

KADW050061112022



Presented on : 06-10-2022
Registered on : 06-10-2022
Decided on : 06-08-2024
Duration : 1 years, 10 months, 0 days.

**IN THE COURT OF THE IV ADDL.SENIOR CIVIL JUDGE &
JMFC AT DHARWAD.**

PRESENT:- SRI.ANAND S. KARIYAMMANAVAR
B.A., LL.B(Hon's)
IV Addl. Sr.Civil Judge and JMFC
Dharwad.

Dated this the 6th day of August 2024.

C.C.No.3223/2022

Complainant : Dharwad Rural Police station

(By L/d. Senior APP)

<u>Accused:</u>	Mallappa S/o Basavanneppa Shirimannavar Age:40 years, Occ: Driver, R/o: Mugad village, Dharwad.
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(R/by Sri.T.P.H, Adv)

-Vs-

Date of offence : 07.03.2022

Date of report of offence : 07.03.2022

Name of the complainant : Channappa S/o Nagappa
Amannavar

Offence complained of : **Section 279 and 304A of IPC**

Date of recording of evidence : 22.07.2024

Date of closing of evidence : 22.07.2024.

Opinion of the Judge : **Accused found not guilty.**

:-J U D G M E N T:-

On the basis of the charge sheet submitted by the Dharwad Rural Police, this case has been registered against the accused for the offences punishable **under Section 279 and 304(A) of IPC.**

2. The case of the prosecution is that, on 07.03.2022 at around 9.00 am., the accused being driver of tractor bearing Regn.No.KA-25/TB-2414 and trailer bearing Regn.No.KA-25/TB-2632 drive his tractor in a rash and negligent manner thereby hit the deceased who was going towards the side of the road and thereby accused

committed offences punishable under Section 279 and 304A of IPC.

3. Therefore, on the basis of the first information lodged by CW.1 namely Channappa S/o Nagappa Amannavar, the Dharwad Rural police have registered a case against accused and after investigation have filed charge sheet against him for the offences punishable **under Section 279 and 304(A) of IPC.**

4. After filing charge sheet, Court took cognizance of the offences and issued summons to the accused. He appeared and got enlarged on bail. The copies of the prosecution papers were furnished to the accused as required **under Sec.207 of Cr.P.C.** Thereafter, substance of accusation for offences punishable under **Section 279 and 304(A) of IPC** read over and explained to accused. He pleaded not guilty and claimed to be tried and hence, the matter was posted for evidence of the prosecution.

5. In order to prove the guilt of the accused, the prosecution has examined **PW.1 to PW.7** and got marked **8** documents as **Ex.P1 to Ex.P8**.

6. As there appears no incriminating statements in the evidence of PW.1 to 7, as such the recording of statement of accused as required **under section 313 of Cr.P.C** is dispensed. The accused has not led any evidence on his behalf.

7. Heard the arguments of learned APP and learned counsel for the accused.

8. Now the following points arise for my consideration:

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| 1. Whether the prosecution proves beyond all reasonable doubt that, on 07.03.2022 at around 9.00 am., the accused being driver of tractor bearing Regn.No.KA-25/TB-2414 and trailer bearing Regn.No.KA-25/TB-2632 drive his tractor in a rash and negligent manner thereby hit the deceased who was going towards the side of the road and thereby |
|---|

	accused has committed the offences punishable under Section 279 and 304A of IPC ?
2.	What order ?

9. My answer to the above points are as follows:

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

REASONS

10. **Point No.1:** The prosecution in order to establish its case, got examined PW.1 to 7 and got marked Ex.P1 to 8 documents. The prosecution has examined CW.1 as PW.7, he being the complainant though identified the thumb impression over the complaint, which is marked as Ex.P8 and thumb impression appearing in Ex.P1 and P2. But, he denied the contents of Ex.P8, Ex.P1 and Ex.P2 and completely turned hostile to the prosecution case.

11. Further prosecution has examined CW.4 and CW.5 as PW.1 and 2, they being spot panchanama witnesses though identified signatures appearing in Ex.P1 and P2 ie., mahazar and sketch but, they denied the contents of Ex.P1 and P2 and completely turned hostile to the prosecution case.

12. Further prosecution has examined CW.6 as PW.3, CW.8 as PW.4 and CW.7 as PW.5 and they being the hearsay witnesses completely turned hostile and not supported the case of the prosecution.

13. Further prosecution has examined CW.10 as PW.6, he being the eye witness and grandfather of deceased deposed that, he has not witnessed any accident and he did not know anything about the case.

14. On perusal of the oral evidence of PW.1 to 7, as they being the complainant, eye witness, panch witnesses and hearsay witnesses completely turned

hostile and not supported the case of the prosecution. Thought learned Senior APP cross examined all these witnesses, however nothing elicited from their mouth. As all the witnesses turned hostile, therefore this court by rejecting the prayer of learned Senior APP dropped all the witnesses as summoning of other witnesses would not have served the purpose. Therefore, in the absence of material evidence, it is difficult to presume the guilt of the accused and as per the Criminal Jurisprudence, the guilt of the accused should be proved beyond all reasonable doubt, however, the prosecution utterly failed to prove the guilt of the accused beyond all reasonable doubt. Hence, for the above stated reasons I answer **Point No.1 “in Negative”.**

15. **Point No.2:-** For the reasons stated while discussing point No.1, I proceed to pass the following:-

ORDER

Acting U/s 255(1) of Cr.P.C the accused is acquitted of the offences punishable under Section 279 and 304(A) of IPC.

The bail bonds and surety bonds of accused and his surety shall stands cancelled except the bonds executed in compliance of section 437-A of Cr.P.C.

(Dictated to the stenographer directly on computer, corrected and then pronounced by me in the open court on **6th day of August 2024**)

(Anand S. Kariyammanavar)
IV Addl.Sr.Civil Judge & JMFC.,
Dharwad.

ANNEXURE**WITNESSES EXAMINED FOR COMPLAINANT: -**

- PW1: Nagayya Maharudrayya Mathapati.
PW2: Chandrappa Shivappa Dandin.
PW3: Kenchappa Basavanneppa Shirimannavar.
PW4: Rudravva Nagappa Amarannavar.
PW5: Shashikala Channappa Ammanavar.
PW6: Nagappa Irappa Ammanavar.
PW7: Channappa Nagappa Ammanavar.

DOCUMENTS MARKED FOR COMPLAINANT: -

Ex.P.1: Spot mahazar.

Ex.P.1(a): Signature of PW.1.

Ex.P.1(b): Signature of PW.2.

Ex.P.2: Rough sketch.

Ex.P.2(a): Signature of PW.1.

Ex.P.2(b): Signature of PW.2.

Ex.P.3: Photo.

Ex.P.4: Statement of PW.3.

Ex.P.5: Statement of PW.4.

Ex.P.6 : Statement of PW.5.

Ex.P.7 : statement of PW.6.

Ex.P.8 : Complaint.

WITNESSES EXAMINED FOR DEFENCE:-

N I L

DOCUMENTS MARKED FOR DEFENCE:-

N I L

MATERIAL OBJECTS MARKED FOR PROSECUTION :

N I L

(Anand S. Kariyammanavar)
IV Addl.Sr.Civil Judge & JMFC.,
Dharwad.

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Accused is present.

Surety by name Kenchappa S/o Basavanneppa Shirimannavar, Age: 48 Years, R/o Pyati Oni, Mugad, Tq & Dist:Dharwad is present and filed his affidavit along with RTC of Sy No.27/1 measuring 1 acres 15 guntas situated at Kalakeri village, Tq & Dist:Dharwad, declaration U/S 441(A) of Cr.PC and Attested copy of his Adhar card for his identification purpose are filed.

Heard. Perused. Satisfied.

Office is directed to take Bonds accordingly from the accused and surety for **Rs.15,000/- each** in compliance of Sec.437A of Cr.PC.

For Judgment call again.

IV Addl.Sr.CJ & JMFC.,
Dharwad.

For Judgment

06-08-2024

(Judgment pronounced in the open Court vide separate Judgment)

ORDER

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(Anand S. Kariyammanavar)
IV Addl.Sr.Civil Judge & JMFC.,
Dharwad.