

KAVN050003442024



**IN THE COURT OF THE I ADDL. CIVIL JUDGE & JMFC  
AT, VIJAYANAGARA DISTRICT, HOSAPETE.**

Present:

**SMT.CHAITRA.J.**

B.B.A. LL.B.,(Hons)

I Additional Civil Judge & J.M.F.C.,  
Vijayanagara District, Hosapete.

**C.C. No:286/2024**

**Dated on this 7<sup>th</sup> day of March, 2026**

**Complainant:** State by Hosapete Traffic, Police  
Station.

**(R/by Learned APP, Hosapete)**

V/s

**Accused:** Nilesh Jadav, S/o. Narayana Jadav,  
Age: 25 years, Occ: Driver,  
R/o. Patilovasti Village, Bagechiwadi  
Post,Akulj Town, Mashirosha Taluk,  
Solapur District, Maharashtra State.

**(By Sri.S.K.D.R., Advocate).**

1. Date of commission of offence : 27.12.2023
2. Date of report of offence : 28.12.2023
3. Date of arrest of Accused : Not arrested
4. Name of informant : J.S.Chennaveerappa
5. Date of recording evidence : 20.03.2025
6. Date of closing evidence : 05.02.2026
7. Offence complained off : U/Section 279, 337, 338  
& 304A of Indian Penal  
Code, 1860, and Section  
183 of Indian Motor



Vehicle Act, 1988.

8. Opinion of the Judge : As per final order

I Addl. Civil Judge & JMFC.,  
Vijayanagara District, Hosapete.

### **J U D G M E N T**

The Complainant State represented by Hosapete Traffic Police Station, has filed this charge sheet against Accused alleging the commission of offences punishable under Sections 279, 337, 338 and 304A of Indian Penal Code, 1860, and Section 183 of Indian Motor Vehicles Act, 1988.

**2. The brief facts of case of Prosecution is as hereunder:**

That, on 27.12.2023 at 7:10 p.m., when deceased Ashwin Kumar was riding uninsured motorcycle bearing Regn.No.KA-35/EB-8689 along with CW.1 as pillion rider without possessing driving license near Srikari College road cross to reach Yellalingeshwara Mutta from Kondanayakanahalli Village, Accused being the rider of motorcycle bearing Regn.No.MH-45/AK-2474 had driven the said vehicle along with CW.9 as pillion rider in speedy, rash and negligent manner in opposite direction and hit the motorcycle of deceased Ashwin Kumar, as a result of



which said Ashwin Kumar sustained fatal injuries, CW.1 and CW.9 sustained simple injuries and Accused sustained grievous injuries.

**3.** Further upon receiving first information from CW.1, the jurisdictional Hosapete Traffic Police have registered the case under Crime No.72/2023 and after due investigation, the Investigating officer has filed Charge sheet against Accused alleging the commission of offences punishable under Sections 279, 337, 338 and 304A of Indian Penal Code, 1860, and Section 183 of Indian Motor Vehicles Act, 1988. Having found sufficient materials on record, cognizance of the aforesaid offences was taken by this Court and after due service of summons, Accused appeared before Court and he was enlarged on bail. Further Charge sheet materials was furnished to Accused in compliance of Section 207 of Code of Criminal Procedure, 1973.

**4.** Further after hearing both L/APP and Accused as there was sufficient materials on record to proceed with trial, substance of accusation was framed and read over and interpreted to Accused, wherein he pleaded not guilty and submitted to have defense to make.

**5.** Further in order to bring home the guilt of Accused, Prosecution has got examined CW.1, CW.7, CW.8, CW.10, CW.9, CW.12, CW.11, CW.13, CW.21 and CW.22 as PW.1



to PW.10 and got Ex.P.1 to Ex.P.22 documents marked in its favour, and as there was incriminating substance appearing against Accused in the evidence lead by Prosecution, he was examined under Section 313 of Code of Criminal Procedure, 1973, wherein he denied all the questions, and chose to not to lead any defense evidence in his favour.

**6.** Heard both Learned APP and Counsel for Accused and perused the documents placed on record.

**7.** The following points arise for consideration:

1. *Whether Prosecution has proved beyond reasonable doubt that on 27.12.2023 at 7:10 p.m., when deceased Ashwin Kumar was riding uninsured motorcycle bearing Regn.No.KA-35/EB-8689 along with CW.1 as pillion rider without possessing driving license near Srikari College road cross to reach Yellalingeswara Mutta from Kondanayakanahalli Village, Accused being the rider of motorcycle bearing Regn. No.MH-45/AK-2474 had driven the said vehicle along with CW.9 as pillion rider in speedy, rash and negligent manner endangering human life, and thereby Accused has committed the offences punishable under Section 279 of Indian Penal Code, 1860 and Section 183 of Indian Motor Vehicles Act, 1988?*



2. *Whether Prosecution has proved beyond reasonable doubt that on the aforesaid date, time and place Accused had driven his motorcycle in speedy, rash and negligent manner and hit the motorcycle which was driven by deceased Ashwin Kumar from opposite direction as a result of which said Ashwin Kumar sustained fatal injuries, and thereby Accused has committed the offence punishable under Section 304A of Indian Penal Code, 1860 ?*
  3. *Whether Prosecution has proved beyond reasonable doubt that on the aforesaid date, time and place due to the occurrence of alleged accident as a result of mistake of Accused, CW.1 and CW.9 sustained simple injuries and Accused sustained grievous injuries, thereby Accused has committed the offences punishable under Section 337 and 338 of Indian Penal Code, 1860 ?*
  4. *What Order?*
- 8.** My findings to the aforementioned points are as follows:
- Point No.1: In Negative.
  - Point No.2: In Negative.
  - Point No.3: In Negative.
  - Point No.4: As per my final Order  
to the following;



### **REASONS**

**9. Point No.1 to 3:-** Since these three points are connected to each other, they are taken up together for discussion.

**10.** It is the case of Prosecution that, on 27.12.2023 at 7:10 p.m., when deceased Ashwin Kumar was riding uninsured motorcycle bearing Regn.No.KA-35/EB-8689 along with CW.1 as pillion rider without possessing driving license near Srikari College road cross to reach Yellalingeswara Mutta from Kondanayakanahalli Village, Accused being the rider of motorcycle bearing Regn.No.MH-45/AK-2474 had driven the said vehicle along with CW.9 as pillion rider in speedy, rash and negligent manner in opposite direction and hit the motorcycle of deceased Ashwin Kumar, as a result of which said Ashwin Kumar sustained fatal injuries, CW.1 and CW.9 sustained simple injuries and Accused sustained grievous injuries and thereby Accused has committed the offences punishable under Sections 279, 337, 338 and 304A of Indian Penal Code, 1860, and Section 183 of Indian Motor Vehicles Act, 1988.

**11. Discussion on merits:**

On careful perusal of the facts narrated herein above, this Court is of the opinion that, the burden of proof of Accused having driven his motorcycle bearing



Regn.No.MH-45/AK-2474 along with CW.9 pillion rider in rash and negligent manner from Hosapete towards Hampi and having hit the uninsured motorcycle of deceased Ashwin Kumar bearing Regn.No.KA-35/EB-8689 along with CW.1 as pillion rider who was taking turn near Srikari College cross to reach Yellalingeshwara Mutta resulting in death of Ashwin Kumar, Accused sustained grievous injuries and CW.1 and CW.9 sustained simple injuries is on Prosecution.

**12.** In order to discharge its burden of proof Prosecution has got CW.1/PW.1 first informant, CW.7/PW.2 and CW.8/PW.3 spot and seizure pancha witnesses, CW.10/PW.4 eye witness, CW.9/PW.5 victim witness, CW.12/PW.6 and CW.11/PW.7 another eye witnesses, CW.13/PW.8 Doctor, CW.21/PW.9 and CW.22/PW.10 Investigating Officers examined and got Ex.P.1/First information, Ex.P.2/Spot panchanama, Ex.P.3/Rough sketch, Ex.P.4 and P.5/Photographs, Ex.P.6/Seizure panchanama, Ex.P.7/Denied statement of PW.4, Ex.P.8/Denied statements of PW.5 and PW.6, Ex.P.9/Denied statement of PW.7, Ex.P.10/IMV Report, Ex.P.11 to 13/Wound certificates of J.S.Channaveerappa, Sunil Baban Parsi and Nilesh Jadhav, Ex.P.14/PM report, Ex.P.15/Inquest panchanama, Ex.P.16/FIR, Ex.P.17/Reminder, Ex.P.18/Special report, Ex.P.19/Notice U/Sec.



133 of IMV Act, Ex.P.20/Reply notice, Ex.P.21/ Notice U/Sec.133 of IMV Act, Ex.P.22/Reply notice and the signature of concerned witnesses marked in its favour.

**13.** Now by keeping the burden of Prosecution in mind, this Court firstly perused the alleged manner of occurrence of accident as narrated in Ex.P.1/ first information and for the sake of convenience in understanding the same is extracted hereunder;

“ದಿನಾಂಕ: 27-12-2023 ರಂದು ನಾನು

ಟಿ.ಅಶ್ವಿನಿಕುಮಾರು ಇವರು ಚಲಾಯಿಸುತ್ತಿದ್ದ ಮೋಟಾರ್ ಸೈಕಲ್ ನಂ.ಕೆಎ-35/ಇಬಿ-8689 ನೆಡ್ಡರಲ್ಲಿ ಹಿಂದುಕಡೆ ನಾನು ಕುಳಿತುಕೊಂಡು ಕೊಂಡನಾಯಕನಹಳ್ಳಿಯಿಂದ ಶ್ರೀಕರಿ ಕಾಲೇಜು ಮುಂದುಗಡೆ ಇರುವ ಮಠಕ್ಕೆ ಹೋಗಬೇಕೆಂದು ದಿನಾಂಕ 27-12-2023 ರಂದು ರಾತ್ರಿ 07.10 ಗಂಟೆ ಸುಮಾರಿಗೆ ಶ್ರೀಕರಿ ಕಾಲೇಜ್ ರಸ್ತೆ ಕ್ರಾಸ್ ಹತ್ತಿರ ಬರುತ್ತಿರುವಾಗ ಹೊಸಪೇಟೆ ಕಡೆಯಿಂದ ಬಂದ ಒಂದು ಮೋಟಾರ್ ಸೈಕಲ್ ಚಾಲಕ ತನ್ನ ಮೋಟಾರ್ ಸೈಕಲ್‌ನ್ನು ಅತಿ ವೇಗ ಮತ್ತು ಆಜಾಗರೂಕತೆಯಿಂದ ಚಾಲನೆ ಮಾಡಿಕೊಂಡು ಬಂದವನೇ ನಾವು ಕುಳಿತ್ತಿದ್ದ ಮೋಟಾರ್ ಸೈಕಲ್‌ಗೆ ಡಿಕ್ಕಿ ಪಡಿಸಿ ಅಪಘಾತ ಮಾಡಿದನು.”

**13.1.** Now from perusal of this narration of manner of occurrence of accident, it becomes clear that Accused was



driving his motorcycle from Hosapete in straight road and deceased Ashwin Kumar was riding his motorcycle from Kondanayakanahalli Village and he was in the verge of taking cross in Srikari College cross to reach Yellalingeshwara Mutta. In connection to this narration of facts this Court perused Ex.P.3/Rough sketch and Ex.P.4/ photograph of spot and observed that the spot which is marked in rough sketch is not same in Ex.P.4/photograph because in rough sketch the spot is towards immediate left side of road from the middle road i.e., to the vehicles coming from Hosapete and this spot is little far away from the alleged cross, but the alleged spot shown in the Ex.P.4/photographs is towards the extreme towards the left side of road i.e., very much near the cross. Thus discrepancy in these two documents can be observed. Further in Ex.P.4/photograph the divider in the mid of road can be noticed which is in the form of giving way to those vehicles coming from Kondanayakanahalli Village to take the cross to reach Yellalingeshwara Mutta. Hence this Court found it pertinent to understand as to whether deceased Ashwin Kumar was riding his motorcycle from the designated lane for those vehicles coming from Kondanayakanahalli Village or he was driving on the extreme left side of road leading from Hosapete towards Kondanayakanahalli Village or he was riding the motorcycle on the right side of said lane and taking cross



and in the search of such corroboration when this Court perused the cross-examination of PW.1 this Court observed that he has deposed that “ಸಾಕ್ಷಿ ಸ್ವಇಚ್ಛೆಯಿಂದ ಘಟನೆಯ ಸಮಯದಲ್ಲಿ ವೇಗ ತಡೆ ತೆಗೆದಿದ್ದರು ಎಂದು ನುಡಿಯುತ್ತಾರೆ. ನಾವು ರಸ್ತೆಯ ಬಲಗಡೆಯಿಂದ ಬರುತ್ತಿದ್ದೆವು ಎಂದರೆ ಸರಿ. ಆರೋಪಿಯು ರಸ್ತೆಯ ಎಡಗಡೆ ಹೋಗುತ್ತಿದ್ದನು ಎಂದರೆ ಸರಿ. ನಿಪಿ-4 ರಲ್ಲಿ ನಾವು ನಿಂತಿರುವ ಜಾಗ ಹೊಸಪೇಟೆ ಕಡೆಯಿಂದ ಪೂರ್ವಕ್ಕೆ ಹೋಗುವ ದಾರಿ ಎಂದರೆ ಸರಿ. ನಾವು ಕೊಂಡನಾಯ್ಕನಹಳ್ಳಿ ಕಡೆಗೆ ಹೋಗುವ ರಸ್ತೆಯ ಕಡೆ ಮುಖ ಮಾಡಿ ನಿಂತಿರುತ್ತೇವೆ ಎಂದರೆ ಸರಿ. ನಿಪಿ-4 ರ ಪೋಟೊವನ್ನು ಪಂಚನಾಮೆ ಮಾಡುವ ಕಾಲಕ್ಕೆ ತೆಗೆದರು”, but in Ex.P.3/rough sketch there is no narration about the lane from where deceased Ashwin Kumar and Accused were respectively riding their motorcycles, under such circumstance when this Court perused the entire record it was noticed that none of the eye witnesses and PW.1 have deposed about deceased Ashwin Kumar having applied indicator in the manner indicating the other vehicles that he is taking turn and moreover since it is deceased Ashwin Kumar who was taking turn on the alleged spot, this Court is of the opinion that he ought to have been more cautious and in addition to that since discrepancy can be found in the alleged spot as shown in Ex.P.3/Rough sketch and Ex.P.4/photograph, this Court is of the opinion that Prosecution has failed to prove that deceased was cautious while taking turn and in addition to that as per Prosecution itself deceased Ashwin Kumar did not possess



driving license and there is no information as to whether these riders of motorcycles were wearing Helmet.

**13.2.** Further this Court perused the deposition of PW.1 and noticed that he has failed to depose the alleged spot where the accident has occurred and this Court further observed that PW.4, PW.6, PW.7 eye witnesses have failed to depose the alleged manner of occurrence of accident and their denied statements are marked as Ex.P.7, P.8 and P.9 respectively. Thus it is as good as Prosecution has become handicap in proving the alleged manner of occurrence of accident as there is discrepancy in the version of this fact in the evidence of PW.1 and also there is discrepancy in the manner of occurrence of accident.

**13.3.** Further perused the deposition of pancha witnesses PW.2 and PW.3 and noticed that they have corroborated the version of Prosecution to the extent of drawing Panchanamas, but since as discussed above there is discrepancy in the alleged spot as shown in rough sketch and Ex.P.4/photograph of the alleged spot and since PW.1 upon whose information these Panchanamas were drawn has failed to depose the alleged spot and narrate the lane from where they were coming and as to whether deceased had applied indicator while taking cross which is a mandate caution to be taken by those persons who intend



to cross the road, merely by relying on the deposition of these witnesses, the guilt of Accused cannot be concluded.

**14.** Further this Court perused the deposition of PW.5 who is the pillion rider in the vehicle of Accused and noticed that according to him Accused was riding his motorcycle in low speed and it was deceased who had hit their motorcycle and even though Learned APP attempted to elicit admissions from him by way of cross-examination under Section 154(2) of Code of Criminal Procedure, 1973, he has stick to his version in chief examination. Hence again Prosecution has sustained loss to its case. Further perused Ex.P.10/IMV report and the deposition of PW.8 IMV Inspector and observed that both the vehicles have sustained damages and from perusal of Ex.P.5/photograph it can be noticed that there was head-on collusion between these two vehicles and Counsel for Accused cross-examined PW.8 about discrepancy in the date of PW.8 receiving requisition for inspection of vehicles by Investigating Officer in this case i.e., according to PW.8 on 02.01.2024 he received requisition, but as per the said requisition it is dated 29.12.2023 and since there is discrepancy in date, this document i.e., requisition is marked in favour of Accused as Ex.D.1. Apart from this discrepancy, since Prosecution has failed to prove the alleged manner of occurrence of accident, this Court



proceeds to conclude that merely by relying on this IMV report the guilt of Accused cannot be concluded.

**15.** Lastly perused the depositions of Investigating Officers and observed that they have corroborated the version of Prosecution to the extent of investigation, but during the cross-examination of PW.10 it was elicited that the owner of motorcycle driven by deceased is one Ningshwara, but he is not arrayed as Accused in Charge sheet. In this regard when perused the entire record, it was observed that Investigating Officer has collected fine of Rs.2,000/- from Ningsh towards the commission of offences punishable under Section 5 R/w 180 and 146 R/w 196 of Indian Motor Vehicles Act, 1988. Hence this portion of cross-examination of PW.10 is not relied upon. Nonetheless in addition to the failure of Prosecution witnesses to completely depose the alleged manner of occurrence of accident in the manner inspiring the confidence of this Court, this Court safely concludes that Prosecution has failed to prove the guilt of Accused beyond reasonable doubt and it was deceased who ought to have been more cautious while taking turn and in that view benefit of doubt is given to Accused.

**16.** Further it is pertinent to mention here that in **Takhaji Hiraji V. Thakore Kubersing Chamansing and Ors. Hon'ble Supreme Court** has held as follows:



*“that it is true that if a material witness, who would unfold the genesis of the incident or an essential part of the Prosecution case, not convincingly brought to fore otherwise, or where there is a gap or infirmity in the Prosecution case which could have been supplied or made good by examining a witness who though available is not examined, the Prosecution case can be termed as suffering from a deficiency and withholding of such a material witness would oblige the court to draw an adverse inference against the Prosecution by holding that if the witness would have been examined it would not have supported the Prosecution case”.*

**17.** On applying the said dictum passed by the Hon’ble Supreme Court in the decision referred above, to the instant case, it is the opinion of this Court that, it becomes difficult to agree that, Accused has committed offences alleged against him. Further according to Section 134 of Indian Evidence Act, 1872, examination of large number of witness is not necessary, if at least one of the material witness deposes about the actual occurrence of incident, and withstands the cross-examination by Counsel for Accused, but in the case at hand, Prosecution has failed to corroborate its case with the aid of unimpeachable testimony of one of its witness, further has also failed to bring out the vital admissions from the mouth of material witnesses. Further during the examination of Accused



under Section 313 of Code of Criminal Procedure, 1973, he has denied all the questions and submitted no defense evidence to lead in his favour.

**18.** As Prosecution has utterly failed to prove the existence of essential ingredients and establish its case with respect to the offences alleged against Accused beyond reasonable doubt as per Section 101 of Indian Evidence Act, 1872 with the support of independent corroborative witnesses, it is opinion of this Court that, the benefit of doubt lies in favour of Accused, hence, this Court proceeds to answer Point No.1 is in **Negative.**

**19. Point No.2:-** Keeping in mind the discussions made above, this Court proceeds to pass the following:

**ORDER**

In exercise of the power envisaged under Section 255(1) of Code of Criminal Procedure, 1973, Accused is hereby acquitted for the offences punishable under Sections 279, 337, 338 and 304A of Indian Penal Code, 1860, and Section 183 of Indian Motor Vehicles Act, 1988.

Bail bond and surety bond shall stand cancelled, after the completion of appeal period.

Further the surety furnished in compliance of Section 437A of Code of



Criminal Procedure, 1973 shall be in force for a period of six months.

Seized Motorcycle bearing Registration No.MH-45/AK-2474 is already released to the interim custody of its owner, hence the same is hereby made absolute.

Seized motorcycle bearing Reg.No.KA-35/EB-8689 is hereby ordered to be confiscated to State Government after the completion of appeal period.

(Dictated to the Stenographer directly on Computer, typed by her script corrected and then pronounced by me in the Open Court on this the 7<sup>th</sup> day of March, 2026).

**(CHAITRA .J)**

I Addl. Civil Judge & JMFC,  
Vijayanagara District, Hosapete

**ANNEXURE**

**List of witnesses examined on behalf of Prosecution:**

- PW.1 : J.S. Channaveerappa, S/o. Sharanabasappa  
PW.2 : Anjaneya, S/o. Prahalad  
PW.3 : Bharath, S/o. Yamunappa  
PW.4 : Ningappa, S/o. Gopalappa  
PW.5 : Sunil Babun Parasi, S/o. Buban Shankar Parasi  
PW.6 : Shivakumar, S/o. Ninganagouda  
PW.7 : Veerupaksha, S/o. Somappa  
PW.8 : S.S.Kumar, S/o. Nagendra  
PW.9 : T.K. Keshavamurthi, S/o. T. Kodandarao  
PW.10 : Srinivasa Meti, S/o. Chandrappa Meti



List of exhibited documents marked on behalf of Prosecution:

- Ex.P.1 : First information  
Ex.P.2 : Spot panchanama  
Ex.P.3 : Rough sketch  
Ex.P.4 & 5 : Photographs  
Ex.P.6 : Seizure panchanama  
Ex.P.7 : Denied statement of PW.4  
Ex.P.8 : Denied statement of PW.5  
Ex.P.9 : Denied statement of PW.6  
Ex.P.10 : Denied statement of PW.7  
Ex.P.11 : IMV Report  
Ex.P.12 to 13 : Wound certificates  
Ex.P.14 : PM report  
Ex.P.15 : Inquest panchanama  
Ex.P.16 : FIR  
Ex.P.17 : Reminder dated 28.12.2023  
Ex.P.18 : Special report dated 28.12.2023  
Ex.P.19 : Notice U/Sec.133 of IMV Act  
Ex.P.20 : Reply notice dated 02.01.2024  
Ex.P.21 : Notice U/Sec.133 of IMV Act  
Ex.P.22 : Reply notice dated 09.01.2024

List of witnesses examined on behalf of Accused :

-Nil-

List of documents marked on behalf of Accused :

- Ex.D.1 : Letter dated 29.12.2023 for  
appointment of officer to issue IMV  
report with respect of vehicles  
involved in accident

List of material objects marked on behalf of Prosecution:

-Nil-

I Addl. Civil Judge & JMFC,  
Vijayanagara District, Hosapete.