

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

-:Present:-

Sri. Shrinath A., B.A.L, L.L.B.,
Civil Judge and J.M.F.C.,
Ponnampet

Criminal Case No.492/2023

Dated this the 14th day of July 2026

Complainant: - State by Gonikoppa Police,
(By: The Asst. Public Prosecutor)

-V/s -

Accused:- Sri.Basavaraju B.S,
S/o Late Siddaiah,
Age: 36 years,
R/o: Banantalli village,
Channapattana Taluk,
Ramanagar District.

(By Sri.T.M.Annaiiah, Advocate)

- | | |
|------------------------------------|---------------------------------|
| 1. Date of commission of offence : | 13.02.2023 |
| 2. Date of report of offence: | 13.02.2023 |
| 3. Name of complainant | Smt.Nandetira Swetha Gowramma, |
| 4. Date of recording evidence: | 27.02.2024 |
| 5. Date of closing evidence: | 29.09.2025 |
| 6. Offence complained of : | Sec.279, 337 and 304(A) of IPC. |
| 7. Opinion of the Judge : | Accused is acquitted |



JUDGMENT

The Gonikoppa Police have filed charge sheet against the accused for the offences punishable under Sec.279, 337 and 304(A) of IPC.

2. The brief case of the prosecution is that on 13.02.2023 at about 2.15p.m within the jurisdiction of the Gonikoppa police station in the junction at Kaikeri village in the main road of Gonikoppa to Virajpet near Jammada ancestral house and Kichimo Home stay, the accident occurred between the Wagon-R car bearing no.KA-09-MB-8377 and Eicher lorry bearing no.KA-09-MB-3528. The said accident was caused by negligence on the part of the Eicher lorry having driven in rash and negligent manner which led to the death of Sadan Chengappa and injuries to Cw2 who was passenger sitting next to the driver in the car where Cw2 sustained simple injuries, thereby the accused has



committed the offences punishable under Sec.279, 337 and 304(A) of IPC.

3. This court perusing the materials took cognizance and thereafter issued summons to the accused. The accused appeared through his advocate and has been enlarged on bail. The copies of the final report in compliance of Sec.207 of Cr.P.C was furnished. After framing charges for the offence punishable under Sec.279, 337 and 304(A) of IPC against the accused, the charge was read over and explained to the accused and he has pleaded not guilty and hence summons was issued to the prosecution witnesses.

4. The prosecution in support of their case has examined 6 witnesses as Pw1 to Pw6 and got marked 40 documents vide Ex.P1 to Ex.P39. As there was incriminating evidence appearing in prosecution witnesses against the accused, the incriminating evidence was read over to the accused under Sec.313 of Cr.P.C and the



accused has denied them as false. Thereafter the accused choose to lead evidence and examined as Dw1.

5. Heard the learned APP and advocate for accused. Upon hearing the arguments and on perusal of the material on record, the following points that would arise for this Court's consideration are as under:-

- 1) Whether the prosecution beyond all reasonable doubt proves that on 13.02.2023 at about 2.15p.m within the jurisdiction of the Gonikoppa police station in the junction at Kaikeri village in the main road of Gonikoppa to Virajpet near Jammada ancestral house and Kichimo Home stay, when deceased Sadan Changappa was coming in his Wagon-R car bearing no.KA-09-MB-3582 with Cw2 sitting next to him, the accused driven the Eicher lorry bearing no.KA-04-MB-8377 in a rash and negligent manner so as to endanger human life and dashed to Wagon-R car, thereby committed the offence punishable under sec.279 of IPC?
2. Whether the prosecution further proves beyond reasonable doubt that,



on the above said date, time and place, due the accident caused by the accused, the Cw2 who was sitting next to driver, sustained simple injuries on his left hand, and forehead, thereby committed offence punishable under Sec.337 of IPC?

3. Whether the prosecution further proves beyond reasonable doubt that, on the above said date, time and place, due the accident caused by the accused, the driver of the car Sadan Chengappa sustained grievous injuries and bleeding and succumbed at spot, thereby committed offence punishable under Sec.304(A) of IPC?

4. What order?

6. On hearing the arguments and on perusal of the

materials placed on record, my answers to: -

Points No.1 to 3:- In the Negative
Point No.4 :- As per final order
for the following:-

R E A S O N S

7. **Points No.1 to 3:** Cw1 being the first informant mother of Cw2 and wife of deceased got examined as Pw1 and she has deposed with regard to the accident



caused between the two vehicles on 13.02.2023 in the place of the spot as per the prosecution. It is elicited that accused ran away causing the accident and thereafter she and her relatives having gone to the spot have shifted the injured Cw2 and the deceased to the hospital in the Ambulance and in this regard she has given first information and has identified photos vide Ex.P2 to Ex.P28 taken at the time of such incident. The advocate for accused cross examined and she being the first informant except of having given first information, nothing about the accident was elicited because she was not the eye witness to the accident and further she has deposed that it is because of the mistake of driver of the Eicher vehicle that is accident such accident has been caused which resulted in the death of her husband and injuries to her son. In the cross examination it is elicited that they had gone to the death ritual ceremony on the previous day to her mother's house and that her son



and her husband deceased was returning back when such accident was caused. It is said that her husband do not consume alcohol and it is suggested that in such death rituals ceremony there would be arrangement of alcohol which she admits as true.

8. Cw2 the injured and the eye witness who was in the car got examined as Pw2. He also deposed of such accident having been caused because of the rash and negligent driving by the accused, however has not explained how such accident was caused. It is said that the accused was driving his vehicle in high speed which resulted in such accident and that his father died in the spot and that he informed the same to his relatives who came to the spot. He has identified the photos vide Ex.P2 to Ex.P28. The advocate for accused has cross examined and elicited that he has not seen the accused running away from the spot and that it is before the court he is seeing for the first time. Even he



admits of them having attended such death rituals. He also answers that his father is non alcoholic. It is further admitted they were driving back after attending such function. It is further elicited that there is a road curving at the place of the accident and that no vehicle is visible in such curve. He denies as false that there was no rash and negligent driving of the accused and that because of his father driving in negligent manner such accident caused.

9. Cw8 spot mahazar and seizure mahazar witness got examined as Pw3. He has supported the prosecution case by mentioning the place of accident, date of accident and further deposes of having also seen the accident and that accident was caused between Eicher lorry and Wagon-R car. The Gonikoppa Police were said to have come there and that they took his signature of having seen the accident and he has identified Ex.P2 to Ex.P28 photos and Ex.P29 mahazar. The advocate for accused cross examined it is



elicited that he has not seen the accident and that after 6 hours after the accident he has come to the spot and further elicited that he is related to the witnesses Cw1 and Cw2 and further elicited that the width of the road was approximate 30 feet, but he has answered denying the suggestion as false that, the Eicher vehicle had not crossed the left hand portion of the road of he being the reason for the cause of accident. Pw3 further has answered that the right side front wheel of the Eicher vehicle is on the middle of the road which demarcate both half of the road. In cross examination Ex.P14 photo as been confronted which shows that the right side front wheel of the vehicle is on the center lane median. Similarly Ex.P10 photo has been shown to the witness and is elicited that there is a tire mark seen on the right hand portion of the road from where the Eicher vehicle had passed.



10. Cw18 the Investigation Officer got examined as Pw4 and he has deposed with regard to the further investigation regarding the ownership of the Eicher vehicle and of accused having gone and surrendered before the police and of requisition given to the RTO office vide Ex.P32 and of having obtained the Indemnity bond from the owner of the Eicher vehicle by issuing the notices as per Ex.P30 and Ex.P31 and of obtaining the IMV report and before the sending the viscera of the deceased to FSL vide Ex.P34 and of receiving FSL report vide Ex.P345 and of post mortem report vide Ex.P36 and wound certificate of Pw2 and of recording the statement of some of the witnesses.

11. The advocate for accused cross examined and elicited that Cw3 is the eye witness to the accident and further elicited that he is of the same village of that of the Pw1 and Pw2 and it is denied as false that Cw3 is not the eye witness. None of the eye witnesses are being found who



were at the spot at the time of the accident. It is further answered that Cw11 has inspected the vehicles involved in the accident and denied as false that Ex.P32 to Ex.P37 are created documents and further denied as false that because of the rash and negligent driving of deceased that such accident was caused.

12. Cw17 another Investigation Officer who received the first information who has conducted the mahazar got examined as Pw5. He has deposed with regard to receiving Ex.P1 and registering Ex.P38 FIR and of having sent the dead body for inquest and having conducted the inquest mahazar vide Ex.P39 and of having conducted Ex.P29 spot mahazar and seizure mahazar in the presence of witnesses Cw7 and Cw8 and of having recorded the statements of Cw7 and Cw8 and of having transferred the file to Pw4. The advocate for accused cross examined and elicited that the persons who were in the spot are not the eye witnesses but



Cw3 being a person of the same village of Pw1 and Pw2 has been falsely implicated as eye witness of which suggestion he denies as false. It is elicited that Cw7 and Cw8 mahazar witnesses are of the same village of Pw1 and Pw2 and that photos have been taken by the writer who is not examined as witness. It is pertinent to note the the said photos which have been taken is not as in the accident state. The vehicles were removed from the spot to ease the traffic and that as in state of accident no such photos have been taken. It is answered that there are tire marks found, but because of rain such photos have not been taken, denies as false there was no such rain and it was a sunny day. There were tire marks of both car and Eicher vehicle but such photos have not been taken. He has further answered that the tire marks of the Eicher vehicle was in the middle. The said witness was cross examined further on another day and elicited that there are tire marks found behind the Eicher



vehicle on the road, he answers that such tire marks is of some other vehicle not pertaining to this case. As per Ex.P23 photo the Eicher vehicle is said to be found in the left side lane of the road, for which he answers that it was removed and place thereafter the accident and the he do not know who parked such vehicles in the said place. With regard to the width it is elicited that it was 26 feet and half of the road is 13 feet. Elicited that Ex.P7 photo the front side wheel of the Eicher vehicle has not crossed another lane and it is on the divider lane, which he further answers that such photo was not taken as in accident state. In the Ex.P29 sketch is said to have been prepared as per the say of Cw2 and Cw3. Because of the tire mark having found in the left side of the lane where the Eicher vehicle was removed, there is no negligence on the part of the accused that having caused such accident of which suggestion he denies as false.



13. Cw11 got examined as Pw6, he is the IMV inspector and has deposed of having inspected the vehicles involved in the accident and has deposed with regard to the damages caused to the vehicles as per the Ex.P33 IMV report. The Eicher vehicle was tested by driving and that as per Ex.P33 report there was no mechanical defect and brake system was in order and mechanical defect is not the reason for accident. The advocate for accused cross examined and elicited that he has not noted as to the portion of the collision of two vehicles. It is further elicited that generally the heavy motor vehicles will be made responsible for the accident as against the light motor vehicle. Denies as false that he has given false IMV report as per the request of the Investigation Officer.

14. The accused got examined as Dw1 and he has deposed that he has not crossed the left lane and therefore he is not responsible for the accident. To ease the traffic the



Wagon-R car was shifted out of the road. He has deposed of Ex.P7 and Ex.P23 photo with regard to the actual place of spot of accident and of tire marks. Cw3 to Cw8 were not in the place and they are all villagers of Cw1. His vehicle was moved after photo being taken. He was travelling in the speed of 40 kilometer per hour. Accident is caused because of negligence of the deceased. The sketch prepared by the police is false. The prosecution cross examined. He has answered that police did not receive his requisition to register the case. In order to free the traffic the Wagon-R car was removed. He denies as false that because of his rash driving such accident was caused. Denies as false the sketch prepared is correct.

15. From perusal of the prosecution witnesses it is noted that the accident is not disputed, vehicles involved in the accident is not disputed, place of the accident is not disputed and the accused being the driver of Eicher vehicle



is not disputed. Further it is not disputed because of such accident the death of the Sadan chengappa was caused and that Pw2 got injured. Therefore in accident case the only point to be proved is because of whose negligence such accident was caused. The evidence of Pw1 is only with regard to filing of first information as she is not eye witness and Pw2 injured and the eye witness has deposed that because of the high speed and rash and negligent manner of accused having drove his Eicher vehicle such accident was caused. It is pertinent to note the Pw2 and deceased were coming back after attending the death ritual ceremony where the alcohol is served. Ex.P35 is the FSL report of the viscera of the deceased where it is noted that there was a alcohol content found in the blood of ranging 31.82mg/100ml of blood, both Pw1 and Pw2 has stated that the deceased was non alcoholic, therefore the fact is that the deceased was non alcoholic, however had consumed the



alcohol and has driven the vehicle. For a man non alcoholic such amount of alcohol in the blood could also lead to the loss of control over his movement because of not having habit of consuming alcohol but of having consumed it and therefore as per the evidence given by Pw1 and Pw2 and the medical evidence as per the Ex.P34 shows that the deceased was under influence of alcohol, which is the reason for not driving the vehicle properly and therefore negligence can be attributed against the deceased.

16. The main eye witness Pw2 has only alleged of rash and negligent driving by the accused, without mentioning how it happened except alleging speed. It being a public road driving with speed cannot be held to be rash driving. The advocate for accused tried to prove that the Eicher vehicle had not crossed the lane during the collision. In this regard accused relies on Ex.P7 and Ex.P23 with regard to the tire mark to show that before collision the



Eicher vehicle was in its lane. From Ex.P23 it is clear that the tire mark is parallel to the white tapping on the left side of the road whereby it shows that the vehicle was within its lane and due to the impact of applying brake, the vehicle has slid towards the right. However it is pertinent to note in Ex.P23 that the Wagon-R front portion of bumper is lying within the left lane whereby it proves that the Eicher vehicle had not been in the portion of the right lane. The Pw5 has answered that the said tire mark is not pertaining to this vehicle, however has not proved such a case. Pw3 being the mahazar witness and Pw5 being the person who has drawn such mahazar, both have not deposed with regard to the sketch and its findings. Mere stating by Pw5 of sketch being prepared do not prove the contents of such sketch until it is deposed. The Ex.P29 sketch being part of the mahazar, the location of the collision of vehicles is shown towards the right lane where the car was coming from Gonikoppa



towards Virajpet. Ex.P23 photo reveals the fact that the Eicher vehicle had not changed the lane from left to right for such collision. Further with regard to the tire marks, it is parallel to the white tapping on the road and therefore the tire marks seen in the sketch contradicts with the actual tire mark as seen in the photo. The said sketch has been prepared after the car and the Eicher vehicle was removed from the road and therefore the said vehicles are shown outside the road. These facts establish that the sketch prepared is not true to the facts as seen. The prosecution has failed to explain the same and that the collision has happened because the Wagon-R car was on the right side of the lane. Hence accused cannot be held responsible for such accident. Merely because the front right side of the wheel of the Eicher is found on the middle of the lane on the white tapping, it cannot be held that, it is the place of collision. There is clear elicitation of mahazar and sketch



being drawn after moving of vehicles. Since the collision has taken behind as could be seen from Ex.P23 tire marks and the bumper having fallen down. Therefore the other documents so relied by the prosecution do not help the prosecution to prove the guilt against the accused. Pw3 was not the eye witness and other eye witnesses have not been examined and has closed the prosecution side. Since rash and negligent driving is not proved against the accused, he cannot be responsible for the death of Sadan Changappa and injuries to Pw2.

17. Therefore there is no other witnesses who can depose of having seen the accident to allege that because of accused rash and negligent driving such accident was caused. There is no proof of negligence on the part of accused to come to the conclusion that he is responsible for the death of the injured. There is no corroboration with regard to drawing of Ex.P29 spot and seizure mahazar as



Pw3 witness is having interest in the family of Pw1 and Pw2 being of same village. Therefore there is no proof beyond reasonable doubt that accused driving the vehicle in rash and negligent manner causing such injury leading to the death of a person. Mere production of spot and seizure mahazar is not sufficient and the witnesses to the said document must depose of the observations that have been made to come to the conclusion of the rash and negligent driving of the accused. Hence for the above reasons Sec.279 of IPC is not proved. Since the said section 279 of IPC is not proved the death of the deceased and the injury of Pw2 cannot be said due to the negligence of the accused and hence Sec.337 and 304(A) of IPC cannot be proved against the accused and stands not proved. Hence for the above reasons Points No.1 to 3 are answered in the Negative.

18. **Point No.4:** On the foregoing reasons, this court proceeds to pass the following:-



O R D E R

Acting under Sec.248(1) of Cr.P.C., 1973, the accused is hereby acquitted for the offences punishable under Sec.279, 337 and 304(A) of IPC.

The interim custody of the Eicher lorry bearing no.KA-04-AB-8377 and Wagon-R car bearing no.KA-09-MB-3528 are made absolute after the appeal period is over.

The bail bond of the accused and the surety bond under Sec.437A of Cr.P.C shall be in force for a period of six months from the date of this Judgment.

(Dictated to the stenographer directly on my computer, after clerical additions by him, script revised, corrected and pronounced by me in the Open Court on this the 14th day of July 2026.

- sd -

(Shrinath A.)

Civil Judge and J.M.F.C.
Ponnampet.

ANNEXURES

1) List of Witnesses examined on behalf of prosecution:-

Pw1	:	Smt.Swetha Gowramma,
Pw2	:	Sri.N.C.Shreyas Madappa,
Pw3	:	Sri.Devaiah C.S,
Pw4	:	Sri.K.M.Vasanth,
Pw5	:	Sri.Siddaraju T,
Pw6	:	Sri.K.P.Ramachandra,

**2) List of documents marked on behalf of prosecution:-**

Ex.P1 : Spot mahazar,
Ex.P1(a) : Signature of Pw1,
Ex.P1(b) : Signature of Pw5,
Ex.P2 to 28: Photos,
Ex.P29 : Spot mahazar,
Ex.P29(a) : Signature of Pw3,
Ex.P29(b) : Signature of Pw5,
Ex.P30 : Notice under Sec.133 of IMV Act,
Ex.P30(a) : Signature of Pw4,
Ex.P31 : Notice under Sec.133 of IMV Act,
Ex.P31(a) : Signature of Pw4,
Ex.P32 : Request letter to RTC Officer,
Ex.P32(a) : Signature of Pw4,
Ex.P33 : IMV report,
Ex.P33(a) : Signature of Pw4,
Ex.P33(b) : Signature of Pw6,
Ex.P34 : Requisition to FSL
Ex.P34(a) : Signature of Pw4,
Ex.P35 : FSL report,
Ex.P35(a) : Signature of Pw4,
Ex.P36 : Post mortem report,
Ex.P36(a) : Signature of Pw4,
Ex.P37 : Wound certificate,
Ex.P37(a) : Signature of Pw4,
Ex.P38 : FIR,
Ex.P39 : Inquest mahazar,
Ex.P39(a) : Signature of Pw5,

3) List of M.O. marked on behalf of prosecution:-

- Nil -

4) List of witness examined on behalf of Accused:-

Dw1 : Sri.Basavaraju B.S



5) List of documents marked on behalf of Accused:-

-Nil-

- sd -
Civil Judge and J.M.F.C.
Ponnampet.