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1 Crl. Appeal No. 25/2023

Presented on : 15-05-2023

Registered on : 17-05-2023

Decided on : 07-03-2026

Duration : 2 years, 9 months, 23 days

**IN THE COURT OF THE PRL. DISTRICT AND SESSIONS  
JUDGE, YADGIR**

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

**PRESENT**

**Sri.Marulasiddaradhy H.J.**

B.A, LL.B.,LL.M

Prl. District and Sessions Judge,  
Yadgir.

**Criminal Appeal No. 25/2023**

**Appellant:**

Mallappa S/o Sharanappa Anpur

Age: 28 years, Occ: Agriculture

R/o Ramsamudra village, Tq: & Dist.Yadgiri

(By Sri.S.A.Q/ P.S.M., Advocate)

**Vs.**

**Respondent:**

The State through Traffic Police Station

(By Public Prosecutor)

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

This appeal is preferred by the accused No.1  
U/sec.374(2)(a) of Cr.P.C by praying to set aside the

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impugned judgment passed by the learned Chief Judicial Magistrate, Yadgiri in CC No.220/2017 dated 13.04.2023 for the offences punishable U/sec.279, 337, 304(A) of IPC and U/sec.180, 187 of M.V Act.

**2)** The brief fact of the prosecution case is that, on 31.12.2016 at about 7.45 pm, the accused No.1 was driving auto-rickshaw bearing Reg. No. KA-33-A-6429 in front of Kudlur petrol pump at Yadgiri which belongs to the accused No.2 without holding driving license and by driving it rashly or negligently dashed to the road side divider and made the auto-rickshaw to turtle down. Consequently the passengers travelling in the auto-rickshaw by name Chandru suffered severe and fatal injuries to his head and breathed his last at the spot. While CW-1 & 7 have suffered simple injuries in the accident. The accused No.1 ran away from the spot by leaving the auto-rickshaw without intimating the police or providing medical assistance to the victims. Accordingly Crime No.34/2016 is registered before the Traffic Police Station Yadigir.

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**3)** The investigating officer after holding due investigation submitted charge sheet against the accused for the offences punishable U/Sec.279, 337, 304(A) of IPC and Sec.180, 187 of MV Act.

**4)** The learned trial judge took cognizance against the accused for the charge sheeted offences and after securing accused No.1 complied Sec.207 of Cr.P.C. Plea was framed read over and explained. He pleaded not guilty and claim to be tried.

**5)** The prosecution towards establishing its case examined PW-1 to 10 out of 13 witnesses listed in the charge sheet and got marked Ex.P1 to 15.

**6)** The statement of accused No.1 was recorded U/Sec.313 of Cr.P.C. He denied the prosecution evidence and did not chosen to lead defence evidence.

**7)** The learned trial judge heard both sides and after perusing the oral and documentary evidence on record by considering six points on various offences affirmatively

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answered all the points by convicting and sentencing the appellant/ accused for all the charge sheeted offences.

**8)** The accuse No.1 being aggrieved by the impugned order of conviction and sentence passed by the learned trial court preferred this appeal on the grounds that, they are innocent and have not committed any offences. The impugned order has been passed blindly by believing the examination-in-chief of the prosecution witnesses. The complainant heard about the incident over phone and has not seen the occurrence of the accident. None of the prosecution witnesses deposed about rash or negligence driving of the auto-rickshaw by the appellant. Even the only injured witness PW-3 also not clearly supported the prosecution case. All the other witnesses examined by the prosecution are hearsay and official witnesses, but not deposed about rash or negligent driving of the rickshaw which caused accident. Accordingly the appellant prays to allow the appeal by setting aside the impugned judgment.



**9)** This court issued notice to the learned public prosecutor and secured the records from the trial court.

**10)** After hearing both sides, perusing the grounds of appeal, oral and documentary evidence on record, the following points arise for my consideration.

**11)** The following points arise for my consideration;

- 1)** Whether the prosecution proved beyond reasonable doubt that on 31.12.2016 at about 7.45 pm, the accused No.1 was driving auto-rickshaw bearing Reg No.KA-33-A-6429 rashly or negligently without holding any license and caused the accident by dashing the rickshaw to the median of the road which resulted in fatal injuries to the deceased Chandru who died at the spot and simple injuries to CW-1 & 7 and thereby committed the offence punishable U/Sec.279, 337, 304(A) of IPC and U/sec.3 R/w 180 & 187 of IMV Act.?
- 2)** Whether the judgment of the trial court is justifiable?

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3) Whether the findings of the trial court called for interference?

4) What order?

12) My findings on the above points are as follows;

Point No.1 : Partly in Affirmative

Point No.2 : Partly in Affirmative

Point No.3 : Partly in Affirmative

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

### **REASONS**

13) **POINT No.1:-** It is the case of prosecution that, on 31.12.2016 at about 7.45 pm accident occurred when the auto-rickshaw was driven by the accused No.1 near Kudlur petrol pump Yadgiri over the road divider by making it turtle on the road. Consequently one Chandru travelling as passenger in the auto-rickshaw died at the spot, while CW-1 & 7 have suffered simple injuries. Accused No.1 immediately

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after the accident ran away from the spot by leaving the vehicle without informing the local police and providing medical treatment to the victims. The accused No.1 was driving the auto-rickshaw without holding valid and effective driving license at the time of accident. The accused No.2 being its owner has given the vehicle to accused No.1 to drive on public way knowing that, he was not holding valid driving license.

**14)** The prosecution towards substantiating its case has got examined PW-1 to 10 and got marked Ex.P1 to 15.

**15)** CW-1 examined by the prosecution as PW-7 along with CW-7 examined as PW-3 deposed in support of the prosecution case that, the alleged accident occurred when the auto-rickshaw ran over median of the road and it turtle down on the road.

**16)** CW-1 specifically deposed about rash or negligent driving of the accused No.1 at the time of accident, but himself has not deposed about the speed of

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the vehicle or the reason for causing accident at the spot. He admitted that, as per Ex.P7 spot panchanama auto-rickshaw and the spot of the accident is shown at about 10.12 feet away from the median of the road.

**17)** CW-7 another injured deposed that, he did not what happened to any one travelling in the auto-rickshaw immediately after the vehicle fell on the ground and himself became unconscious. He further deposed that he has not given any statement to the police as per Ex.P3. Further deposed that, he did not know due to whose negligence the alleged accident occurred.

**18)** PW-7 examined by the prosecution even though supported the case of prosecution, he has not deposed the manner of rashness or negligence in the driving of auto-rickshaw by the accused No.1 that resulted in running over the median of the road which caused the accident. Only by the use of technical words rashness or negligence cannot attract the charges to bring home the guilt against the accused No.1, as the same could be the technical words

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used by the witnesses due to any technical support by the prosecution or police.

**19)** PW-1 father of deceased Chandru and PW-2 mother of deceased Chandru deposed about hearing that, their son suffered severe injuries and he breathed his last at the spot. Immediately they rushed to the hospital and have seen fatal injuries to his head and neck. Further both of them deposed that, no one told them about rashness or negligence of any one that caused accident. Even they have not given any statement before the police.

**20)** PW-4 is the brother of deceased Chandru deposed in support of the prosecution case that, he heard about the accident and immediately after visiting the hospital he has seen fatal injuries to his brother to his head that caused his death.

**21)** PW-6 is the doctor who treated CW-1 and issued Ex.P5 deposed that, the injuries found on the body of CW-1 are simple in nature and they are abrasion injuries on the

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right side back of the victim. Her evidence only reveal the injuries caused to CW-1 in the accident and the same is not denied by the defence in her cross examination.

**22)** PW-5 is the doctor who has conducted postmortem of the body of the victim Chandru deposed about fatal injuries found on the body of the victim which are caused in an accident and the same are the reason for his death.

**23)** PW-8 pancha witness deposed about drawing panchanama at the spot as per Ex.P8 and stood in support of the prosecution case.

**24)** PW-9 & 10 being the police officers deposed about holding investigation, collecting evidence and recording the statements of witnesses and also submitting charge sheet in view of existing sufficient evidence against both accused No.1 & 2.

**25)** The above analysis of oral and documentary evidence produced by the prosecution clearly reveal that,

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CW-1 complainant has supported the prosecution case and deposed about occurrence of the accident, but he has not deposed specifically about the manner of rashness or negligence on the part of accused No.1 that caused accident.

**26)** Even CW-7 another injured witness turned hostile to the prosecution case. Further it is material to note that, the parents of deceased Chandru examined as PW-1 & 2 by the prosecution have also turned hostile and deposed about absence of hearing any information about rashness or negligence on the part of any person who caused the accident.

**27)** The above discussed evidence of the prosecution clearly reveal that the prosecution succeeded in proving the occurrence of the accident to the vehicle driven by the accused No.1 belongs to accused No.2 which resulted in the death of one passenger by name Chandru and injuries to two other passengers CW-1 & 7, but the same cannot be the

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reason to conclude that the alleged accident occurred only due to rash or negligent driving of auto-rickshaw by the accused No.1 that belongs to accused No.2.

**28)** Further it is clear from the charge sheet material on record that, the accused No.1 has not produced any documents to show that, he was holding valid and effective driving license at the time of accident. Even immediately after the accident he has not informed it to the local police or provided medical treatment to the victims of accident.

**29)** Further, accused No.2 being the owner of the offending vehicle himself also has not adduced any evidence to show that, he has no knowledge about absence of valid license to accused No.1 to drive the offending vehicle at the time of accident. Consequently the appellant being accused No.1 is liable to pay fine for the offences proved by the prosecution in driving the offending vehicle at the time of accident without holding valid and effective driving license and also for not informing the police and providing medical

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aid to the victims. Hence I answer Point No.1 ***Partly In Affirmative.***

**30) POINT No.2 & 3:-** These points are taken up together for discussion as they are inter related and interlinked to avoid repetition in the discussion.

**31)** It is the case of appellant/ accused No.1 that, the learned trial court failed to appreciate the evidence properly and that the complainant being the father examined by the prosecution himself turned hostile and also he is the hearsay witness. There is no rash or negligent driving on the part of the accused. Even PW-2 the mother of deceased also turned hostile, but the same is not properly considered by the trial court. PW-3 injured eyewitness deposed only about occurrence of the accident, but not about rash or negligent driving of the rickshaw by the accused. All the other witnesses are hearsay and official witnesses who have not seen the accident. Accordingly having no grounds made out by the prosecution to attract any of the ingredients to



constitute the charge sheeted offences, the appellant prays to allow the appeal by acquitting him for all the offences convicted and sentenced by the learned trial court.

**32)** The discussion above related to the evidence of PW-1 & 2 parents of deceased Chandru along with PW-3 injured eyewitness reveal that, both PW-1 & 2 turned completely hostile, while PW-3 injured witness deposed only about the accident but not about rash or negligent driving of of the rickshaw by the accused. Even he has specifically stated about absence of any statement recorded by the police.

**33)** Even PW-7 examined by the prosecution deposed that, accused was driving the rickshaw in about 40-50 Kms speed per hour and when the rickshaw dashed to the road divider, the rickshaw turtle down on the ground and caused the accident. Thereafter, he has been shifted to the hospital and took treatment. Himself has also not specifically deposed about rash or negligent driving of the rickshaw by

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this accused that only caused accident with injuries to PW-3 & 7 and death of Chandru.

**34)** As per Ex.P7, the spot of accident is about 10-12 feet away from the median of road and the spot where the accident occurred and to which the rickshaw dashed is not identified specifically in Ex.P7 spot sketch. Even establishing the spot by the prosecution itself cannot be the evidence to establish rash or negligent driving of rickshaw by the accused.

**35)** However in view of the evidence on record it is clear that, accused No.1 was driving the rickshaw without holding valid and effective driving license and accused No.2 being the owner has given the rickshaw to the accused No.1 with knowledge and without enquiry that, he was not holding valid driving license to drive the offending rickshaw at the time of accident.

**36)** Accordingly the judgment of learned trial judge is not justifiable with respect to rash or negligent driving of

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rickshaw by the accused No.1 that caused the alleged accident which resulted in death of one Chandru and injuries to PW-3 & 7.

**37)** Even the findings of the learned trial court to the points considered by it about rash or negligent driving of rickshaw by the accused No.1 is not sustainable and it called for interference by this court. Hence, I answered points No.2 & 3 ***Partly in Affirmative.***

**38) Point No.4:-** In view of my findings on point Nos.1 to 3, I proceed to pass the following:

### **ORDER**

The appeal filed under Sec.374(2)(a) of Cr.P.C is hereby allowed.

The judgment and order of conviction with sentence passed by the learned Chief Judicial Magistrate, Yadgiri in CC No.220/2017 dated 13.04.2023 is hereby partly confirmed.

Further the sentencing of accused No.1 for the offences punishable U/sec.3 R/W Sec.180 & 187 of M.V Act with imprisonment is hereby set-aside.

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The accused No.1 is hereby acquitted for the offences punishable U/sec.279, 337, 304(A) of IPC.

Accused No.1 is hereby directed to pay fine imposed by the learned Chief Judicial Magistrate Yadgiri for the offences punishable U/sec.3 R/w Sec 180 & 187 of MV Act.

In default of payment of fine by the accused No.1 for the offence punishable U/sec.3 R/w Sec 180 & 187 of MV Act, he shall undergo simple imprisonment for a period of 3 months.

Bail bonds if any stands canceled.

The appellant/accused No.1 is directed to execute bond Rs.50,000/- with one surety before this court in compliance of Sec.437(A) of Cr.P.C.

Send back TCR with a copy of this judgment.

(Dictated to the Stenographer Grade-III, transcribed, corrected it, taken out print, signed and then pronounced by me in the open Court on **7<sup>th</sup> day of March, 2026**)

**(Marulasiddaradhya H.J.)**  
Prl. District and Sessions Judge,  
Yadgiri.