

KAVP210018512024



Presented on : 27-07-2024
Registered on : 29-07-2024
Decided on : 05-06-2026
Duration : 1 year, 10 months, 7 days

**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC,
AT BASAVANA BAGEWADI**

PRESENT

Sri. Ameet Ghatti, B.A., LLB.,
Prl. Civil Judge and JMFC.,
Basavana Bagewadi.

Dated this the 5th day of June, 2026

CRIMINAL CASE No.1353/2024

COMPLAINANT:

The State of Karnataka,
Through Basavana Bagewadi Police Station.

(By Assistant Public Prosecutor)

//Versus//

ACCUSED:

Aspak Husen Razakasab Kolhar,
Age: 34 years, Occ: Driver,
R/o Ajada Nagar, Kolhar.

(By Sri. N.S.Biradar, Advocate)

1.	Date of commission of offence	29.01.2024
2.	Date of report of offence	29.01.2024
3.	Date of arrest of the accused	02.02.2024
4.	Name of the complainant	Shekhappa Kareppa Banchodi, R/o Takkalaki.
5.	Date of recording evidence	12.08.2025

6.	Date of closing evidence	27.03.2026
7.	Offences complained of	Secs.279, 304A of IPC and Sec.187 of M.V. Act.
8.	Opinion of the Judge	Accused found not guilty.

J U D G M E N T

The Police Inspector, Basavana Bagewadi Police Station has filed the Charge Sheet against the accused for the offences punishable U/Secs.279, 304A of Indian Penal Code and Sec.187 of Motor Vehicles Act.

2 The case of the prosecution in brief is as follows:

That, on 29.01.2024 at about 17:30 hours C.W.6-Ningappa Vatagura was proceeding on Motorcycle bearing No.KA-40/L-5434 along with pillion rider by name Kareppa Chandappa Banchodi, at that time the accused being driver of Maruti Suzuki Company Ertiga Car bearing No.KA-28/Z-7298 drove the same from Basavana Bagewadi towards Takkalaki in high speed and negligently so as to endanger the human life and safety of others and dashed to the above said Motorcycle, due to which pillion rider of said Motorcycle by name Kareppa Chandappa Banchodi sustained injuries on his head and

succumbed to those injuries on the spot. Further, the accused after causing accident failed to inform the fact of accident to the nearest Police Station and also failed to take reasonable steps to secure medical attention for the injured and ran away from the spot. Hence, this complaint.

3 On the basis of the complaint, on 29.01.2024 at about 20:30 hours, C.W.13-P.S.I., Basavana Bagewadi Police Station has registered a case in Crime No.28/2024 and sent the copy of FIR to his Higher Officers and also to Court. After completion of investigation, the C.W.14-Police Inspector, Basavana Bagewadi Police Station has filed the charge sheet against the accused for the offences punishable U/Secs.279, 304A of IPC and Sec.187 of M.V. Act.

4 As there were sufficient materials in the Charge Sheet to proceed against the accused, this Court has taken cognizance for the above said offences. In pursuance of summons, the accused has appeared before this Court through his Counsel and he was enlarged on bail. The

copy of Charge Sheet was furnished to the accused as contemplated U/Sec.207 of Cr.P.C.

- 5** Substance of Accusation was recorded for the offences punishable U/Secs.279, 304A of IPC and Sec.187 of M.V. Act and the same was read over and explained to the accused in the language known to him. The accused pleaded not guilty and claim to be tried.
- 6** In order to prove the case of the prosecution, the prosecution has examined 10 witnesses as P.Ws.1 to 10 and got marked 13 documents as Ex.P.1 to Ex.P.13.
- 7** The Statement of accused U/Sec.313 of Cr.P.C. was recorded, read over and explained to the accused in the language known to him. The accused has denied the incriminating circumstances appeared in the evidence of prosecution witnesses. The accused has not chosen to adduce any defence evidence.
- 8** I have heard the arguments on both sides. Perused the available records.
- 9** The following Points would arise for my consideration:

POINTS

- 1.** *Whether the prosecution has proved beyond all reasonable doubt that, on 29.01.2024 at about 17:30 hours on Basavana Bagewadi to Muttagi Road, near Murarji Residential School, within the limits of Basavana Bagewadi Police Station, accused being the driver of Maruti Suzuki Company Ertiga Car bearing Regn. No.KA-28/Z-7298 drove the same from Basvana Bagewadi towards Takkalaki in high speed and negligently so as to endanger the human life and safety of others and thereby accused committed an offence punishable U/Sec.279 of Indian Penal Code ?*
- 2.** *Whether the prosecution has proved beyond all reasonable doubt that, on the above said date, time and place, accused being the driver of above said Car drove the same in high speed and negligently and dashed to Hero Honda Splinder Motorcycle bearing Regn. No.KA-40/L-5434 of C.W.6-Ningappa Vatagura and caused accident, as a result pillion rider of said Motorcycle by name Kareppa Chandappa Banchodi succumbed to the injuries on the spot and thereby accused caused the death of deceased by his above said negligent act not amounting to culpable homicide and thereby accused committed an offence punishable U/Sec.304A of Indian Penal Code ?*

3. *Whether the prosecution has proved beyond all reasonable doubt that, on the above said date, time and place, accused being the driver of the above said Car, after causing accident failed to inform the fact of accident to the nearest Police Station and failed to take reasonable steps to secure medical attention for the injured and ran away from the spot and thereby accused has committed an offence punishable U/Sec.187 of Motor Vehicles Act ?*

4. *What Order ?*

10 My findings to the above Points are as under:

Point No.1 : In the Negative,

Point No.2 : In the Negative,

Point No.3 : In the Negative,

Point No.4 : As per final order for the following:-

REASONS

11 POINTS NO.1 TO 3:- Since these points are interconnected with each other and will produce the same result, they are taken up together for discussion in order to avoid repetition of facts.

12 In order to attract Section 279 of IPC, the prosecution must proved that accused had driven the force vehicle either rashly or negligently. If rashness in driving so as to

endanger the human life is proved. It is sufficient to fasten the criminal liability under section 279 of IPC. If rashness is not proved, if the prosecution is able to show that the accused was negligent in driving the force vehicle so as to endanger human life, it is also sufficient to attribute section 279 of IPC. Therefore, the prosecution is required to establish either rashness or negligence. The prosecution need not establish both rashness or negligence in driving the vehicle.

13 Case of the prosecution is that, on 29.01.2024 at about 17:30 hours C.W.6-Ningappa Vatagura was proceeding on Motorcycle bearing No.KA-40/L-5434 along with pillion rider by name Kareppa Chandappa Banchodi, at that time the accused being driver of Maruti Suzuki Company Ertiga Car bearing No.KA-28/Z-7298 drove the same from Basavana Bagewadi towards Takkalaki in high speed and negligently so as to endanger the human life and safety of others and dashed to the above said Motorcycle, due to which pillion rider of said Motorcycle by name Kareppa Chandappa Banchodi sustained injuries on his head and succumbed to those injuries on the spot. Further, the accused after causing accident failed to inform the fact of

accident to the nearest Police Station and also failed to take reasonable steps to secure medical attention for the injured and ran away from the spot. Hence, this complaint.

14 In order to prove the case of the prosecution, the prosecution has examined 10 witnesses as P.Ws.1 to 10 and got marked 13 documents at Ex.P-1 to Ex.P-13. P.Ws.1, 3, 4 and 7 are the Panch Witnesses, P.W.2 is the Complainant, P.W.5 is the Eyewitness, P.W.6 is the Witness and P.Ws.8 to 10 are the Investigating Officers.

15 Ex.P-1 and Ex.P-2 are the Seizure Panchanams, Ex.P-3 and Ex.P-4 are the Photographs, Ex.P-5 is the Complaint, Ex.P-6 is the Spot Panchanama, Ex.P-7 is the Photograph, Ex.P-8 is the Inquest Panchanama marked with consent, Ex.P-9 is the Postmortem Examination Report marked with consent, Ex.P-10 is the Motor Vehicles Accident Report marked with consent, Ex.P-11 is the First Information Report, Ex.P-12 is the Rough Sketh Map and Ex.P-13 is the Indemnity Bond.

16 P.Ws.1, 3, 4 and 7, who are the Mahazar Witnesses in this case, have not supported the case of prosecution and

turned hostile. Though the learned APP subjected them to cross-examination, but nothing has been elicited from their mouth I order to prove the case of prosecution.

17 P.W.2 being the Complainant in this case has deposed that, deceased Kariyappa is his father, when he was in the village, he has received call from C.W.9 and C.W.9 has informed that, when C.W.6 was proceeding on vehicle along with his father, Car dashed to their vehicle, due to which accident occurred. Thereafter, he has visited the spot and confirmed that, his father sustained injuries and succumbed to those injuries on the spot. He has enquired C.W.6. C.W.6 has stated that, a vehicle came from his back side and dashed to his vehicle, due to which accident occurred. Further deposed that, the vehicle number of C.W.6 is KA-40/L-5434. As such he has filed the complaint as per Ex.P-5. Further deposed that, the Police have visited the spot and conducted Mahazar as per Ex.P.6 and taken Photograph as per Ex.P-7. Further deposed that, the Police have called him to the Police Station and shown the accused and his name is Aspak Kolhar and vehicle number is 7298.

18 The Counsel for the accused cross-examined P.W.2. During cross-examination, P.W.2 has admitted that, he does not know reading and writing. The Police have written the complaint. Further admitted that, he has not seen the accident. Further admitted that, there is Speed Breaker near Murarji School. The Counsel for the accused suggested that, C.W.6 was proceeding on his Motorcycle along with his father and one more person. The Counsel for the accused put many suggestions, but same were denied by P.W.2.

19 P.W.5, who is the Eyewitness in this case, has deposed that, about 1 year back when he was proceeding on his Motorcycle along with Kariyappa towards Takkalaki, one Car came from back side and dashed to his Motorcycle, due to which pillion rider fell down and Car ran over Kariyappa and driver of said Car without stopping his vehicle ran away from the spot and due to accident said Kariyappa succumbed to those injuries. Further deposed that, he came to know the name of driver of Car is Aspak Husen. Further deposed that, after 4 days the Police called him to the Police Station and shown one person and told that, he was the driver of Car and vehicle

number is 7298 and he has identified the accused and he has given his statement to the Police.

20 The Counsel for the accused cross-examined P.W.5. During cross-examination, he has admitted that, accident was occurred in front of Morarji School and there is road breaker. He has stated that, he has seen the driver of the Car. Further stated that, while he was taking turn towards side near Murarji Desai School, the vehicle dashed to his vehicle. The Counsel for the accused put many suggestions, but same were denied by P.W.5.

21 P.W.6 has deposed in his evidence that, on 29.01.2024 when he was at the Bus Stand, he received information about accident. He went to the spot and found that, Kariyappa died on the spot. On enquiry, C.W.6 has stated that, when he was proceeding on Motorcycle along with Kariyappa, one Car came from back side and dashed to his vehicle. Car number is KA-28/Z-7298. The name of the Car driver is Ashpak. 2 days after the accident the Police called him and shown the accused.

22 The Counsel for the accused cross-examined P.W.6. During cross-examination, he has admitted that, he came

to know about the accident from C.W.6. He has not seen the accident. Further stated that, he has seen the accused in the Police Station. The Counsel for the accused put many suggestions, but same were denied by P.W.6.

23 P.W.8, who is Investigating Officer in this case, has deposed that, on 29.01.2024 as per first information statement given by C.W.1 he has registered a case in Crime No.28/2024 and sent the FIR to the Court. Further deposed that, on 30.01.2024 he has conducted inquest panchanaqma in the presence of C.Ws.2 and 3. On the same day he has visited the spot and conducted mahazar in the presence of C.Ws.4 and 5 and taken photograph and prepared sketch and recorded the statements of C.Ws.6 to 10.

24 The Counsel for the accused cross-examined P.W.8. During cross-examination, he has deposed that, as per statement given by C.W.1, the complaint was typed in the Police Station. Further admitted that, there is a road break in front of Morarji School. The Counsel for the accused put many suggestions, but same were denied by P.W.8.

- 25** P.W.9 being another Investigating Officer has deposed that, on 30.01.2024 he has collected Postmortem Report. On 01.02.2024 he has issued notice to the owner of offending vehicle No.KA-28/Z-7298. On 02.02.2024 he has seized vehicle No.KA-40/L-5434. On the same day he has seized vehicle No.KA-28/Z-7298 by conducting mahazar. On the same day, after completion of arrest procedure, he has released the accused on bail and he has recorded further statements of C.Ws.1 and 6 to 10.
- 26** The Counsel for the accused cross-examined P.W.9 and put many suggestions, but same were denied by P.W.9.
- 27** P.W.10, who is another Investigating Officer in this case, has deposed about investigation conducted by him. He deposed with regard to release of vehicles and receiving the documents pertaining to this case. Further deposed that, after completion of investigation, he has filed the charge sheet.
- 28** The Counsel for the accused cross-examined P.W.10. The Counsel for the accused put many suggestions, but same were denied by P.W.10.

29 The learned prosecution has got marked Ex.P-8-Inquest Panchanama, Ex.P-9-Postmortem Examination Report and Ex.P-10-Motor Vehicles Accident Report with consent of Counsel for accused. Hence, the prosecution has given up examination of C.Ws.11 and 12.

30 On perusal of records, P.Ws.1, 3, 4 and 7, who are the Mahazar Witnesses in this case, have not supported the case of prosecution. P.W.2 is the complainant in this case. In the complaint, he has stated that, on 29.01.2024 when C.W.6 was proceeding on his Motorcycle bearing No.KA-40/L-5434 towards Takkalaki along with pillion rider by name Kareppa Chandappa Banchodi in front of Morarji School, driver of the car drove the same in rash and negligent manner and dashed to his vehicle, due to which his father succumbed to those injuries. In the complaint the complainant has nowhere stated that, the accused drove the vehicle No.KA-28/Z-7298 and dashed to vehicle of C.W.6. During chief examination, he has admitted that, 2 days after the accident, the Police called him and shown the accused and his name is Aspak Kolhar. Further, during cross-examination he has admitted that, he has

not seen the incident. Hence, the evidence of P.W.2 is not helpful to the case of prosecution.

31 P.W.6, who is Eyewitnesses in this case, has deposed that, 4 days after the accident Police called him to the Police Station and shown one person as driver of the Car and vehicle number is 7298. The evidence of P.W.5 clearly goes to show that, he came to know the Car number is 7298 from the Police. Further, during cross-examination he has admitted that, near Murarji Desai School while he was taking turn towards right side, the driver of Car dashed to his vehicle. Hence, there is doubt arises in the mind of the Court.

32 P.W.6 who is hearsay witness in this case has deposed that, he was not present at the time of accident. Further admitted that, the police have shown the accused in the Police Station. Hence, there is doubt arises in the mind of the Court.

33 On perusal of the records, it is the case of the prosecution that, C.W.6 was driving his vehicle and Kareppa Chandappa Banchodi is a pillion rider and while he was

proceeding from Basavana Bagewadi towards Takkalaki, one Car came from back side and dashed to his vehicle, due to which they fell down and they sustained injuries. Said Kareppa Chandappa Banchodi succumbed to those injuries on the spot. But, in the present case, the prosecution has not produced any documents to show that, C.W.6 sustained injury. Normally the vehicle dashed to the vehicle, both were sustained injuries, but the prosecution has not produced any Wound Certificate of C.W.6. Hence, there is doubt arises in the mind of the Court.

34 The prosecution would have produced cogent and corroborative evidence to prove that the accused is guilty of offences alleged beyond reasonable doubt. But, the prosecution has utterly failed to do so. Only on the strength of evidence of Investigating Officers, this Court cannot come to the conclusion that, the prosecution has proved accused is guilty of alleged offences beyond reasonable doubt. Based on the discussion made above, I am of the considered view that the prosecution has miserably failed to prove that due to rash and negligent

act of the accused, the accident occurred and pillion rider of Motorcycle bearing No.KA-40/L-5434 by name Kareppa Chandappa Banchodi succumbed to the injuries on the spot.

35 In the decision of *Hon'ble Supreme court has held that rendered in **AIR 2005 SC 3180 (JACOB Mathew Vs State of Punjab and another)*** "The word "Gross" has not been used in section 304(A) of IPC. Yet it is settled that in criminal law negligence or recklessness to be so held, must be of such a high degree as to be gross. The expression rash or negligent act as occurring in section 304(A) of IPC has to be read as qualified by the word "Grossly".

36 The above ratio is applicable to this case. I have gone through entire facts of the case as discussed above, the material witnesses have not supported the case of the prosecution. And apart from this the Exhibited documents, Ex.P.1 to Ex.P.13 are not sufficient to prove the guilt against the accused within the four Corners of the allegations made against the accused. Further, upon perusal of the case, and the charge sheet materials the

case put forth by the prosecution is not proved in the light the allegations made in the charge sheet. Therefore, looking to the all these material facts and circumstances of the case the prosecution has failed to prove the case against the accused beyond reasonable doubt wherein the onus of the charges/levelled against the accused. Therefore, there is a doubt arises in the mind of the Court about the genuineness of the evidence led by the prosecution witnesses. Hence, the evidence of the prosecution will not come in evidence of the prosecution to prove the offences against the accused. Hence, the accused is entitled for the benefit of doubt. Hence, the accused is entitled for acquittal for the offences punishable U/Secs.279 and 304A of Indian Penal Code.

37 Further, Section 187 of Motor Vehicles Act is concerned, none of the prosecution witnesses have deposed that, after accident accused failed to inform the fact of accident to the nearest Police Station and failed to take reasonable steps to secure medical attention for the injured and ran away from the spot. Hence, the prosecution has failed to prove that, the accused after causing accident failed to

inform the fact of accident to the nearest Police Station and also failed to take reasonable steps to secure medical attention for the injured and ran away from the spot. Hence, the accused is entitled for acquittal for the offence punishable U/Sec.187 of M.V. Act. Accordingly, I answer Points No.1 to 3 in the **NEGATIVE**.

38 POINT NO.4:- In view of my findings on Points No.1 to 3, I proceed to pass the following;

ORDER

Acting U/Sec.255(1) of Cr.P.C accused is acquitted for the offences punishable U/Secs.279, 304A of Indian Penal Code and Sec.187 of Motor Vehicles Act.

The bail bond of the accused and surety bond shall stand cancelled.

The bail bond of the accused and of his surety executed at earlier stage shall stands extended for a period of 6 months in view of Sec.437(A) of Cr.P.C.

The interim order dated 27.03.2024 in
respect of Splendor Plus Motorcycle bearing
Regn. No.KA-40/L-5434 is made absolute.

(Part of the Judgment is dictated to the Stenographer, transcribed and computerized by him and remaining part of the Judgment is dictated to him on computer directly, then print out taken by him and then corrected and pronounced by me in open Court on this 5th day of June, 2026).

(Ameet Ghatti)
Prl. Civil Judge & JMFC,
Basavana Bagewadi.

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ANNEXURES

List of the Witnesses examined by the Prosecution:

- P.W.1 : Lalemashak S/o Nasiruddin Baligar,
R/o Basavana Bagewadi.
- P.W.2 : Shekhappa S/o Kariyappa Banchodi, R/o Takkalako.
- P.W.3 : Krishnappa S/o Balabheem Kuradikar, R/o Takkalaki.
- P.W.4 : Rayappa S/o Mudakappa Gudihal, R/o Takkalaki.
- P.W.5 : ingappa S/o Chandappa Hotagur, R/o Takkalaki.
- P.W.6 : Allahussain S/o Bashesab Yaranal, R/o Takkalaki.
- P.W.7 : Manjunath S/o Balakrishna Kalal, R/o Basavana Bagewadi.
- P.W.8 : Manohar S/o Ramachandra Kanchagar, PSI,
R/o Basavana Bagewadi.
- P.W.9 : Sharanagouda S/o Malakendraray Nyamannavar, CPI,
R/o Shahapur.
- P.W.10: Vijay S/o Ashok Muragundi, P.I. Women Police Station,
R/o Bagalakot.

List of the Documents exhibited for the Prosecution:

- Ex.P-1 : Seizure Panchanama.
- Ex.P-1(a) : Signature of P.W.1.
- Ex.P-1(b) : Signature of P.W.7.

- Ex.P-1(c) : Signature of P.W.9.
- Ex.P-2 : Seizure Panchanama.
- Ex.P-2(a) : Signature of P.W.1.
- Ex.P-2(b) : Signature of P.W.7.
- Ex.P-2(c) : Signature of P.W.9.
- Ex.P-3 : Photograph.
- Ex.P-3(a) : Signature of P.W.9.
- Ex.P-4 : Photograph.
- Ex.P-4(a) : Signature of P.W.9.
- Ex.P-5 : Complaint.
- Ex.P-5(a) : Signature of P.W.2.
- Ex.P-5(b) : Signature of P.W.8.
- Ex.P-6 : Spot Panchanama.
- Ex.P-6(a) : Signature of P.W.2.
- Ex.P-6(b) : Signature of P.W.3.
- Ex.P-6(c) : Signature of P.W.8.
- Ex.P-7 : Photograph.
- Ex.P-7(a) : Signature of P.W.8.
- Ex.P-8 : Inquest Panchanama (marked with consent).
- Ex.P-8(a) : Signature of P.W.8.
- Ex.P-9 : Postmortem Examination Report (marked with consent).
- Ex.P-9(a) : Signature of P.W.9.
- Ex.P-10 : Motor Vehicles Accident Report (marked with consent).
- Ex.P-10(a) : Signature of P.W.10.
- Ex.P-11 : F.I.R.
- Ex.P-11(a) : Signature of P.W.8.
- Ex.P-12 : Rough Sketch Map.
- Ex.P-12(a) : Signature of P.W.8.
- Ex.P-13 : Indemnity Bond.
- Ex.P-13(a) : Signature of P.W.10.

List of the MOs marked on behalf of the Prosecution:

--Nil--

List of the Witnesses examined for Defence:

--Nil--

List of the Documents exhibited for Defence:

--Nil--

List of the MOs marked on behalf of Defence:

--Nil--

(Ameet Ghatti)
Prl. Civil Judge & JMFC,
Basavana Bagewadi.

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