



**IN THE COURT OF II ADDL CIVIL JUDGE & JMFC
COURT, MAGADI**

:Present:

**Smt.Ranjitha G.B. B.B.A, LLB(Hons)
II ADDL.CIVIL JUDGE & JMFC, MAGADI**

CC No.5479/2023

Dated 6th day of September, 2025

Complainant : State by Tavarekere PS

-V/s-

Accused : Hemanth Kumar

**ORDER ON APPLICATION FILED UNDER SEC.319 OF
Cr.P.C**

This application filed by the Learned Prosecutor under Section.319 of Cr.P.C. The present complaint is filed for the offences punishable under Sec.279 & 304(a) of IPC and 187 of IMV act as against the Accused. During the course of evidence of PW-1, she has deposed that, due to the negligence of Administrative of MES School, they have not appointed the servant to the school bus and due



to which, accident had occurred. Further, during the course of evidence of CW-4, he has deposed that, as on the date of incident, servant was not appointed to the school bus and at 3.45 p.m., on 07.06.2023, the school came near the house and dropped Kum.Lishmitha and thereafter, due to the rash and negligent driving of the Accused, the said bus had went above Kum.Lishmitha. Therefore, the said person is needed to be added as additional Accused for proper adjudication. Hence, prayed to allow the application.

2. The proposed Accused has filed objection and contended that, the Administrative of MES School is no where related to the said accident because he was not present at the time of said accident. It is stated that, just because the name of the Administrative of MES School is mentioned in the FIR, he cannot be arrayed as Accused. Further, there is no negligence by the proposed Accused. During the course of evidence of CW-1, she has only stated that, the person who is present is also involved in



the alleged incident. That apart, CW-1 has not stated any anything.

4. At the time of filing the Charge sheet, the proposed Accused was not charge-sheeted. At that time, the learned APP has not challenged the said charge sheet. There is no prima-facie material to proceed as against proposed Accused. Therefore, this Court cannot summon the said person to answer the charge. Hence, prayed to reject the application.

5. Heard both sides. Perused the material on record.

6. This Court arises the following points for consideration.

1. Whether the prosecution has made out sufficient grounds to allow the application?

2. What order?



7. The findings on the above Points are as follows:

- Point No.1** : In the '**Negative**'
Point No.2 : As per the final order,
for the following:

REASONS

8. **POINT No.1:** This Complaint is filed by the Tavarekere Police Station under Sec.279 & 304-A of IPC and Sec.187 of IMV Act.

9. The Complainant/PW-1 had given Complaint to the jurisdictional Police Station stating that, on 07.06.2023, the daughter of CW-1 by name Kum.Lishmitha had gone to school and at 3.45 p.m., near the house of CW-1, the driver of the school bus had dropped Kum.Lishmitha, along with other children. In order to go to the house, the daughter of CW-1 was crossing the road from left side towards the right side, at that time, the driver of the school bus moved forward, due to which, the backside right tyre of the



bus went above the stomach, chest & handa of the daughter of CW-1. Due to the failure of treatment, she died at 5.30 p.m. At the time of examination-in-chief, PW-1 has deposed that, she has lodged the complaint as against the Accused and the administrator of the school. The relevant portion of the chief-examination of PW-1 is extracted below for reference:

“ ಸದರಿ ಅಪಘಾತಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ನಾನು ಆರೋಪಿ ಮತ್ತು ಶಾಲೆಯ ಆಡಳಿತ ವರ್ಗದವರ ಮೇಲೆ ದೂರನ್ನು ನೀಡಿರುತ್ತೇನೆ”.

10. Further, during the course of cross-examination of PW-1, she has denied to the suggestion that, the said accident was occurred due to the fault of PW-1 and the administrator of the school. The very admission of PW-1 itself establishes that, the administrator of the school was not involved in the said accident. That apart, CW-13 & 14 being an eye witnesses in their statement have deposed that, the said accident had occurred due to the negligent act of the Accused. The



relevant portion of the statement of CW-13 & 14 is extracted below for reference:

“ ಶಾಲಾ ಮಕ್ಕಳನ್ನು ಬಸ್ಸಿನಿಂದ ಇಳಿಸಿದ ಕೂಡಲೇ ಮಕ್ಕಳು ರಸ್ತೆ ದಾಟುವುದನ್ನು ಗಮನಿಸದೆ ನಿರ್ಲಕ್ಷ್ಯತೆಯಿಂದ ಬಸ್ಸನ್ನು ಚಾಲನೆ ಮಾಡಿ ಲಿಶ್ಚಿತಾಳ ಮೇಲೆ ಬಸ್ಸಿನ ಚಕ್ರವನ್ನು ಹತ್ತಿಸಿ ಅವಳಸಾವಿಗೆ ಕಾರಣನಾಗಿರುವ ಕೆಎ-43-5807 ಬಸ್ಸಿನ ಚಾಲಕ ಹೇಮಂತ್ ಕುಮಾರನ ಮೇಲೆ ಕಾನೂನು ರೀತ್ಯಾ ಕ್ರಮ ಜರುಗಿಸಬೇಕೆಂದು ಕೋರುತ್ತೇನೆ ”.

11. It is pertinent to note that, only PW-1 who is the Complainant has stated that, administrator of the school was also involved in the said incident. But, CW-13 & 14 being an eye witnesses have not stated about the involvement of administrator of the school in the said incident. This being the situation, only based on the oral evidence of the PW-1, this Court cannot opined that, administrator of the school was also involved in the said incident, because PW-1 is neither the victim nor the eye witness in the present case. Moreover,



administrator of the school was not the driver of the offending vehicle. Therefore, by considering the above reasons, this Court is of the opinion that, the prosecution has not made out any grounds to allow the application. Hence, this Court proceeds to answer Point No.1 in the “***Negative***”.

12. **POINT No.2:** In view of the aforesaid reasons, this Court proceeds to pass the following:

ORDER

The application filed by the prosecution under Sec.319 of Cr.P.C, is hereby rejected.

**II Addl.Civil Judge & J.M.F.C,
Magadi**