U/Sec.279 of IPC ?

2. *Whether the prosecution has proved beyond all reasonable doubt that on the above said date, time and place, the accused drove the motorcycle bearing No.KA.28/EM 4585 with pillion rider by name Varun S/o Irappa Agasar in a rash and negligent manner so as to endanger human life and personal safety of others, lost control over the motorcycle and caused accident, as a result of which they both fell down and the accused sustained simple injuries to his right hand and leg and thereby committed the offence punishable U/s.337 of IPC?*

3. *Whether the prosecution has proved beyond all reasonable doubt that on the above said date, time and place, the accused drove the motorcycle bearing No.KA.28/EM 4585 with pillion rider by name Varun S/o Irappa Agasar in a rash and negligent manner so as to endanger*

human life and personal safety of others, lost control over the motorcycle and caused accident, as a result of which they both fell down and the accused sustained grievous injuries to his right hand and leg and thereby committed the offence punishable U/s.338 of IPC?

4. *Whether the prosecution has proved beyond all reasonable doubt that on the above said date, time and place the accused drove the motorcycle bearing No.KA.28/EM 4585 with pillion rider by name Varun S/o Irappa Agasar in a rash and negligent manner so as to endanger human life and personal safety of others, lost control over the motorcycle and caused accident, as a result of which they both fell down and the said pillion rider Varun sustained grievous head injuries and died at the spot and thereby committed the offence punishable U/ s. 304(A) of IPC?*

5. *What order or sentence ?*

8. The above points are answered as under:

Point No.1: In the Negative

Point No.2: In the Negative

Point No.3: In the Negative

Point No.4: In the Negative

Point No.5: As per final order
for the following :

: R E A S O N S :

9. **POINT No.1 to 4:-** These points are inter connected to each other, to avoid repetition of facts all these points are taken together for common discussion. In this case, accused has been charge-sheeted for the offences punishable U/Sec.279, 337, 338 and 304(A) of IPC. In order to prove the allegations leveled against the accused, the prosecution examined the complainant and other witnesses as Pws.1 to 7. PW.1 is the complainant, PW.2 is the mother of deceased, PW.3 to 6 are the

other witnesses, PW.7 is the owner of the motorcycle. The prosecution in order to prove the guilt of accused got marked at Ex.P-1 to 20 documents. Ex.P-1 is the complaint, Ex.P-2 is the inquest panchanama, Ex.P.3 is the Photo, Ex.P.4 is the PM report, Ex.P.5 is the spot panchanama, Ex.P.6 is the photo, Ex.P.7 is the panchanama, Ex.P.8 and 9 are the photos, Ex.P.10 is the MV report, Ex.P.11 is the wound certificate, Ex.P.12 is the certificate U/s 65(B), Ex.P.13 is the police notice U/s 133 of IMV Act, Ex.P.14 is the indemnity bond, Ex.P.15 to 20 are the statements,

10. PW.1 deposed that CW.6 is his wife. CW.7 is his son. He knew CW.2 to 5 and 8 to 12. He knew accused. On 22.08.2022 his son Varun died in a road accident. He did not know as to how and due to whose mistake the accident was happened. Nobody informed him about the accident. He

lodged the complaint as per Ex.P.1 and his signature is at Ex.P.1(a). He has not saw the vehicle which caused accident and he didn't know the vehicle number.

11. PW.2 to 6 are the other witnesses. All these witnesses in their chief-examination deposed that they knew accused. On 22.08.2022 Varun died in a road accident. However, all these witnesses turned hostile to the case of prosecution by deposing that they didn't know as to how and due to whose mistake the accident was happened. PW.7 who is the owner of the motorcycle deposed only about the release of his vehicle.

12. The learned APP treated all these witnesses i.e., PW.1 to 7 as hostile and cross-examined them. But nothing was elicited to support the case of prosecution. None of the witnesses identified the accused and they denied

all the suggestions putforth by the learned APP at the time of cross-examination.

13. The accused denied the incriminatory evidence appearing against him at the time of recording his statement u/s 313 of CR.P.C. The accused denied the case of the prosecution in toto. The burden is on the prosecution to prove the guilt of the accused beyond all reasonable doubts.

14. The prosecution has to prove the ingredients of the offences U/Sec.279, 337, 338 and 304(A) of IPC has to prove that the accused drove the motorcycle bearing No.KA.28/EM 4585 with pillion rider by name Varun S/o Irappa Agasar, in a rash and negligent manner so as to endanger human life and personal safety of others, lost control over the motorcycle and caused accident and due to the impact of accident Varun succumbed in the hospital during the treatment.

15. Ex.P.1 is the complaint given by PW.1. In Ex.P.1 it is stated that the accident took place due to the rash and negligent act of the accused. Ex.P.7 is the vehicle mahazar and Ex.P.10 is the IMV report. Ex.P-10 reveal that the accident was not occurred due to any mechanical defects of the vehicles. Ex.P.2 is the inquest mahazar and Ex.P.4 is the PM report of deceased Varun. On perusal of the Ex.P.2 and 4, it is clear that the deceased Varun died due to accidental injuries.

16. On perusal of oral and documentary evidence, it is found that the injuries suffered by deceased Varun at time of accident. But the prosecution to prove the guilt of the accused has to prove that the accused was driving the said motorcycle on the date of incident and caused accident due to his rash and negligent driving. However on perusal of the entire evidence of the

prosecution, it can be observed that the complainant, eye witnesses and other witnesses have not supported the prosecution case to prove the guilt of the accused. Therefore the evidence on record does not give the impression that the accused was driving the vehicle in a rash and negligent manner and caused the accident. Therefore there is nothing on record to show that the accused drove the vehicle in rash and negligent manner and caused accident, which caused the death of deceased Varun.

17. As per the cardinal principles of criminal jurisprudence, the prosecution is required to bring home guilt against the accused beyond all reasonable doubt. But absolutely there is no iota of evidence to bring home the guilt against the accused beyond all reasonable doubts for the offences punishable U/Sec.279, 337, 338 and

304(A) of IPC. Hence, benefit of doubt would go in favour of accused. Hence points No.1 to 4 are answered in the **Negative**.

18. **POINT No.5:** In view of my findings on the above points, this Court proceeds to pass the following:

O R D E R

Acting u/s.255(1) of the Cr.P.C.,
accused is hereby acquitted of the
offences punishable U/Sec.279, 337,
338 & 304(A) of IPC.

Bail bonds of the accused stand
cancelled.

(Dictated to the stenographer directly on computer, typed by him, corrected and pronounced by me in Open Court on this the **07th day of October 2024**)

(Smitha .M. Malaganve)
III Addl. Civil Judge & JMFC,
Vijayapura

ANNEXURES**I. List of witnesses examined:**

By prosecution		By defence
PW-1	Irappa Agasar	-Nil-
PW-2	Lakkawwa Agasar	
PW-3	Sachin Agasar	
PW-4	Chandrakshekhar Yalreddy	
PW-5	Anand Agasar	
PW-6	Pranshukumar Agsar	
PW-7	Gurappa Agasar	

II. List of documents exhibited

By prosecution		By defence
Ex.P-1	Complaint	
Ex.P-(a)	Signature	
Ex.P-2	Inquest panchanama	
Ex.P-3	Photo	
Ex.P-4	PM report	
Ex.P-5	Spot panchanama	

Ex.P-6	Photo	
Ex.P-7	Panchanama	
Ex.P-8 & 9	Photos	
Ex.P-10	MV report	
Ex.P-11	Wound certificate	
Ex.P-12	Certificate U/s 65(B)	
Ex.P-13	Notice U/s 133 of MV Act	
Ex.P-14	Indemnity bond	
Ex.P-15 to 20	Statements	

III. List of Material objects marked

N I L	N I L.
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(Smitha .M. Malaganve)
III Addl. Civil Judge & JMFC,
Vijayapura