

KASM600001542025



**IN THE COURT OF V ADDL. DISTRICT
AND SESSIONS JUDGE, SHIVAMOGGA
(SITTING AT SAGAR)**

Dated this the 30th day of June, 2026

PRESENT

Sri. Ravindra R. B.A.L., LL.M.
V Addl.District & Sessions Judge,
Shivamogga. (Sitting at Sagar).

Crl.A.No.10011/2025

Appellant :

Hullappa Ambiger,
S/o Basappa,
Aged about 45 years,
Driver,
R/at Lalligudda village,
Hunagunda taluk,
Bagalkot District.

**(Rep. By Sri.Channappa B.A.
Advocate)**

Respondent:

The State of Karnataka
Represented by

Sagar Town Police Station,
Sagar.

[represented by:
Public Prosecutor]

JUDGMENT

The appellant/accused has preferred this appeal U/Sec.374(3) of Cr.P.C questioning the legality and correctness of the Judgment of conviction and sentence passed by the learned Prl. Civil Judge and JMFC, Sagar, in C.C.No.1512/2022 dated 24.01.2025, wherein the trial Court has convicted the accused for the offences punishable U/Secs.279, 337 and 304-A of IPC.

2. Brief facts of the prosecution case are that:

On 02.07.2022 at about 5.10 a.m., on B.H Road, near IB Circle, in front of Durgaparameshwari Traders, the deceased Ganesh and Cw.2 were going on their bicycles on the left side of the road. At that time, the NWKRTC bus bearing no.KA.31/F-1633 driven by the accused came from Shivamogga side in a rash and negligent manner and hit the bicycles of the deceased Ganesh and C.W.2 from behind. Due to the impact, the Ganesh fell on the road

along with bicycle and sustained injuries to his head, ear, nose and blood was coming from the mouth of Ganesh. C.W.2 had fallen on the mud and he had sustained abrasion injuries on his legs and hands. The Ganesh was shifted to the government hospital, sagar and doctors informed that Ganesh was brought dead. C.W.2 had sustained simple injuries. Hence, Cw.1, the eye witness to the alleged accident lodged first information before the respondent police to take action against the accused. Based on the said information of CW.1, case was registered against the accused for the offences referred above and final report was submitted before the trial Court.

3. After filing of final report, the trial Court took cognizance of the offences against the accused and summons was issued to the accused. In pursuance of summons, the accused appeared before the trial Court and he was enlarged on bail. After complying Section 207 of Cr.P.C. plea of the accused was recorded.

4. In order to prove its case the prosecution examined 06 witnesses as PW1 to PW6 and 15 documents were marked as Ex.P1 to Ex.P15. After closing prosecution evidence, the accused was examined U/Sec.313 of Cr.P.C. The accused denied the incriminating material against him and he has not led any evidence on his behalf.

5. After hearing the arguments on both sides and considering the oral and documentary evidence available on record, the trial Court has convicted the accused for the offences punishable U/Secs.279, 337 and 304-A of IPC.

6. Aggrieved by the above said judgment of conviction and sentence passed by the trial Court the appellant/accused has filed this appeal on the following grounds:

The learned Magistrate has erred in convicting, sentencing and imposing fine against the appellant and the impugned judgment is opposed to law, facts and probabilities of the case. The trial court wrongly

appreciated the evidence of PW.1, wherein PW.1 has clearly stated that he has not seen the accused at the spot on that day and he saw the accused in the police station. There is contradiction in the chief examination of PW.1 regarding filing of the complaint and identification of the accused. The story narrated by the witness cannot be believed to prove the guilt of the accused. The trial court blindly accepted the evidence of PW.2 by observing that he clearly supported the case of the prosecution. In fact, PW.2 was not certain about the incident. Based on uncertain evidence, the benefit of doubt should have been given to the accused. The investigation officer has not conducted the investigation during the investigation period. The said aspect is not considered by the trial court. The trial court erred in holding that, the evidence of PW.2 to 6 was sufficient to prove the guilt of the appellant. On the above said grounds, the appellant has prayed this Court to allow this appeal and acquit him for the offences referred above.

7. Heard both the parties. Perused materials and LCR available on record.

8. Following points arise for consideration are as under:

- 1) Whether the judgment of conviction and sentence passed by the trial Court in C.C. No.1512/2022 dated 24.01.2025 is perverse, illegal and calls for interference by this court ?
- 2) What order?

9. My finding on the above points is as under:

Point No.1 : In the Negative;

Point No.2 : As per final order
for the following-

REASONS

10. **POINT NO.1** : In order to bring home the guilt of rash and negligent driving of the accused three things need to be proved by the prosecution beyond all reasonable doubt which are as under:

- 1) That the accident actually did take place.
- 2) That the accident took place due to rash and negligent driving.
- 3) The accused was the person who was driving the vehicle at the relevant point of time.

11. To prove the guilt of the accused, the prosecution has examined 6 witnesses as PW.1 to 6.

12. PW.1 is the first informant and eye witness to the accident. In the chief examination, P.W.1 has deposed that two years back about 5.10 a.m., he was going on Shivamogga road. At that time, deceased Ganesh was going in his bicycle with newspapers. C.W.2 was also going with Ganesh. At that time KSRTC bus bearing registration no KA.31/F-1633 came in a rash and negligent manner and hit the bicycles of Ganesh and C.W.2 from behind. The head of the Ganesh went under the wheel of the bus and it got crushed, his hand was broken and blood was oozing out from the ears of the Ganesh. When he lifted Ganesh, he came to know that he is his sister's son. C.W.2 had also sustained injuries on his hands and legs.

13. P.W.1 has been cross-examined by the accused. In the cross-examination, P.W.1 has deposed that he saw the accident at a distance of 50 feet. At the time of the accident, he was going on his bike. He has denied the

suggestion that he was not present at the spot at the time of the accident. He has denied the suggestion that the bus was coming slowly and the accident did not happen due to the negligence of the accused.

14. P.W.2 is the injured and the eye witness. He has deposed that he and deceased Ganesh were working as paper delivery boys. On 02.07.2022 at about 5.10 a.m., after picking up the newspapers at Belalamakki, he and Ganesh were going in their bicycles on the left side of the road towards Sagar from Shivamogga side. When they were going near Durga Parameshwari Traders, the bus came and hit their bicycles. Due to force of the collusion, the bicycle that Ganesh was riding broke into two pieces and fell on both the sides of the road. Ganesh fell on the left side of the road. He fell on the mud. At that time, C.W.1 and C.W.3 came to the spot and took them to the Hospital.

15. P.W.2 has been cross-examined by the counsel for the accused. In the cross-examination, he has denied the suggestion that he and Ganesh came across the bus

which was coming behind them. Further, he has deposed that, he had also sustained injuries and he gave statement before the police on 03.07.2022. Further, the accused has made another suggestion to P.W.2 that, when the bus came near them and horned, they got frightened, which led to the accident.

16. It is pertinent to mention here that, in the cross examination of the PW.1 and 2, nothing worth has been elicited from the mouth of PW.1 and 2, to disprove the case of the prosecution that the alleged accident happened due to the rash and negligent driving of the bus by the accused. The accused has taken vague defence and has made suggestion to the Pw.1 and 2 who are the eye witnesses that the accident happened due to the negligence of the deceased and PW.2. PW.1 and 2 in clear terms have deposed that the accused drove the bus in a rash and negligent manner and hit the bicycles, which culminated in the death of the deceased Ganesh.

17. The prosecution has produced the sketch of the incident spot as per Ex.P.9. Perusal of the sketch reflects

that the offending bus has hit the bicycles from the behind. Further, perusal of the IMV report and photographs reveal that the front bumper of the bus has been damaged. The IMV report / Ex.P.15 states that the accident occurred not due to any mechanical defects in the bus. Further, the photographs produced at Ex.P.3 to 8 reflects that due to force of the collusion, the bicycle that Ganesh was riding broke into two pieces and fell on both the sides of the road. Hence, from the said documents, it is clear that the bus driven by accused hit the bicycle, which culminated in the death of the deceased.

18. The cumulative effect of the entire evidence brought on record leads to the conclusion that the accident happened due to the rash and negligent driving of the offending bus by the accused/appellant.

19. The learned Magistrate has properly appreciated the oral and documentary evidence brought on record and has come to the right conclusion by holding that the accident happened due to the rash and negligent driving of the accused. The accused/appellant has not

urged valid grounds before this Court and has failed to substantiate that the findings given by the learned Magistrate are opposed to Law as well as the facts and circumstances of the case. The appellant has failed to convince this court that the impugned judgment is perverse and illegal. The trial court is justified in holding that the accused is guilty of the offence referred above. The impugned judgment does not call for interference by this court. Hence, the point no.1 is answered in the **Negative.**

20. **POINT No.2:-** In view of the above discussion, I proceed to pass the following-

ORDER

The appeal filed by the appellant/accused under Section 374(3) of Cr.P.C is hereby dismissed.

Consequently, the judgment of conviction and order of sentence passed by the trial Court in C.C.No.1512/2022 dated 24.01.2025 is hereby confirmed.

Send a copy of this judgment along with
TCR forthwith to the trial Court.

*(Typed to my dictation by Stenographer directly on Computer, corrected by
me and then pronounced in the open Court on this the 30th Day of June,
2026)*

(Ravindra R.)

V Addl.District & Sessions Judge,
Shivamogga. (Sitting at Sagar).