



**IN THE COURT OF THE I ADDL. DISTRICT & SESSIONS
JUDGE, RAMANAGARA**

PRESENT:

**Smt. M. Panchakshari, M.Com.,LL.B,
I Addl. Dist. & Sessions Judge, Ramanagara.**

Dated this the 27th day of June 2026

Crl.A.No.65/2023

Appellant/
Accused :

Umesh,
S/o. Late.Venkatesh,
Aged about 40 years,
Occp: Private Employee,
R/at: No.1993, 28th Cross,
Near Agasthya Vidyanikethana,
Srigandadakaval,
Bangalore-91.

(By Sri.M.K., Advocate)

Vs.

Respondent /
Complainant :

The State of Karnataka,
Kudur Police.

**(By Learned Public Prosecutor,
Advocate.)**

JUDGMENT

This appeal is preferred by the appellant under Section 374(3)(a) of Cr.P.C., being aggrieved by the judgment of conviction and sentence passed by the



Additional Civil Judge and JMFC., Magadi in
C.C.No.92/2019 dated:22.08.2023.

2. The appellant was accused and respondent is the prosecution before the trial Court. Hence the ranks of the parties are retained for brevity. The case of the prosecution before the trial Court is that, the Police Inspector of Kudur Police Station has filed a charge sheet against the accused for the offence punishable under Section 279, 338 and 304(A) of IPC.

The brief case of the prosecution is that, on 27.08.2017 at 02.30 p.m., when CW2 and the pillion rider Munianjinappa were proceeding in the motorcycle bearing No.KA-04-EP-5241 after attending the house warming ceremony at Lakkenahalli, when proceeding towards Bangalore on NH 75, near Lakkenahalli Handpost, when the rider of the motorcycle was taking a turn towards Nelamangala, the accused being the driver of the car bearing No.KA-05-MJ-2283 drove the same in a rash and negligent manner and hit against the motorcycle which was being driven by CW2 on account of which the motorcycle along with the rider and the pillion rider fell down and on account of grievous injuries sustained by the pillion rider over his head and other parts of the body he died at the spot and the rider of the bike CW2 sustained injury on his head thereby accused had



committed an offence punishable under Section 279, 338 and 304(A) of IPC.

After registering the case by Kudur Police in response to the summons, the accused appeared before the court and he was enlarged on bail. After submission of the charge sheet copy of the prosecution papers was furnished to the accused and the substance of acquisition was recorded whereby the accused pleaded not guilty and claimed to be tried. Accordingly, the prosecution was called upon to adduce evidence and the prosecution in all examined 8 witnesses and got marked 14 documents. After recording the evidence of the prosecution witnesses, the statement of the accused was recorded under Section 313 of Cr.P.C., with regard to the incriminating evidence and the accused had totally denied the statement alleged against him, but he had not led any defence evidence. After hearing the arguments, the Learned Magistrate found the accused guilty and convicted for the above said offences and sentenced to undergo simple imprisonment for a period of 2 months and pay fine of Rs.1,000/- for the offence punishable under Section 279 of IPC., in default of payment of fine, he shall undergo simple imprisonment for a period of 10 days. For further ordered to undergo sentence for simple imprisonment of 2 months and pay fine of Rs.1,000/- for the offence punishable under Section 338 of IPC., in default of payment of the fine, he shall undergo simple



imprisonment for a period of 10 days. Further, the accused is sentenced to undergo simple imprisonment for a period of 6 months and pay fine of Rs.8,000/- for the offence under Section 304(A) of IPC., in default of payment of fine amount to undergo simple imprisonment for a period of 30 days, all the sentences shall run concurrently.

3. Being agreed by the said judgment, the appellant preferred this appeal contending that the order under appeal is not maintainable either in law or on facts. The trial Court had not followed the proper procedure established under law. The order passed without any application of mind and failed to appreciate the evidence on record. The prosecution examined the eye witness CW2 as PW1 and he had not identified the accused, hence the prosecution treated the witness as partly hostile thereafter, when prosecution cross-examined the witness, he accepted the suggestions. Even the Mahazar witness had turned hostile, but the suggestions put forward by the prosecution had been admitted. The accident took place in a traffic signal hence, question of rash and negligent driving does not arise and the speed limit of the vehicle is around less than 20 kilometers per hour, hence question of rash and negligent driving of the appellant does not arise. The prosecution had utterly failed to prove the case in accordance with law so, the



appellant deserves acquittal. Hence, prayed for setting aside the judgment.

4. Public Prosecutor was notified. Heard the arguments after calling for the trial court records and then perused the records.

5. The point that arise for my consideration are as follows:

1) Whether the Trial Court has erred in assessing the fact of rash and negligent driving by the driver of the car bearing registration No. KA-05-MJ-2283 on account of which it had resulted in the accidental death of Manjunatappa, culpable homicide not amounting to murder?

2) Whether the judgment of conviction and sentence passed by the Trial Court is arbitrarily erroneous and against the evidence and hence liable to be set aside?

3) Water order?

6. My findings on the above points are as under:

Point No.1 : In Affirmative.



Point No.2 : In Negative.

Point No.3 : As per final orders
for the following;

REASONS

7. **Point No.1:-** On perusal of the Trial Court records and the evidence placed on record, it makes out that PW1 is the injured witness who is the rider of the motorcycle bearing registration No.KA-04-EP-5241, PW2 and PW4 are the mahazar witnesses, PW3 is the complainant who is none other than the brother-in-law of the deceased. PW5 is the Head Constable who had registered the case, PW6 is the Police Inspector who had conducted part of the investigation, PW7 is the then Circle Inspector of Police who had completed the investigation and filed the charge sheet against the accused and PW8 is the then PSI., who had also conducted part of the investigation.

8. On perusal of the evidence on record it is admitted fact that, the accused is the driver of the car bearing registration No.KA-05-MJ-2283, except the injured witness the prosecution had not cited any independent eye witness to the incident. Even there is no dispute with regard to the fact that Munianjinappa died on account of the injuries sustained in the road accident. Ex.P7 is the Post Mortem Report which makes out the



injury sustained on the head so, there was blood stains and bleeding over both the nostrils and back of the head and both ears. The death is due to hammerage and shock due to multiple grievous injuries to the vital parts of the body due to road traffic accident. Ex.P8 is Motor Vehicle Accident Report, whereby both the vehicles had been examined, whereby the brake system of both the vehicles were in order so, the expert had opined that the accident is not due to any mechanical defect of the said vehicles. The impact in the accident can be clearly made out from Ex.P8, whereby the front wind glass of the car is damaged and the engine bonnet damaged, front bumper damaged and left side headlight damaged.

9. The injured witness PW1 had deposed in his evidence that, he is not acquainted with the accused. Deceased Munianjinappa is his friend, he along with the deceased Munianjinappa came from Bangalore to Solur, Lakkenahalli Village to attend the house warming ceremony of one of their friend and after attending the function around 03.00 p.m., they left the spot to return back to Bangalore and at that time at Lakkenahalli hand post a car which came from back of their motorcycle hit from the hind side on account of which they both fell down from the bike and Munianjinappa died at the spot. PW1 sustained injury to his head, hand and legs. As the date of incident and the vehicle number and the act of the



accused is not deposed in the chief examination he had been partly treated as hostile witness and the suggestion put forward in the cross-examination is admitted by PW1, whereby he had admitted that on 27.08.2017 that he along with the deceased Munianjinappa were going in a motorcycle bearing No.KA-04-EP-5241 towards Bangalore and when they reached near Lakkenahalli, a car bearing No. KA-05-MJ-2283 came in N.H.75 in a rash and negligent manner and hit against their motorcycle and hit against their bike and the police had shown him the accused is the person who was driving the said car. In the cross-examination of PW1 nothing is brought out with regard to denial of the identity of the accused and with regard to the rash and negligent driving by the driver of the car. The cross-examination of PW1 in full reads as follows;

"ನನ್ನ ಹತ್ತಿರ ಒಂದು ಬೈಕ್ ಇರುತ್ತದೆ. ನಾನು ಲೈಸೆನ್ಸ್ ಪಡೆದುಕೊಂಡಿರುತ್ತೇನೆ. ಆ ದಿನ ನಾನು ಓಡಿಸುತ್ತಿದ್ದ ಬೈಕ್ ನನ್ನ ಸ್ನೇಹಿತನದ್ದು, ಮತ್ತೊಬ್ಬರ ಬೈಕ್ ಓಡಿಸುವಾಗ ಸುಮಾರು 2 ಕಿ.ಮೀ. ಓಡಿಸುವವರೆಗೂ ಸ್ವಲ್ಪ ವ್ಯತ್ಯಾಸವಾಗುತ್ತದೆ ಎಂದರೆ ಸಾಕ್ಷಿಯು ಹಾಗೇನು ಆಗಿಲ್ಲ ಎಂದು ನುಡಿಯುತ್ತಾರೆ. ಗೃಹ ಪ್ರವೇಶಕ್ಕೆ ಸುಮಾರು ಮಧ್ಯಾಹ್ನ 2 ಗಂಟೆಗೆ ಹೋಗಿದ್ದೆವು. ಬೈಕ್ ನಲ್ಲಿ ಹೋಗುವಾಗ ಇಬ್ಬರೂ ಹೆಲ್ಮೆಟ್ ಧರಿಸಿದ್ದೆವು. ಸುಮಾರು 20 ಕಿ.ಲೋ. ಮೀಟರ್ ಸ್ಪೀಡ್ ನಲ್ಲಿ ಹೋಗುತ್ತಿದ್ದೆನು. ಯಾವ ಕಾರು, ಏನು ಆಯಿತೆಂದು ನನಗೆ ಗೊತ್ತಿಲ್ಲ."

Except this nothing is brought out in the cross-examination.



10. The Mazhar witness who is examined as PW2 had deposed with regard to signing the Mazhar Ex.P1, wherein he had stated that the police had informed him with regard to the accident and then with regard to drawing the mahazar so, he came to the spot and signed Ex.P1. The said mahazar is drawn at about 11.00 a.m., and he was also present at the time of seizure of the vehicle. In the cross-examination PW2 had admitted with regard to the date and time of drawing the spot mahazar in the presence of CW3 and thereafter seizure of the vehicle in between 04.00 to 04.30 p.m. Though, the witness is partly treated as hostile, when he had admitted the suggestions put forward by the Learned Public Prosecutor it is for the defence to dispute or deny the said fact and make out the defence. Merely because the witness had turned hostile nothing is made out in the cross-examination of PW2, wherein it is only suggested as follows;

"ಪಂಚನಾಮೆ ಜರುಗಿಸಲು ಪೊಲೀಸರು ನೋಟೀಸ್ ನೀಡಿರುವುದಿಲ್ಲ. ಪಂಚನಾಮೆಯಲ್ಲಿ ಏನು ಬರೆದಿದ್ದರೆ ಎಂದನನಗೆ ಗೊತ್ತು. ಘಟನಾ ಸ್ಥಳಕ್ಕೂ ಮತ್ತು ನಮ್ಮ ಮನೆಗೂ 30 ಕಿ.ಮೀ. ಅಂತರವಿರುತ್ತದೆ."

11. The complainant having examined as PW3 who is the brother-in-law of the deceased, whereby as per his evidence on 28.08.2017 in between 02.00 to 02.30 p.m., he had received a phone call intimating that his brother-



in-law, Anjinappa had died in a road traffic accident which took place at Lakkenahalli handpost so, later he went to Nelamangala Government Hospital, then collected the information and lodged the complaint. The said complaint is marked as Ex.P5. He had also been partly treated as hostile witness by the prosecution and the suggestions put forward with the correct date of accident i.e., on 27.08.2017 and seizure of the vehicle is admitted in the cross-examination. Witness had also identified the through photographs which had caused the accident. In his cross-examination suggestions had been put forward with regard to receiving of the information and then seeing the dead body in the hospital and thereafter lodging the complaint.

12. PW4 is also a mahazar witness, he had deposed with regard to signing the mahazar Ex.P1 & Ex.P2. The evidence of Head Constable who had received the complaint and registered the case having examined PW5, his evidence clearly makes out with regard to setting the law into motion by lodging the complaint in respect to which case was registered in Crime No.374/2017 thereafter, the investigation was conducted and on finding sufficient materials against the accused, charge sheet came to be filed.



13. If the evidence of the prosecution witnesses are taken into consideration, whereby there is clear evidence with regard to rash and negligent driving by the driver of the car and on account of such rash and negligent driving, it had hit against the bike bearing registration No.KA-04-EP-5241 which was being driven by PW1 and on account of rash and negligent driving, the car had hit against the motorcycle which had made the rider as well as the pillion rider fell down along with the motorcycle and the pillion rider had sustained grievous head injury. If the cross-examination adduced on behalf of the accused is taken into consideration, whereby it is a weak evidence with regard to the defence of the accused. Even the accused had not explained while recording the statement under Section 313 of Cr.P.C., that whether he is the driver of the alleged vehicle or not and there being no rash and negligent on his part, nowhere it is suggested in the cross-examination that accused is not the driver of the alleged vehicle and there is no any rash and negligent driving on his part and on the contrary that the negligence being that of the rider of the motorcycle. When the prosecution had proved by means of the evidence of the prosecution witnesses as well as the admission, it is for the accused to contradict the same. The appellant court being the fact-finding court though there is weak evidence on behalf of the accused, he had not sought for remand of the case for any additional



evidence to be adduced. The evidence of the Investigating Officer substantially proves the prosecution case with regard to the charges levelled against the accused. Therefore, the evidence of above witnesses clearly goes to show that on the date of the accident i.e., on 27.08.2017 the accused being the driver of the car bearing No.KA-05-MJ-2283 drove the same in a rash and negligent manner and dashed against the motorcycle bearing No.KA-04-EP-5241 which was proceeding in front of the car, due to which Munianjinappa being the pillion rider fell down from the motorcycle and sustained grievous injury and died on account of the accidental road traffic accident injuries sustained. Therefore, the prosecution had proved the offence under Section 279, 338 and 304(A) of IPC., beyond all reasonable doubt. Hence, I answer the above point in **Affirmative**.

14. **Point No.2:-** In view of my finding on point No.1 holding that the accused had committed the alleged accident and due to which the deceased Munianjinappa died and PW1 had sustained grievous injury. The counsel appearing for the accused had argued that it is on the main road there is no question of the driver of the car driving it in a high speed as the speed limit is only less than 20 kilometers per hour and PW2 had not identified the accused and it is only admission the suggestions put forward by the learned prosecution so, it is argued that



the prosecution had failed to prove its case. Here as discussed in point No.1, when the witness had admitted the suggestion, it is for the defence to disprove the said fact in the cross-examination, but nowhere it is suggested to the prosecution witnesses that there is no any fault on the part of the driver of the car and there is no any rash and negligent act by the driver so, there is nothing to disbelieve the evidence of the prosecution witnesses. The judgment of the trial Court does not require any interference by this Court and it is based on sound reasonings and principles. Hence, I hold that the judgment of conviction and sentence passed by the Trial Court does not requires any interference by this Court. In the circumstance, I answer the above point in **Negative**.

15. **Point No.3:-** For the foregoing reasons, I proceed to pass the following:

ORDER

The Criminal Appeal filed by the appellant under Sec.374(3)(a) of Cr.P.C. is hereby dismissed.

Consequently, the judgment of conviction passed in C.C.No.92/2019 dated:22.08.2023 by Addl. Civil Judge & JMFC., Magadi, is hereby confirmed.



Send the copy of this judgment along with
the Trial Court records to the court concerned.

(Dictated through Aadalath AI, thereafter transcribed by
Stenographer Grade-III and after corrections, printout taken and then
pronounced and signed by me in the open Court, on this the **27th day of
June, 2026**).

(M. Panchakshari)
I Addl. Dist. & Sessions Judge,
Ramanagara.