



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 13TH DAY OF JUNE, 2025

BEFORE

THE HON'BLE MR. JUSTICE K V ARAVIND

CRIMINAL REVISION PETITION NO.100122 OF 2020

(397(Cr.PC)/438(BNSS))

BETWEEN:

RAGHUNATH S/O. RAMAPPA GUJJER,
AGED: 58 YEARS, OCC: DRIVER,
R/O: DODDAPETI, TQ: RANEBENNUR,
DIST: HAVERI.

...PETITIONER

(BY SRI HARSHAWARDHAN M. PATIL, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
BY C.P.I. BYADAGI CIRCLE,
BYADAGI, DIST: HAVERI,
R/BY SPP, HIGH COURT OF KARNATAKA,
DHARWAD.

...RESPONDENT

(BY SRI T. HANUMAREDDY, ADDL. GOVT. ADVOCATE)

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397(1) R/W 401 OF CR.P.C., PRAYING TO THE JUDGMENT PASSED BY THE II ADDL. DISTRICT AND SESSIONS JUDGE, HAVERI SITTING AT RANEBENNUR IN CRIMINAL APPEAL NO.5/2019 DATED 03.02.2020 MAY KINDLY BE SET ASIDE AND THE JUDGMENT AND SENTENCE PASSED BY THE SR. CIVIL JUDGE AND JMFC, BYADAGI IN CC NO.101/2017 DATED 26.12.2018 MAY KINDLY BE SET ASIDE BY ALLOWING THIS REVISION PETITION BY ACQUITTING THE PETITIONER FOR THE ALL THE CHARGES LEVELED AGAINST HIM AND ETC,.

THIS CRIMINAL REVISION PETITION, COMING ON FOR FINAL HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:





ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE K V ARAVIND)

Heard Sri Harshawardhan M. Patil, learned counsel for the revision petitioner/accused and Sri T. Hanumareddy, learned Additional Government Advocate for the respondent-State.

2. The accused in C.C. No.101/2017 has preferred this criminal revision petition challenging the judgment of conviction dated 26.12.2018 passed by the Senior Civil Judge and JMFC, Byadgi (hereinafter referred to as 'the trial court'), and the order dated 03.02.2020 passed in Criminal Appeal No.5/2019 by the Court of II Additional District and Sessions Judge at Haveri (sitting at Ranebennur) (hereinafter referred to as 'the appellate court'), whereby the judgment of conviction was confirmed.

3. The case of the prosecution is that, on 27.03.2014 at about 6:45 a.m., in front of Siddarameshwara Temple, Chikkabasur Village, within the jurisdiction of Kaginele Police Station, the accused, while driving a lorry bearing registration No.KA-17/7214, is alleged to have rammed into a tent in which the complainant, his wife and their son were residing. As a



result of the accident, the complainant and his wife sustained injuries and their son, Vinay, aged 08 years, died on the spot. A charge sheet was filed against the accused for the offences punishable under Sections 287, 337, 338 and 304-A of the Indian Penal Code, 1860 (for short, 'IPC'). In support of its case, the prosecution examined 11 witnesses, who were marked as PW.1 to PW.11 and produced 17 documents, marked as Exs.P1 to P17. The statement of the accused was recorded under Section 313 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.').

4. The trial court, upon consideration of the evidence on record, convicted the accused for the offences punishable under Sections 287, 337, 338 and 304-A of the IPC. The accused was sentenced to undergo simple imprisonment for a period of one month each for the offences under Sections 287 and 337, two months' simple imprisonment for the offence under Section 338, and one year's simple imprisonment for the offence under Section 304-A of the IPC, in addition to imposition of fine.



5. The accused preferred Criminal Appeal No.5/2019. The appellate court, upon re-assessment of the evidence recorded by the trial court and on consideration of the findings recorded therein, dismissed the appeal and confirmed the judgment of conviction and sentence.

6. Sri Harshawardhan M. Patil, learned counsel appearing for the revision petitioner/accused, submits that PW.1 has named one Jakeer Hussain Devihosur as the driver of the offending vehicle, and the FIR was initially registered against him. However, the name of the accused has been falsely implicated in the charge sheet. He further submits that the evidence of PW.1 and PW.6 is inconsistent and suffers from contradictions. It is also contended that there is no independent eyewitness to support the prosecution's case. Therefore, the conviction of the accused for the charged offences is unsustainable, as there is no evidence on record to prove the guilt of the accused beyond all reasonable doubt.

7. Sri T. Hanumareddy, learned Additional Government Advocate appearing for the respondent-State, submits that PW.1 is an injured eyewitness to the incident,



having been present in the tent along with his deceased son at the time of the occurrence. It is contended that minor contradictions in the complaint, lodged while the complainant was under mental shock, would not materially affect the prosecution's case, particularly when the overall appreciation of evidence establishes the guilt of the accused. Learned AGA further submits that the evidence on record conclusively proves the guilt of the accused, and both the trial court and the appellate court, upon due consideration of the material placed by the prosecution, have rightly arrived at a finding of guilt.

8. Heard the learned counsel for the parties and perused the records and evidence on record. The fact that the complainant's son died on 27.03.2014 due to an accident involving a lorry bearing registration No. KA-17/7214 is not in dispute. PW.1 has given a detailed account of the incident, stating that the lorry, while reversing, rammed into the tent where he, his wife, and his son were residing. As a result, his son died on the spot, and he and his wife sustained injuries. He further attributed the cause of the accident to the rash and negligent driving of the lorry driver. During cross-examination,



PW.1 reiterated that the accused was the driver of the offending vehicle at the time of the incident. PW.2, a spot mahazar witness, supported the prosecution's case by testifying to the conduct of the mahazar by the police as per Ex.P2, the rough sketch marked as Ex.P3, and the photographs marked as Exs.P4 to P6. No material was elicited in his cross-examination to discredit his testimony.

9. PW.3, the wife of PW.1, also corroborated the incident, stating that the lorry came in reverse and hit the tent, resulting in injuries to her right leg and the death of her son. She identified the accused as the driver of the lorry at the time of the accident and withstood the cross-examination. PW.4, an independent witness, deposed that the accident occurred in a vacant site and confirmed that the accused was driving the lorry. His testimony establishes the occurrence of the accident involving the accused. PW.5, another independent witness working as a coolie, testified that the accused was driving the lorry at the time of the incident and that the child died as a result of the accident. Similarly, PW.6 deposed in favour of the prosecution, confirming the involvement of the accused and the



lorry in causing the death of the complainant's son. PW.7, the owner of the lorry in question, identified the accused as the driver at the time of the accident, thereby corroborating his involvement. PWs.8 and 9, also coolie workers, deposed in support of the prosecution, confirming the accident and the resulting death of the complainant's son due to the lorry driven by the accused. PW.11, the Investigating Officer, detailed the course of the investigation and the manner in which the evidence was collected.

10. The trial Court, upon appreciation of the evidence on record, held the accused guilty of the offences punishable under Sections 287, 337, 338 and 304-A of the IPC, and sentenced him to undergo simple imprisonment. The accused preferred an appeal before the appellate court. Upon re-appreciation of the evidence, the appellate court dismissed the appeal and confirmed the judgment of conviction and sentence passed by the trial Court.

11. The evidence on record clearly establishes that the prosecution has proved the guilt of the accused beyond reasonable doubt. Both the trial court and the appellate court,



upon proper appreciation and assessment of the evidence, have rightly recorded the conviction of the accused for the said offences. The orders passed by both the Courts are well-reasoned and duly supported by the material on record. No infirmity is found in the concurrent findings warranting interference by this Court, insofar as the conviction is concerned.

12. Learned counsel for the revision petitioner submits that the accused is presently aged over 65 years and is suffering from multiple age-related ailments. It is further submitted that the revision petitioner is not involved in any other criminal case and has no antecedents, except for the present offence. On these grounds, learned counsel prays that this Court may take a lenient view in the matter and consider modifying the sentence of imprisonment to that of payment of fine.

13. The submission made on behalf of the revision petitioner is not seriously opposed by the learned Additional Government Advocate.



14. The complainant has lost his son in the incident, and any compensation can only serve to partially mitigate the hardship suffered by the family. The offences in question prescribe punishment by way of imprisonment or fine or both. Having regard to the peculiar facts and circumstances of the case, particularly considering that the incident occurred in the year 2014 and the accused is now aged over 65 years, this Court is of the view that a lenient approach on the aspect of sentence is warranted. If the sentence of imprisonment is modified to payment of fine, and such fine is directed to be paid to the parents of the deceased, it would, to some extent, alleviate the hardship caused to the victim's family.

15. In view of the above, this Court is inclined to modify the sentence of imprisonment to one of fine. Accordingly, the following order is passed:

ORDER

- (i) Criminal Revision Petition is ***allowed in part.***
- (ii) The order of conviction as recorded in C.C.No.101/2017 dated 26.12.2018 on the file of the Senior Civil Judge and JMFC,



Byadagi and further confirmation in Crl.A.No.5/2019 dated 03.02.2020 on the file of II Addl. District and Sessions Judge, Haveri, sitting at Ranebennur, is confirmed. However, the sentence is modified to fine.

- (iii) The revision petitioner/accused is sentenced to pay fine of Rs.1,00,000/-.
- (iv) The fine amount shall be deposited before the Trial Court within eight weeks.
- (v) In default of payment of fine within the time as ordered, the revision petitioner/accused shall undergo imprisonment for a period of one year.
- (vi) The Trial Court shall ensure that the amount is paid to the complainant after proper identification.
- (vii) The bail bonds if any, stand cancelled.

Registry to return the trial Court records along with a copy of this order for compliance.

**Sd/-
(K V ARAVIND)
JUDGE**