

KAVN200002122019



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
J.M.F.C., KUDLIGI**

PRESENT : SRI. YOGESHA. J., B.A., LL.B.,

DATED THIS 18TH DAY OF MARCH, 2026

C.C. No. 47/2019

COMPLAINANT

State by CPI,
Kottur Police Station, Kottur.

(By Assistant Public Prosecutor)

V/s

ACCUSED

Mohid Shakeel,
S/o Sahibali, Aged 35 years,
Driver, R/o Gottava Village,
Kamariga Post,
Maharajgani,
Uttar Pradesh State.

(By Sri. N.N.P., Advocate)

Date of commission of offence	05.03.2014
Date of report of offence	09.03.2014
Date of arrest of accused	Accused was not arrested but released on Court bail on 13.04.2023

Name of the complainant	Khaja Mohinuddin S/o Imamsab
Offenses complained of	Sec. 338, 337, 287 of I.P.C
Evidence commenced on	01.07.2024
Evidence closed on	24.02.2024
Opinion of Presiding Officer	Not found guilty.
Judgment pronounced on	18.03.2026

JUDGEMENT

The Circle Inspector of Police, Kottur Police Circle, has filed the final report against the accused for the offences punishable under Section 338, 337, 287 of IPC.

2. It is the case of the prosecution that on 05.03.2014 at about 4.00 p.m., near Amalapura Village on N.H. 13 road, Hosahalli accused in order to obtain the Lorry which was fallen in the ditch accused took the Crane bearing its Reg. No. KA-52-1734 and also told Cw-4 to lift the fallen lorry directed him to put the Iron Chain to the Hook without taking any precautionary measures, due to which CW-4 lost control on the said Lorry and fallen in the ditch causing accident. As a result of failing CW-4 from the said Lorry into the ditch, he sustained simple and grievous injuries on his person and thereby accused committed the offences punishable U/s 287, 337 and 338 of IPC.

3. Based on the information furnished by the C.W-1, Hosahalli Police have registered case against the accused in Crime No. 39/2014 for the offences punishable U/s 338 of IPC. After the investigation, C.P.I. of Kottur Circle has filed the final report against the accused for the offences punishable U/s 287, 337 and 338 of IPC.

4. On receipt of the final report, cognizance of the above mentioned offences was taken and presence of the accused was secured. Final Report was furnished to the accused as contemplated U/Sec 207 of Cr.P.C. Plea was recorded and explained to the accused. He pleaded not guilty and claims to be tried. Hence, the case is posted for evidence of the prosecution. During the course of trial, prosecution has examined 8 witnesses as P.W's-1 to 8 and got marked the documents as Ex's. P-1 to P-11 and closed its side.

5. On completion of the evidence of the prosecution, accused was examined U/Sec 313 of Cr.P.C. explaining the incriminating circumstances appearing against him in the evidence of the prosecution. Accused denied the incriminating evidence suggested to him and did not choose

to lead defense evidence. Hence, the case is posted for arguments.

6. Heard the arguments of both the sides and perused the entire records.

7. Under the circumstances, following points arises for consideration:

POINTS

- 1) *Whether the prosecution has proved beyond all reasonable doubt that on 05.03.2014 at about 4.00 p.m., near Amalapura Village on N.H. 13 road, Hosahalli accused in order to get the Lorry which was fallen in a ditch accused took the Crane bearing its Reg. No. KA-52-1734 and also told Cw-4 to lift the fallen lorry directing him to put the Iron Chain to the Hook without taking any precautionary measures, due to which CW-4 lost control on the said Lorry and fallen in the ditch causing accident and thereby accused committed the offence punishable U/sec 287 of IPC?*
- 2) *Whether the prosecution has further proved beyond all reasonable doubt that on the*

above said date, time and place, as a result of the said accident CW-4 has sustained simple and grievous injuries on his person and thereby accused committed the offences punishable U/s 337 and 338 of IPC ?

3) *What Order ?*

8. The points framed for consideration are answered as under;

Point No.1	:	In the Negative
Point No.2	:	In the Negative
Point No.3	:	As per final order, for the following;

REASONS

9. **POINTS No. 1 & 2**:- To avoid repetition of facts and for the sake of convenience, these points are taken up for consideration together.

10. It is the case of the prosecution that on 05.03.2014 at about 4.00 p.m., near Amalapura Village on N.H. 13 road, Hosahalli accused in order to obtain the Lorry

which was fallen in the ditch accused took the Crane bearing its Reg. No. KA-52-1734 and also told Cw-4 to lift the fallen lorry directed him to put the Iron Chain to the Hook without taking any precautionary measures, due to which CW-4 lost control on the said Lorry and fallen in the ditch causing accident. As a result of failing CW-4 from the said Lorry into the ditch, he sustained simple and grievous injuries on his person and thereby accused committed the offences punishable U/s 287, 337 and 338 of IPC.

11. The prosecution in order to prove the guilt of the accused has examined 8 witnesses as PW's-1 to 8 out of 12 witnesses cited in the final report and got marked the documents as Ex's.P-1 to 11.

12. The informant, C.W-1 is examined as P.W-1. This witness in his examination-in-chief deposed that CW-4 is his son. He identified a document shown to him as complaint which is marked as Ex.P-1 and his signature on the same is marked as Ex.P-1(a). He also shown the further statement and it is marked as Ex.P-2 and his signature on the same is marked as Ex.P-2(a). He does not know the contents of Ex.P-1 and 2 and on the request of Police, he signed on the said

documents. At never point of time, he saw the accused of the instant case and he does not know anything about this case. The learned APP treated this witness as hostile witness and cross examined at length, but nothing worth has been elicited form his mouth about lodging of complaint on knowing the contents and even nothing worth has been elicited regarding the case of prosecution.

13. On perusal of evidence of CW-5 and 6 who are the independent eye witnesses examined as PW-2 and 3 respectively. They deposed that they have not seen the accident and they have not given any statements to the Police in this regard. The learned APP treated these witnesses as hostile witnesses and cross examined at length, but nothing worth has been elicited form their mouth about witnessing the incident.

14. CW-8 who is the treated doctor examined as PW-6. He deposed that on 05.03.2014 at 5.00 p.m., CW-4 appeared before him due to fall from the Lorry and he treated him and issued wound certificate as per Ex.P-6 mentioning the injuries in which injury No.1 is simple and injury No.2 to 5 are grievous in nature. He also opined that

if a person fallen from a height the injuries caused to him may be caused. Whereas in the cross examination he admitted that he has informed the said fact to the Police. He also admitted that if a person fall from the height tree, the injuries as mentioned in Ex.P-6 may be caused.

15. On perusal of evidence of CW-17 who is examined as PW-4 deposed that as per the oral directions of CW-17 he visited on 10.03.2014 and recorded the statements of cW-5 to 7. On 27.07.2014 he recorded the statement of CW-4. On 20.12.2017 as per the directions of CW-17 he went to KIMS Hospital, Hubli where he conducted Inquest on the dead body Musthaf as per Ex.P-5 and recorded the statements of CW-12 and 13. He also deposed that he has handed over for further investigation to CW-17. Whereas in the cross examination he denied to have recorded the statements of witnesses and conducting of Inquest on the body of deceased and deposing falsely before the Court.

16. CW-13 who is the registering authority examined as PW-7. He deposed that on 09.03.2014 at 12.30 p.m., CW-1 appeared before him and lodged oral complaint as per Ex.P-1 and on that basis he registered a case and submitted

FIR to the Court as per Ex.P-8. On the same day at 4.00 p.m., he visited the spot where CW-7 shown the spot of incident and in presence of CW-2 and 3 he conducted spot mahazar as per Ex.P-9 and handed over for further investigation to CW-15. Whereas in the cross examination he denied he is deposing falsely before the Court regarding the investigation. Whereas in the cross examination he denied to have filed a false charge sheet against the accused without doing any investigation.

17. CW-15 who is examined as PW-5. He deposed that n 25.08.2015 he took up further investigation of the instant case from CW-14 and on the same day he received the wound certificate of injured as per ex.P06. On 15.10.2015 he on obtaining the I.D. Bond as per Ex.P-7 got released the Crane No. KA-52-M-1734 to the GPA Holder Dharmendra singh. On 16.10.2015 on completion of investigation submitted the charge sheet to the Court. Whereas in the cross examination he denied to have filed a false charge sheet against the accused without doing any investigation.

18. CW-18 who is examined as PW-8. He deposed that on 18.12.2017 received the message from KIMS Hospital about the death due to the injuries caused to a person and on 20.12.2017 he wrote letter to insert Sec. 304-A of IPC. He deputed CW-7 to conduct Inquest as per Ex.P-10. On 20.12.2017 he received P.M. Report from KIMS Hospital, Hubli as per Ex.P-6. He took the report on 13.12.2018 as per Ex.P-11 about the death was caused in the accident. On 17.12.2018 on completion of investigation submitted the charge sheet to the Court.

19. In this case, Inquest, P.M. Report are marked with consent as per Ex.P-5 and 6, as such learned APP has given up cw-10 to 12, 14. In the cross-examination of the prosecution witnesses, learned counsel for the accused has not denied the occurrence of the accident, injuries suffered by CW-4 and involvement of the vehicle in the accident. Hence, having regard to the materials placed on record by the prosecution and cross-examination by the learned counsel for the accused, it is held that prosecution has proved the occurrence of the accident dated 05.03.2014 and that injuries suffered by CW-4 in the accident.

20. Still, prosecution is required to prove that the said accident was caused by negligent entrustment of the of the work to the CW-4 by the accused herein. As could be seen from the materials on record, CW-4 sustained injuries in the alleged accident. But the complainant and independent eye witnesses PW-2 and 3 have turned hostile and denied about the incident. No doubt the evidence of PW-6 who is the treated doctor deposed that Cw-4 sustained injuries in the incident. The other Police officials though deposed about their part in the investigation, but none of the independent eye witnesses including the complainant stated that the said incident as occurred due to the negligent act of the accused. When the entrustment of the work to CW-4 is not sufficiently proved by the prosecution, then the prosecution story fails. In the instant case the injured CW-4 is not examined before the Court.

21. As observed above, prosecution has proved the occurrence of the accident and injuries suffered by Cw-4 bt it has failed to establish about enbtrustment of the work to CW-4. After careful consideration of the materials available on record, this Court is of the opinion that prosecution has failed to prove the guilt of the accused. Hence for the above

reasons, it is held that prosecution has failed to prove the guilt of the accused beyond all reasonable doubt. Accordingly, points No. 1 and 2 are answered in the Negative.

22. **POINT No. 3:-** In view of answering Points No. 1 and 2 in the Negative, I proceed to pass the following:

ORDER

Acting under Section 255 (1) of Cr.P.C, accused is hereby acquitted of the offences punishable U/s 287, 337 and 338 of I.P.C.

Bail bond of the accused and that of his surety shall stands cancelled.

(Dictated to the Stenographer, transcribed and computerized by him, corrected, print out taken and signed by me and then pronounced in the open court on this 18th day of March, 2026)

(YOGESHA. J)
Senior Civil Judge & JMFC,
Kudligi.

ANNEXURE**LIST OF WITNESSES EXAMINED FOR PROSECUTION**

P.W-1	:	Khaja Mohinuddin
P.W-2	:	Tirumalesha.S
P.W-3	:	Kotresh
P.W-4	:	H. Nagaraj
P.W-5	:	D. Suresh
P.W-6	:	Dr H. Madhu.C
P.W-7	:	Jeetendra
P.W-8	:	Krishnanaik. A

LIST OF DOCUMENTS MARKED FOR PROSECUTION

Ex.P-1	:	Complaint
Ex.P-1(a)	:	Signature of PW-1
Ex.P-2	:	Further statement
Ex.P-2(a)	:	Signature of PW-2
Ex.P-3 & 4	:	Statements
Ex.P-5	:	Inquest
Ex.P-6	:	P.M. Report

Ex.P-6(A) : Wound Certificate
Ex.P-7 : ID. Bond
Ex.P-8 : FIR
Ex.P-9 : Spot mahazar
Ex.P-10 : Letter
Ex.P-11 : Request letter

LIST OF MATERIAL OBJECTS MARKED FOR PROSECUTION

-NIL-

LIST OF WITNESSES EXAMINED FOR ACCUSED

-NIL-

LIST OF DOCUMENTS MARKED FOR ACCUSED

-NIL-

(YOGESHA. J)
Senior Civil Judge & JMFC,
Kudligi.

(Order pronounced in the open Court)
(Vide separate Judgment)

ORDER

Acting under Section 255 (1) of Cr.P.C, accused is hereby acquitted of the offences punishable U/s 287, 337 and 338 of I.P.C.

Bail bond of the accused and that of his surety shall stands cancelled.

(YOGESHA. J)
Senior Civil Judge & JMFC,
Kudligi.