

KAVN050016692023



**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:1132/2023

Dated on this 7th day of March, 2026

Complainant: State by Hosapete Traffic, Police
Station.

(R/by Learned APP, Hosapete)

V/s

**Accused:
Persons**

1. Durgesh, S/o. Govindappa,
Age: 28 years, Occ: Mechanic,
R/o. Shiganahalli village,
Hagaribommanahalli Taluk,
Vijayanagara District.
2. Rama Rao K., S/o. Subba Rao K.,
Age: 52 years, Occ: Farmer,
R/o. Near Ramadevara Temple,
Shivapura village, Koppal Taluk &
District.
3. Ajay Reddy, S/o. Venkata Reddy,
Age: 32 years, Occ: Employee in private
firm, R/o. 17th Ward, Raghavendra
Colony, 02nd Stage, Near Datta School,
Ballari, Ballari Taluk & District.

**(Reported as dead hence case against
Accused No.1 is Abated)**



**(Accused No.3 pleaded guilty on
27.11.2023)
(Accused No.2 by Sri. B.C.M.,
Advocate).**

1. Date of commission of offence : 15.08.2023
2. Date of report of offence : 16.08.2023
3. Date of arrest of Accused : Not arrested
4. Name of informant : Basavaraj
5. Date of recording evidence : 16.12.2024
6. Date of closing evidence : 27.11.2025
7. Offence complained off : U/Section 279, 337 &
304A of Indian Penal
Code and U/Section 183,
3 R/w. Sec.181, 177, 192,
146 R/w. Sec.196, 5 R/w.
Sec.180 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 No.1 alleging the commission of offences punishable under Sections 279, 337 and 304A of Indian



Penal Code, 1860, and Section 183 and 3 R/w. Section 181 of Indian Motor Vehicles Act, 1988, and against Accused No.2 alleging the commission of offences punishable under Sections 279, 337 and 304A of Indian Penal Code, 1860, and Section 183 of Indian Motor Vehicles Act, 1988, and against Accused No.3 alleging the commission of offences punishable under Sections 177, 192, 146 R/w. Section 196 and 5 R/w. Section 180 of Indian Motor Vehicles Act, 1988.

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

That, on 15.08.2023 Accused No.2 had driven his Car bearing Regn.No.KA-37/N-7789 in speedy, rash and negligent manner and overtook CW.3 who was driving motorcycle on NH-50 road near Sri.Shaneshwara Temple, which is near RTO check post, and later Accused No.1 had also overtook the motorcycle of CW.3 by driving his bike bearing Regn.No.KA-36/E-6943 along with CW.2 as pillion rider in speedy, rash and negligent manner and when these vehicles were near overhead water tank which is near RTO check post on NH-50 road, Accused No.2 had negligently applied sudden brake as a dog passed in his front and since deceased Accused No.1 was also driving his bike in speedy manner without maintaining any distance from the vehicle of Accused No.2, he forcefully hit the Car of



Accused No.2 from behind, as a result of which himself and CW.2 fell on ground and Accused No.1 sustained fatal injuries and CW.2 sustained simple injuries. Further that Accused No.3 being the owner of bike driven by deceased Accused No.1 had given the said vehicle for driving to Accused No.1 inspite of knowing that the said vehicle was not duly insured and Accused No.1 did not possess driving license and also that number plate was not affixed to bike and also that Fitness certificate of the vehicle was expired.

3. Further upon receiving first information from CW.1, the jurisdictional Hosapete Traffic Police have registered the case under Crime No.46/2023 and after due investigation, the Investigating officer has filed charge sheet against Accused No.1 alleging the commission of offences punishable under Sections 279, 337 and 304A of Indian Penal Code, 1860, and Section 183 and 3 R/w. Section 181 of Indian Motor Vehicles Act, 1988, and against Accused No.2 alleging the commission of offences punishable under Sections 279, 337 and 304A of Indian Penal Code, 1860, and Section 183 of Indian Motor Vehicles Act, 1988, and against Accused No.3 alleging the commission of offences punishable under Sections 177, 192, 146 R/w. Section 196 and 5 R/w. Section 180 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 No.1 reported as dead, as per Order dated 02.04.2024 case against Accused No.1 is abated. Further Accused No.2 and 3 have appeared before Court and they were enlarged on bail. Further charge sheet materials were furnished to Accused No.2 and 3 in compliance of Section 207 of Code of Criminal Procedure, 1973.

4. Further after hearing both L/APP and Accused No.2 and 3 as there was sufficient materials on record to proceed with trial, substance of accusation was framed and read over and interpreted to Accused No.2 and 3, wherein Accused No.3 pleaded guilty on 27.12.2023, hence, by recording the same this Court convicted Accused No.3 for the offences punishable under Section 5 R/w 180, 177, 192 and 146 R/w Section 196 of Indian Motor Vehicles Act, 1988. Accused No.2 pleaded not guilty and submitted to have defense to make.

5. Further in order to bring home the guilt of Accused No.2, Prosecution has got examined CW.1, CW.2, CW.3, CW.9, CW.10, CW.12, CW.11, CW.13, CW.20, CW.21, CW.22 and CW.25, as PW.1 to PW.12 and got Ex.P.1 to Ex.P.20 documents marked in its favour, and as there was incriminating substance appearing against Accused No.2 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 No.2.

7. The following points arise for consideration:

1. *Whether Prosecution has proved beyond reasonable doubt that on 15.08.2023 Accused No.2 had driven his Car bearing Regn.No.KA-37/N-7789 in speedy, rash and negligent manner and overtook CW.3 who was driving motorcycle on NH-50 road near Sri.Shaneshwara Temple, which is near RTO check post in the manner endangering human life, and thereby Accused No.2 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 No.2 who was driving the Car in speedy, rash and negligent manner, had all of a sudden negligently applied brake as a dog passed by in his front as a result of which, deceased Accused No.1 who was also driving his bike bearing*



Regn.No.KA-36/E-6943 in speedy, rash and negligent manner along with CW.2 as pillion rider, behind the Car of Accused No.2 lost his control and hit the rear portion of Car forcefully as a result of which Accused No.1 sustained fatal injuries and thereby Accused No.2 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 by both deceased Accused No.1 and Accused No.2, CW.2 sustained simple injuries, and thereby Accused No.2 has committed the offence punishable under Section 337 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:- It is the case of Prosecution that, on 15.08.2023 Accused No.2 had driven his Car bearing Regn.No.KA-37/N-7789 in speedy, rash and negligent manner and overtook CW.3 who was driving motorcycle on NH-50 road near Sri.Shaneshwara Temple, which is near RTO check post, and later Accused No.1 had also overtook the motorcycle of CW.3 by driving his bike bearing Regn.No.KA-36/E-6943 along with CW.2 as pillion rider in speedy, rash and negligent manner and when these vehicles were near overhead water tank which is near RTO check post on NH-50 road, Accused No.2 had negligently applied sudden brake as a dog passed in his front and since deceased Accused No.1 was also driving his bike in speedy manner without maintaining any distance from the vehicle of Accused No.2, he forcefully hit the Car of Accused No.2 from behind, as a result of which himself and CW.2 fell on ground and Accused No.1 sustained fatal injuries and CW.2 sustained simple injuries. Further that Accused No.3 being the owner of bike driven by deceased Accused No.1 had given the said vehicle for driving to Accused No.1 inspite of knowing that the said vehicle was not duly insured and Accused No.1 did not possess driving license and also that number plate was not affixed to bike and also that Fitness certificate of the vehicle was expired,



thereby Accused No.2 has committed the offences punishable under Section 279, 337 and 304A of Indian Penal Code, 1860 and Section 183 of Indian Motor Vehicles Act, 1988.

10. 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 No.2 having driven his Car bearing Regn.No.KA-37/N-7789 in speedy manner near RTO check post, Sri.Shaneshwara Temple on NH-50 road, all of a sudden applied brake as a result of which deceased Accused No.1 who was riding motorcycle bearing Ren.No.KA-36/E-6943 along with CW.2 pillion rider in speedy, rash and negligent manner had forcefully hit the rear portion of said Car resulting in the death of Accused No.1 and CW.2 sustaining simple injuries and damages to both the vehicles is on Prosecution.

11. In order to discharge its burden of proof Prosecution has got CW.1/PW.1 first informant, CW.2/PW.2 victim witness, CW.3/PW.3 eye witness, CW.9/PW.4 and CW.10/PW.5 spot and seizure pancha witnesses, CW.12/PW.6 and CW.11/PW.7 another seizure pancha witness, CW.13/PW.8 other witness, CW.20/PW.9 and CW.21/PW.10 IMV Inspector, CW.22/PW.11 Doctor and CW.25/PW.12 Investigating Officer examined and got



Ex.P.1/First information, Ex.P.2/Spot panchanama, Ex.P.3 to P.5/Photographs taken at the time of spot panchanama, Ex.P.6/Motorcycle seizure panchanama, Ex.P.7 to P.9/Photograph, Ex.P.10/Car seizure panchanama, Ex.P.11 and P.12/IMV Report, Ex.P.13/Wound certificate of CW.2/PW.2, Ex.P.14/Inquest report, Ex.P.15/Notice given to the car owner under Section 133 of IMV Act, Ex.P.16/Reply notice, Ex.P.17/Notice given to the motorcycle owner under Section 133 of IMV Act, Ex.P.18/Reply notice, Ex.P.19/Postmortem Report, Ex.P.20/FIR and the signature of concerned witnesses marked in its favour.

12. Now by keeping the burden of Prosecution in mind when perused Ex.P.1/first information, it is noticed that PW.1/first informant who is also the author of this document is not an eye witness and he has lodged first information against deceased Accused No.1 as hereunder;

“ನಂತರ ಬೆಳಿಗ್ಗೆ ಸುಮಾರು 11.30 ಗಂಟೆ ಸಮಾರಿಗೆ ಯಾರೋ ದಾರಿ ಹೋಕು ನನ್ನ ಅಳಿಯ ದುಗುಗೇಶ ಮೊಬೈಲ್‌ನಿಂದ ಮಾರುತಿ ಮೊಬೈಲಿಗೆ ಕರೆ ಮಾಡಿ ಮೊಬೈಲ್ ಬಳಕೆದಾರರು ಹೊಸಪೇಟೆ ನಗರದ ಶನೇಶ್ವರ ಗುಡಿ ಹತ್ತಿರ ಮೋಟಾರ್ ಸೈಕಲ್ ಅಪಘಾತದಲ್ಲಿ ಗಾಯಗೊಂಡಿರುತ್ತಾರೆ. ಮೋಟಾರ್ ಸೈಕಲ್‌ನಲ್ಲಿ ಇಬ್ಬರು ವ್ಯಕ್ತಿಗಳು ಬರುತ್ತಿದ್ದು, ಮೋಟಾರ್ ಸೈಕಲ್‌ನ್ನು ವೇಗವಾಗಿ ಚಲಾಯಿಸಿಕೊಂಡು



ಮರಿಯವುನಹಳ್ಳಿ ಕಡೆಯಿಂದ ಬಂದು ಬೆಳಿಗ್ಗೆ 11.30 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ಎನ್.ಹೆಚ್.-50 ರಸ್ತೆಯ ಶನೇಶ್ವರ ಗುಡಿ ಹತ್ತಿರ ಇರುವ ಆರ್.ಟಿ.ಓ. ಚೆಕ್ ಪೋಸ್ಟ್ ಹತ್ತಿರ ಹೋಗುತ್ತಿರುವಾಗ ಮುಂದುಗಡೆ ಹೋಗುತ್ತಿದ್ದ ಕೆಎ-37/ಎನ್-7789 ಹಿಂಬದಿಯಲ್ಲಿ ಅಪಘಾತ ಪಡಿಸಿದ್ದರಿಂದ ಮೋಟಾರ್ ಸೈಕಲ್ ಇದ್ದ ಚಾಲಕ ಮತ್ತು ಹಿಂಬದಿ ಸವಾರ ಇಬ್ಬರೂ ಗಾಯಗೊಂಡಿರುತ್ತಾರೆಂದು ತಿಳಿಸುತ್ತೇವೆ.....

ಈ ದಿನ ಬೆಳಿಗ್ಗೆ ನನ್ನ ಅಳಿಯ ಪೋನ್ ಮಾಡಿ ತಾನು ನಿನ್ನ ದಿನ ಘಟನಾ ಸ್ಥಳಕ್ಕೆ ಹೋಗಿದ್ದಾಗ ದುರುಗೇಶನೆ ಹಿಂಬದಿಯಲ್ಲಿ ದೇವರಾಜನನ್ನು ಕೂರಿಸಿಕೊಂಡು ಮೋಟಾರ್ ಸೈಕಲನ್ನು ವೇಗವಾಗಿ ಚಲಾಯಿಸಿ, ಮುಂದುಗಡೆ ಹೋಗುತ್ತಿದ್ದ ಕಾರ್ ಸಂಖ್ಯೆ ಕೆಎ-37/ಎನ್-7789 ಇದಕ್ಕೆ ಅಪಘಾತ ಪಡಿಸಿ ಗಾಯಗೊಂಡಿರುತ್ತಾರೆಂದು ಜನರು ತನಗೆ ತಿಳಿಸಿರುತ್ತಾರೆಂದು”

12.1. From perusal of this extracted portion, it becomes clear that according to first information which was received by PW.1, this alleged accident had occurred due to the speedy riding of motorcycle by deceased Accused No.1 along with CW.2 pillion rider. Further when this Court perused the record it was observed that PW.1 has given further statement on 18.08.2023 and has narrated as hereunder;



“ ದಿನಾಂಕ: 15-08-2023 ರಂದು ಬೆಳಿಗ್ಗೆ 11-30 ಗಂಟೆಯ ಸಮಯದಲ್ಲಿ ಕೆ.ರಾಮರಾವ್ ರವರ ತಮ್ಮ ಕಾರ್ ನಂಬರ್ KA-37/N-7789 ನೆಡ್ಡನ್ನು ಅತಿವೇಗವಾಗಿ ಮತ್ತು ನಿರ್ಲಕ್ಷ್ಯತನದಿಂದ ಚಲಾಯಿಸಿಕೊಂಡು ಹೋಗುತ್ತಿರುವಾಗ ರಸ್ತೆಯಲ್ಲಿ ಯಾವುದೋ ನಾಯಿ ಅಡ್ಡ ಬಂದಿದ್ದರಿಂದ ಕಾರ್ ಚಾಲಕ ಕೆ.ರಾಮರಾವ್ ರವರು ಏಕಾಏಕಿ ತಮ್ಮ ಕಾರಿನ ಬ್ರೇಕ್ ಹಾಕಿ ನಿಲ್ಲಿಸಿದ್ದರಿಂದ ಅದೇ ಸಮಯದಲ್ಲಿ ಅವರ ಹಿಂದೆಯೇ ದುರುಗೇಶನು ಮೋಟಾರ್ ಸೈಕಲ್ ಹಿಂಬದಿಯಲ್ಲಿ ತನ್ನ ಸ್ನೇಹಿತ ದೇವರಾಜನನ್ನು ಕೂಡಿಸಿಕೊಂಡು ನಿಯಮಿತ ಅಂತರ ವಿಲ್ಲದೇ ಮೋಟಾರ್ ಸೈಕಲನ್ನು ಅತಿವೇಗವಾಗಿ ಮತ್ತು ಅಜಾಗರೂಕತೆಯಿಂದ ಚಲಾಯಿಸಿಕೊಂಡು ಹೋಗಿ ಏಕಾಏಕಿ ಬ್ರೇಕ್ ಹಾಕಿ ನಿಲ್ಲಿಸಿದ್ದ ಕಾರಿನ ಹಿಂಬದಿಯಲ್ಲಿ ಡಿಕ್ಕಿ ಹೊಡೆದಿದ್ದರಿಂದ ಈ ಅಪಘಾತ ಸಂಭವಿಸಿರುತ್ತದೆಂದು ಈ ಅಪಘಾತಕ್ಕೆ ಮೋಟಾರ್ ಸೈಕಲ್ ಸವಾರ ದುರುಗೇಶ ಮತ್ತು ಕಾರ್ ಚಾಲಕ ಕೆ.ರಾಮರಾವ್ ಇವರಿಬ್ಬರ ನಿರ್ಲಕ್ಷ್ಯತನದಿಂದ ಈ ಅಪಘಾತ ಸಂಭವಿಸಿರುತ್ತದೆಂದು ಈ ನನ್ನ ಮರು ಹೇಳಿಕೆಯನ್ನು ನೀಡಿರುತ್ತೇನೆ”.

12.2. From perusal of the entire further statement of PW.1, this Court observed that even though he had given this further statement which includes the alleged speedy and negligent driving of Accused No.2, he has nowhere



mentioned the name of person from whom he received this information. Hence, the credibility of this further statement is put to doubt. Further this Court perused the deposition of PW.1 and observed that he has deposed that Accused No.2 had all of a sudden applied brake of his Car as a result of which deceased Accused No.1 who was riding his motorcycle from behind had hit the rear portion of Car and here he has omitted to depose the reason behind Accused No.2 having suddenly applied brake which could be seen in his further statement. Thus three different versions of the manner of occurrence of accident can be noticed. In addition to this from perusal of Ex.P.1/First information and the further statement of PW.1, it becomes clear that PW.1 never visited the alleged spot, but during his chief examination PW.1 has deposed that he had been to spot and saw deceased Accused No.1 and CW.2. Hence discrepancy in the veracity of the deposition of PW.1 can be noticed. Further in this background when this Court perused the deposition of PW.2 the pillion rider who is also victim and eye witness to this accident, it was observed that according to him Accused No.2 had driven the Car by overtaking their motorcycle in front of Sri.Shaneshwara Temple and came in front of them and all of a sudden applied brake, as a result of which deceased Accused No.1 lost balance and hit the rear portion of Car resulting in fatal injuries to Accused No.1 and simple injuries to him



and he further deposed that this accident has occurred due to the mistake of Accused No.2 and also deposed that he learnt the name of Accused No.2 is Rajarao. From this deposition it can be observed that even PW.2 has failed to depose the allegation of Prosecution about Accused No.2 having all of a sudden applied brake as a dog passed in his front. It is also pertinent to discuss here that even though PW.2 has deposed that as Accused No.2 all of a sudden applied brake by overtaking their vehicle, deceased Accused No.1 had lost balance and hit the rear portion of Car, thereby failed to depose the alleged rash, speedy and negligent driving of deceased Accused No.1, when this Court perused Ex.P.11/IMV report and Ex.P.7 to P.9/ photographs of vehicles it can be observed that these kind of damages can be caused only if the motorcycle was driven in speedy manner, hence this version of PW.2 cannot be relied and the veracity of his deposition is put into question and it also seems that he is supporting deceased Accused No.1. Hence in search of further corroboration when this Court perused the deposition of eye witness PW.3 it was observed that even he has failed to depose about a dog having passed in front of the Car of Accused No.2 as a result of which Accused No.2 had suddenly applied brake, but he deposed that Accused No.1 and 2 were driving their respective vehicles in speedy, and negligent manner and also narrated that by losing balance deceased Accused



No.1 had hit the rear portion of Car. He also deposed that this accident has occurred due to the mistake of Accused No.2. Further during his cross-examination by Learned APP he admitted the suggestion that; “ಓವರ್ ಹೆಡ್ ವಾಟರ್ ಟ್ಯಾಂಕ್ ಹತ್ತಿರ ಒಂದು ನಾಯಿ ಅಡ್ಡ ಬಂದ ಕಾರಣ ಕಾರ್ ಚಾಲಕರು ಏಕಾಏಕಿ ನಿರ್ಲಕ್ಷ್ಯತೆಯಿಂದ ಬ್ರೇಕ್ ಹಾಕಿದರು ಎಂದರೆ ಸರಿ”, but since PW.3 is the eye witness who is considered as material witness, he is expected to narrate the occurrence of alleged accident voluntarily without relying on the support of Learned APP. Further he denied the suggestion of Learned APP pertaining to his identification as “ ನ್ಯಾಯಾಲಯದ ಮುಂದಿರುವ ಆರೋಪಿಯೇ ಆ ದಿನ ಕಾರ್ ಚಲಾಯಿಸುತ್ತಿದ್ದ ವ್ಯಕ್ತಿ ಎಂದರೆ ಸರಿಯಲ್ಲ, ನಾನು ಆ ದಿನ ಅವರನ್ನು ನೋಡಿಲ್ಲ. ಸ್ಥಳದಲ್ಲಿ ಆರೋಪಿಯನ್ನು ನೋಡಿದ್ದರೂ ಸಹ ಆರೋಪಿಗೆ ಸಹಾಯ ಮಾಡಲು ಸುಳ್ಳು ಹೇಳುತ್ತಿದ್ದೇನೆ ಎಂದರೆ ಸರಿಯಲ್ಲ”. Further he withstood the cross-examination of Counsel for Accused, but the point which arises for discussion is according to PW.3 both the Accused persons had overtook him by driving their respective vehicles in speedy manner and this indicates that PW.3 will not be in a position to clearly see what had transpired in front of the Car of Accused No.2 and in connection to this when this Court perused Ex.P.3 to P.5/photographs of alleged spot and Ex.P.2/Rough sketch which is attached to Panchanama this Court observed that there are no road brakes/humps



in the alleged spot and moreover the alleged spot is shown towards the extreme right side of the road and PW.1, PW.2 and PW.3 witnesses have failed to voluntarily depose that indeed a dog had passed in front of the Car of Accused No.2, under such circumstance the question which is left unanswered is as to why Accused No.2 had all of a sudden applied brake and by considering the place from where PW.3 alleges to have observed the occurrence of alleged accident, this Court is of the opinion that he was not in the position to clearly see the actual manner of occurrence of accident. Further this Court observed that apart from PW.3 there are no other eye witnesses to this accident and the aforesaid eye witness i.e., PW.3 has failed to satisfactorily prove to the Court that he was in position to clearly see the occurrence of alleged accident and moreover it is not clearly deposed by him that on which side of road he was riding his motorcycle and the purpose of expecting this evidence from PW.3 is to analyze as to whether PW.3 was diagonally opposite to the vehicles driven by Accused No.1 and 2 so that he could have had clear picture of the manner of occurrence of accident and since PW.3 has failed to depose this fact, this Court is of the opinion that complete reliance cannot be placed on the testimony of PW.3. Further perused the depositions of pancha witnesses to both spot and seizure Panchanamas and noticed that they have deposed about drawing of respective



Panchanamas in their presence and they have withstood the cross-examination of Counsel for Accused No.2 to the extent of drawing these Panchanamas. Hence in connection to this discussion when this Court perused Ex.P.2 and P.6 Panchanamas it was observed that these Panchanamas are drawn upon the information given by PW.8 and observed that even he has narrated the occurrence of accident in the tone of PW.1 and has failed to depose about a dog having passed in front of the Car of Accused No.2 and further deposed that “ಹೀಗೆ ಅಪಘಾತ ಆದ ನಂತರ ಕಾರ್ ನಲ್ಲಿ ಇದ್ದ ವ್ಯಕ್ತಿ ನನ್ನ ತಮ್ಮನಿಗೆ ಬೈಯಲು ಬಂದಿರುತ್ತಾರೆ ಆಗ ಸುತ್ತ ಮುತ್ತಲಿನ ಜನರು ಕಾರ್ ನಲ್ಲಿ ಇದ್ದ ವ್ಯಕ್ತಿಗಳಿಗೆ ನಿಮ್ಮ ತಪ್ಪಿನಿಂದ ಹೀಗೆ ಆಗಿರುತ್ತದೆ ಎಂದು ಹೇಳಿದಕ್ಕೆ ಕಾರ್ ಸಮೇತ ಆ ವ್ಯಕ್ತಿ ಸ್ಥಳದಿಂದ ಹೋಗಿರುತ್ತಾರೆ”, but as per the version of PW.1 in Ex.P.1/ first information when PW.8 had enquired the manner of occurrence of accident from the public who had witnessed the accident, he was informed that Accused No.1 had driven the motorcycle in speedy manner and hit the rear portion of Car and hence the accident had occurred. Hence discrepancy can be noticed in the deposition of PW.1 and PW.8. Further this Court observed that PW.8 has deposed about showing the spot and drawing of seizure Panchanama in his presence and further deposed that in case deceased Accused No.1 i.e., his brother had driven his vehicle in speedy manner,



then there was no chances of the rear glass of Car being damaged and when he was cross-examined about his statement concerning the public who were in the spot having informed him that there was no mistake of driver of Car i.e., Accused No.2, he denied having given such statement and that denied statement is marked as Ex.D.1 and apart from that he withstood other cross-examination and also deposed that his brother did not possess driving license. Now from perusal of the deposition of this witness it becomes clear that he is attempting to put the blame on Accused No.2 for the occurrence of accident without any sufficient cause. Hence his testimony is not relied upon. Further since PW.8 has failed to prove the veracity of his testimony and withstand the cross-examination of Counsel for Accused No.2, merely because pancha witnesses have supported the fact of preparation of Panchanama, it cannot be believed that the contents mentioned in Panchanama are true because those contents were narrated by PW.8.

12.3. Further this Court observed that from rigorous cross-examination Counsel for Accused has elicited that deceased Accused No.1 did not possess driving license and both Accused No.1 and PW.2 did not wear Helmet and the RX 100 Yamaha motorcycle was band around 20 years due to mechanical defect and that any vehicle can be used only for 15 years and after that unless there is renewal of



Fitness certificate, those vehicles cannot be driven and that deceased Accused No.1 is a Mechanic and the said vehicle do not belongs to him and there is no evidence about the speed limit in the alleged spot and that Accused No.1 did not maintain minimum distance in between the vehicles in his front. On the other hand the Prosecution witnesses failed to withstand these cross-examination of Counsel for Accused. At the cost of repetition it is again discussed that from the manner of damage caused to both the vehicles, it can be observed that Accused No.1 was driving his vehicle in speedy, rash and negligent manner without maintaining distance and since Prosecution witnesses have failed to prove that indeed Accused No.2 had applied brake as a dog passed in his front, this Court is of the opinion that Prosecution has failed to prove that this accident has occurred due to the sole negligence of Accused No.2. Lastly perused the depositions of RTO Inspector and Investigating Officers and noticed that Counsel for Accused No.2 has attempted to prove that deceased Accused No.1 was wheeling in his motorcycle and hit the Car of Accused No.2 by suggesting that only under such circumstance the rear glass of Car can be damaged, and even though these suggestions were not completely admitted by these witnesses, this Court is of the opinion that since the Prosecution has failed to prove the manner of occurrence of accident due to the alleged negligent act of Accused No.2,



much reliance cannot be placed on this defence of Accused No.2, but it is kept in mind that PW.10 has admitted during his cross-examination that the vehicle driven by Accused No.1 will be used for racing and has concluded that Accused No.1 had showed negligence in driving bike in the alleged spot. Lastly since the death of Accused No.1, injuries sustained by PW.2 is not disputed, PM report, IMV report and Inquest Panchanama are not taken for discussion. Thus from the discussion made above this Court is of the opinion that Prosecution has failed to prove the alleged manner of occurrence of accident pointing the guilt of Accused No.2 beyond reasonable doubt. Hence benefit of doubt is given to him.

13. 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”.

14. 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 No.2 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 No.2, 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 No.2 under Section 313 of Code of Criminal Procedure, 1973, they have denied all the questions and submitted no Defense evidence to lead in their favour.

15. As Prosecution has utterly failed to prove the existence of essential ingredients and establish its case with respect to the offences alleged against Accused No.2 and 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 person, hence, this Court proceeds to answer Point No.1 is in **Negative.**

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

ORDER

In the exercise of power bestowed under Section 255(1) of Code of Criminal Procedure, 1973, the Accused No.2 is hereby acquitted for offences punishable under Sections 279, 337 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 Car vehicle bearing registration No.KA-37/N-7789 is already released to the interim custody of its



respective owner, the same is hereby made absolute.

Seized motorcycle bearing Reg.No.KA-36/E-6943 is hereby ordered to be confiscated to State Government after the completion of appeal period.

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

(CHAITRA .J)

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

ANNEXURE

List of witnesses examined on behalf of Prosecution:

- PW.1 : Basavaraj, S/o.Hanumanthappa
PW.2 : Devaraj, S/o. Basappa Hanchinal
PW.3 : Shivakumar, S/o. Chandrappa
PW.4 : Tippeswamy, S/o. Mariyappa
PW.5 : Nagaraj, S/o. Halappa
PW.6 : Kariyappa, S/o. Yamanurappa
PW.7 : Prakash, S/o. Yallappa
PW.8 : Maruthi Uppar, S/o. Govindappa Uppar
PW.9 : Manjunatha Prasad, S/o. B.S. Srirama
PW.10 : Mohammad Sharif Shaik G.,
S/o. Mohammad Yusuf Shaik G
PW.11 : Dr: Rajashekhar, S/o. Mallappa
PW.12 : Srinivas C. Meti, S/o. Chandrappa



List of exhibited documents marked on behalf of Prosecution:

- Ex.P.1 : First information
EX.P.2 : Spot panchanama
Ex.P.3 to 5 : Photographs
EX.P.6 : Seizure panchanama
Ex.P.7 to 9 : Photographs
Ex.P.10 : Another seizure panchanama
Ex.P.11 & 12 : IMV reports
Ex.P.13 : Wound certificate of PW.2
Ex.P.14 : Inquest report
Ex.P.15 : Notice issued to CW.15
Ex.P.16 : Replay
Ex.P.17 : Notice
Ex.P.18 : Replay
Ex.P.19 : Postmortem report
Ex.P.20 : FIR

List of witnesses examined on behalf of Accused person:

-Nil-

List of documents marked on behalf of Accused person:

-Nil-

List of material objects marked on behalf of Prosecution:

-Nil-

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