



**IN THE COURT OF CIVIL JUDGE AND JUDICIAL MAGISTRATE
FIRST CLASS, AT KORATAGERE**

PRESENT

SRI. HARISHA K.M., *B.A., LL.B.*
Civil Judge & JMFC
Koratagere.

Dated : 1st day of June 2026

C.C. No.379 of 2019

Complainant : State by Koratagere Police Station
(By learned Assistant Public Prosecutor)

VS.

Accused : Chandrashekar S/o Sanjeevaiah,
aged about 34 years,
Resident of Hanumanthagiri,
Kora Hobli, Tumakuru Taluk & District.
(By Sri S.K. Madhusudhan, Advocate)

*** * ***

Date of offence	:	21.04.2019
Date of report of offence	:	22.04.2019
Name of the complainant	:	Chikkobaiah
Date of commencement of recording of evidence	:	20.02.2026
Date of closing of evidence	:	21.05.2026
Offence complained of	:	U/Sec. 279, 304(A) of IPC, u/Sec.181 of IMV Act, 1988
Opinion of Magistrate	:	Acquitted

Sd/-
(HARISHA K.M.)
Civil Judge & JMFC,
Koratagere.



J U D G E M E N T

This final report is filed by the C.P.I of Koratagere Circle, Koratagere, against the accused for the offences punishable under Section 279, 304(A) of Indian Penal Code, and under Section 181 of Indian Motor Vehicles Act, 1988.

2. It is the case of prosecution that on 21.04.2019 at about 08.00 p.m., within the limits of Koratagere police station, at Jatti Agrahara, near Baraka Cross on Tumakuru-Koratagere road, the accused without having Driving License going on his two wheeler Hero Honda Splendor Pro vehicle bearing Reg.No.K.A.06-EG-535 in a rash and negligent manner as to endanger to human life and dashed to one Lakshminarasaiah, who is the brother of CW-1 from back side and caused accident. Due to the accident, said Lakshminarasaiah fell down on the road and sustained grievous injuries on his right side head, left hand, right leg and died at the spot. The accident was occurred due to rash and negligent riding of the accused, and thereby the accused has committed the offences punishable Under Section 279, 304(A) of Indian Penal Code and under Section 181 of Indian Motor Vehicles Act, 1988..

3. One Chikkobaiah has given first information before Koratagere police, on the basis of which Cr.No.54/2019 is registered against the

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accused punishable Under Section 279, 304(A) of Indian Penal Code, 1860 and under Section 181 of Indian Motor Vehicles Act, 1988. After investigation, the final report is filed against the accused for the offences punishable Under Section 279, 304(A) of Indian Penal Code, 1860 and under Section 181 of Indian Motor Vehicles Act, 1988..

4. On service of summons, the accused appeared before the court and obtained bail by filing necessary bail application. Prosecution papers as per Section 207 of Cr.P.C were furnished to him, substance of accusation is framed by this court for the offences punishable Under Section 279, 304(A) of Indian Penal Code, 1860 and under Section 181 of Indian Motor Vehicles Act, 1988, and read over to the accused, he pleaded not guilty and stated he has defense to make. Hence, case is posted for evidence.

5. The prosecution in order to prove its case, examined Four witnesses out of Eighteen witnesses as cited in the charge sheet, as PW-1 to PW-4 and got marked Thirteen documents at Ex.P-1 to Ex.P-13. In spite of issuance of witness summons and proclamation, the prosecution has not secured CW-2 and 3, hence CW-2 and 3 are dropped. CW-4 to 9, 12 to 16 are given up. The statement of the accused as required u/Sec.313 of Cr.P.C. is recorded, he denied all the material incriminating evidence put to him and he has not lead any defense evidence.

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6. Heard both sides and perused the records placed before the court.

7. The points that arise for my consideration are as under :

- i. Whether the prosecution proved beyond all reasonable doubt that on 21.04.2019 at about 08.00 p.m., within the limits of Koratagere police station, at Jatti Agrahara, near Baraka Cross on Tumakuru-Koratagere road, the accused going on his two wheeler Hero Honda Splendor Pro vehicle bearing Reg.No.K.A.06-EG-535 in a rash and negligent manner as to endanger to human life and thereby the accused committed offence punishable under Sec.279 of IPC ?
- ii. Whether the prosecution proved beyond all reasonable doubt that on the above said date, time and place, due to rash and negligent driving of the accused, he dashed to one Lakshminarasaiiah, who is the brother of CW-1 from back side and caused accident, due to the accident, said Lakshminarasaiiah fell down on the road and sustained grievous injuries on his right side head, left hand, right leg and died at the spot and thereby accused committed offence punishable under Sec.304(A) of IPC ?
- iii. Whether the prosecution proved beyond all reasonable doubt that on the above said date, time and place, the accused was not having valid Driving License to drove the two wheeler vehicle, and thereby accused committed offence punishable under Sec.181 of IMV Act ?
- iv. What order ?

8. Following are the findings for the above said points.

- | | | |
|-------------------|---|---|
| Point No.i to iii | : | In the Negative, |
| Point No.iv | : | As per final order
for the following : |

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REASONS

9. POINT No.i TO iii : Since these points require discussion on common evidence, to avoid repetition of facts and reasons, I have taken them together for discussion under common head. There are Four witnesses examined on behalf of the prosecution, out of Eighteen witnesses shown in the charge sheet. PW-1 and 2 are the Investigating Officers, PW-3 and 4 are the mahazar witnesses.

10. CW-18/PW-1 Nadaf is Investigating Officer. He deposed in his chief-examination that on 22.04.2019 he received the case file from CW-17 and verified the same. On the same day, he visit the government hospital and conducted inquest mahazar of deceased Lakshminarasaiah in the presence of CW-4 and 5 and on the same day, he recorded the statements of CW-8 to 10. On the same day post mortem of Lakshminarasaiah was conducted and handover the body to relatives of deceased. On the same day, he visit the spot of occurrence, and drawn spot mahazar shown by CW-2, in the presence of CW-10 and 11 and seized the two wheeler vehicle bearing Reg.No.K.A.06-EG-535 and drawn rough sketch at the spot and given requisition to CW-15 for verification of two wheeler vehicle. On 24.04.2019 he recorded the statements of CW-2 and 3 and on 30.04.2019 he has issued notice under column No.133 to the owner of the two wheeler vehicle, and

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received reply to the said notice and thereafter he received the Post Mortem report from Tumakuru District Hospital, and on 10.05.2019 he received Wound Certificate of accused and on 17.05.2019 he received the report from CW-15 and after completion of the investigation he has filed charge sheet against the accused. PW-1 has cross-examined by the learned counsel for accused. In his cross-examination, he denied all the suggestions put to him by the learned counsel for accused. The inquest mahazar, spot mahazar, rough sketch, wound certificate, IMV Report, PM Report, Notice issued under Sec.133, Reply to Notice and Indemnity Bond and photos are marked at Ex.P-10 to 11.

11. CW-17/PW-2 Manjunatha B.P. is another Investigating Officer. He deposed in his chief-examination that on 22.04.2019 when he was on duty at 8.30 a.m. in the Koratagere police station CW-1 came and lodged a complaint, and on the basis of complaint given by CW-1, he registered a case in Cr.No.54/2019 and submit the FIR before his higher officers and Court. Thereafter, he handed-over the case file to PW-18 for further investigation. He has identified the complaint and FIR and they are marked as Ex.P-12 and 13 and his signatures marked as Ex.P-12(a) and 13(a). PW-2 has cross-examined by the learned counsel for

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accused. In his cross-examination denied the suggestions put to him by the learned counsel for accused.

12. CW-11/PW-3 Umesh is the Mahazar witness. In his evidence, he identified his signature on spot mahazar Ex.P-2 and his signature marked as Ex.P-2(b), but he does not know the contents of Ex.P-2 and the police have not read-over the same. He deposed that in his presence, the police have not seized any vehicle. Thus, the PW-3 has not supported the case of prosecution and turned hostile. He has cross-examined by the learned A.P.P. In his cross-examination he denied all the suggestions put to him by the learned A.P.P.

13. CW-10/PW-4 Basavaraju is the inquest mahazar witness. In his chief-examination, he deposed that he knows the CW-11. He identified his signature on Ex.P-2 and it is marked as Ex.P-2(c). He deposed that about 8-10 years back, at the instance of police, he has signed on the said document near Jatti Agrahara bus-stand. But, he does not know what was written in the said document. The police have not read-over the same. In his presence the police have not seized any vehicle. Thus, the PW-4 has not supported the case of prosecution and turned hostile. He has cross-examined by the learned A.P.P. In his cross-examination he denied all the suggestions put to him by the learned A.P.P.

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14. Per contra, learned APP for State has submitted that the prosecution has been able to prove the guilty of the accused beyond the reasonable doubt. It has been further, stated that the testimony of the prosecution witnesses is liable and trust worthy which have been able to bring home the guilty of the accused beyond reasonable doubt.

15. The cardinal principle of the criminal law is that the accused is presumed to be innocent till he is proved guilty, beyond any reasonable doubt. The burden of proving guilt of the accused, exclusively lies on the prosecution and the prosecution is required to stand on its own legs. The benefit of doubt, if any, must go in favour of the accused.

16. Prosecution is required to prove the following ingredients to establish the guilt of the accused U/s 279 and 304 (A) of IPC: (I) The accused was driving his vehicle on a public way; (ii) Death of any person must have been caused; (iii) It must have been caused by rash or negligent act and driving of the accused; and (iv) Such death must not amount to culpable homicide.

17. It is the settled principles of law that, in order to attract ingredients of Section 304(A) of IPC, the prosecution has to prove the guilt of accused beyond all reasonable doubt, which must prove that the

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accused drove the vehicle in a rash and negligent manner so as to endanger the human life.

18. At this juncture it is worth to note here that, in the case of Ravi Kapur Vs. State of Rajasthan reported in (2012) 9 SCC 284, the Hon'ble Apex Court has considered what is 'Negligence' and at Para-11 held as under:

'Negligence' means omission to do something which a reasonable and prudent person guided by the considerations which ordinarily regulate human affairs would do or doing something which a prudent and reasonable person guided by similar considerations would not do. Negligence is not an absolute term but is a relative one; it is rather a comparative term. It is difficult to state with precision any mathematically exact formula by which negligence or lack of it can be infallibly measured in a given case. Whether there exists negligence per se or the course of conduct amounts to negligence will normally depend upon the attending and surrounding facts and circumstances which have to be taken into consideration by the Court. In a given case, even not doing what one was ought to do can constitute negligence."

19. Further in the said judgment, at para No.8, the Hon'ble Apex Court has observed that :

"8. Section 304-A carves out a specific offence where death is caused by doing a rash or negligent act and that act does not amount to culpable homicide under Section 299 or murder under Section 300. If a person willfully drives a motor vehicle into the midst of a crowd and thereby causes death to some person, it will not be a case of mere rash and negligent driving and the act will amount to culpable homicide. Doing an act with the intent to kill a person or knowledge that doing an act was likely to cause a person's death is culpable homicide. When intent or knowledge is the direct motivating force of the act, Section 304-A has to make room for the graver and more serious charge of culpable homicide. The provision of this section is not limited to rash or negligent driving. Any rash or negligent act whereby death of any person is caused becomes punishable. Two elements either of which or both of which may be proved to establish the guilt of an accused are rashness/negligence; a person may cause death by a rash or negligent act which may have nothing to do with driving at all.

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Negligence and rashness to be punishable in terms of Section 304-A must be attributable to a state of mind wherein the criminality arises because of no error in judgment but of a deliberation in the mind risking the crime as well as the life of the person who may lose his life as a result of the crime. Section 304-A discloses that criminality may be that apart from any mens rea, there may be no motive or intention still a person may venture or practice such rashness or negligence which may cause the death of other. The death so caused is not the determining factor."

20. From the above observation of Hon'ble Apex Court, it is clear that simply because there is an accident and a life was lost, it does not attract the ingredients of the said provision. The prosecution has to prove and show rash and negligence, which does not amount to culpable homicide. Only if the ingredients of Sections 279, 304(A) of Indian Penal Code, 1860 are proved, then it is for the accused to explain. But, burden of proof is always on the prosecution and it has to prove its case beyond all reasonable doubt, as alleged.

21. On careful consideration of the evidence discussed herein above, the evidence of PW-3 and 4, who are the mahazar witnesses, reveals that they have not supported the case of the prosecution and turned hostile. From the evidence of PW-3 and 4, the prosecution has not extracted anything about the accident to prove the guilt of the accused. Hence, the evidence of PW-3 and 4 is not helpful to prove the guilt of the accused.

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22. PW-1 and 2 are the Investigating Officers, their evidence is not supported by PW-3 and 4. Their evidence is formal evidence, they deposed that how they conducted mahazar and other procedure. Without supporting the evidence of PW-1 and 2, their evidence is not helpful to prove the guilt of the accused. Moreover, the complainant is said to be dead. The prosecution has failed to examine eye-witnesses and other independent witnesses, to prove its case.

23. There is no acceptable evidence to come to the conclusion that the accident had occurred due to rash and negligent driving of the accused. Considering all these facts, it is evident that the prosecution has failed to prove the manner in which the accident has occurred. There is absolutely no iota to show that the accused as drove the two wheeler in a rash and negligent manner. The spot panchanama and sketch are not proved.

24. The prosecution has failed to establish its case through material witnesses by placing cogent and corroborative evidence before the court. In the absence of any supporting evidence by the material witnesses to prove the guilt of the accused, this court is of the opinion that the benefit of doubt goes in favour of accused.

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25. All the aforesaid facts and circumstances, the accused cannot be convicted on presumptions or surmises, rather, all the ingredients including rash or negligent act as mentioned U/s. 279, 304(A) of Indian Penal Code, 1860 are required to be established. In the absence of any material on record, no presumption of rashness or negligence can be drawn by invoking the maxim of *res ipsa loquitor*. In the instant case, the prosecution has failed to prove the manner in which the accused was allegedly drove the two wheeler vehicle. The prosecution has also failed to place on record, and the relevant details of the spot of the accident that could have conclusively attributed culpable negligence or rashness upon the accused. Therefore, it cannot be held with certainty that the accident took place due to culpable rash and negligent driving of the accused or that the accused is responsible for the fatal injuries received by the deceased.

26. The findings given by Hon'ble Apex Court in case titled as B.C. Ramachandra vs. State of Karanataka, 2007 Cri. L.J 475 are relevant and reproduced as under: "In criminal proceedings, the burden of proving negligence as an essential ingredient of the offence lies on the prosecution. The said ingredient cannot be said to have been proved or made out by resorting to the rule of principle of *res ipsa loquitur*".

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27. The prosecution has failed to establish its case through material witnesses by placing cogent and corroborative evidence before the court. The prosecution has failed to establish that the accused is not having Driving License as on the date of accident. The prosecution has not suggested anything regarding the driving license hold by the accused. In the absence of any supporting evidence by the material witnesses to prove the guilt of the accused, this court is of the opinion that the benefit of doubt goes in favour of accused.

28. There is not even an iota of incriminating evidence against the accused to fix his liability U/s.279, 304(A) of Indian Penal Code, 1860, and Section 181 of IMV Act. When the prosecution has failed to prove its case that the accused has caused the accident and then accused is entitled to benefit of doubts in the case of prosecution. Hence, in the opinion of this court, accused is liable to be acquitted for the offences punishable under section 279, 304(A) of IPC, 1860 and Section 181 of IMV Act. Hence, on careful and meticulous appreciation of evidence and considering the totality of circumstances, the prosecution has failed to prove beyond all reasonable doubt that the charges leveled against the accused. Hence, I answer points No.i to iii in the '**Negative**'.

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29. POINT No.iv : In view of above reasons, I proceed to pass the following :

ORDER

Acting U/Sec 255(1) of Code of Criminal Procedure, it is ordered that the accused is acquitted for the offences punishable Under Section 279, 304(A) of Indian Penal Code, 1860 and under Section 181 of IMV Act, 1988.

The bail bond and surety bond executed by the accused are ordered to be continued in force for six months or till issuance of notice in respect of any appeal [if preferred] against the present Judgment before the appellate court.

(Dictated to the Stenographer, directly computerised by him, then corrected, signed and then pronounced by me in the open court on this the **1st day of June 2026**)

Sd/-

(HARISHA K.M.)
Civil Judge & JMFC,
Koratagere.

ANNEXURE

List of witnesses examined on behalf of the prosecution :

PW.1	-	Nadaf
PW.2	-	Manjunatha B.C.
PW.3	-	Umesh
PW.4	-	Basavaraju

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**List of exhibits marked on behalf of the prosecution :**

- Ex.P.1 – Inquest Mahazar
- Ex.P.2 – Spot Mahazar
- Ex.P.3 - Rough Sketch
- Ex.P.4 - Wound Certificate
- Ex.P-5 - IMV Report
- Ex.P.6 – Post Mortem Report
- Ex.P.7 – Notice issued u/S.133
- Ex.P.8 - Reply to Notice u/S.133
- Ex.P.9 - Indemnity Bond
- Ex.P-10 & 11- Photos
- Ex.P-12 - First information/Complaint
- Ex.P-13 - F.I.R.

List of witnesses examined on behalf of the accused :

- N I L -

List of exhibits marked on behalf of the accused :

- N I L -

Sd/-

Civil Judge & JMFC,
Koratagere.

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**01.06.2026**

State : By APP,

Accused : By Sri SKM, Adv.,

For Judgement,

(Vide separate judgment is passed and
pronounced in the open court)

ORDER

Acting U/Sec 255(1) of Code of Criminal Procedure, it is ordered that the accused is acquitted for the offences punishable Under Section 279, 304(A) of Indian Penal Code, 1860 and under Section 181 of IMV Act, 1988.

The bail bond and surety bond executed by the accused are ordered to be continued in force for six months or till issuance of notice in respect of any appeal [if preferred] against the present Judgment before the appellate court.

Civil Judge & JMFC,
Koratagere.

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