



NC: 2026:KHC-D:10536
CRL.A No. 100112 of 2016

CNR: KAHC020067022016

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 24TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MRS JUSTICE RAJESHWARI N.HEGDE

CRIMINAL APPEAL NO. 100112 OF 2016 (C)

BETWEEN:

VITTAL MARUTI DOMBAR
AGE:24 YEARS, OCC: DRIVER,
R/O: K. CHANDARGI,
TQ: RAMDURG, DIST: BELAGAVI.

...APPELLANT

(BY SRI MAHESH WODEYAR, ADVOCATE.)

AND:

STATE OF KARNATAKA
R/BY ITS ADDL.
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
DHARWAD BENCH, DHARWAD.

...RESPONDENT

(BY SRI JAIRAM SIDDI, HCGP.)



THIS CRIMINAL APPEAL IS FILED UNDER SECTION 374(2) OF THE CRIMINAL PROCEDURE CODE, 1973, PRAYING TO SET ASIDE THE JUDGMENT AND ORDER OF CONVICTION DATED 28.03.2016, PASSED BY THE IX ADDITIONAL DISTRICT AND SESSIONS JUDGE, BELAGAVI, IN S.C.NO.137/2014 AND CONSEQUENTLY ACQUIT THE APPELLANT/ACCUSED FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 279, 304 PART-II OF IPC AND SECTION 185 THE MOTOR VEHICLES ACT, 1988, IN THE INTEREST OF JUSTICE.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 17.07.2026 AND COMING ON FOR



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PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED
THEREIN AS UNDER:

CORAM: HON'BLE MRS JUSTICE RAJESHWARI N. HEGDE

CAV JUDGMENT

This Criminal Appeal is filed by the accused under Section 374(2) of the Criminal Procedure Code, 1973 ('Cr.P.C.', for short) against the judgment of conviction and order of sentence dated 28.03.2016, passed by the IX Additional District and Sessions Judge, Belagavi, in S.C.No.137/2014, for the offences punishable under Section 279, 304 Part-II of IPC and Section 185 of the Motor Vehicles Act, 1988 ('M.V.Act, for short).

2. The prosecution case in brief is that, on 01.04.2013, the complainant, CW.6, and the deceased Sunil Durgappa Hanchinamani had been to KLE Hospital to see their father; after seeing their father, they were returning back to their work; The deceased Sunil was proceeding on his motorcycle bearing registration No.KA-22/EL-1320 towards Gajapathi and complainant and CW.6



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were proceeding on another motorcycle bearing registration No.KA-22/AH-0622. CW.6 was riding the motorcycle and the complainant was proceeding as pillion rider; they were coming from KLE Hospital towards Channamma Circle and the deceased Sunil was proceeding in front of them; when they reached Kolhapur Circle, the deceased stopped his vehicle and said that he will go to District Hospital and accordingly he was proceeding on the same road; at about 03.40 p.m., when Sunil had taken turn towards District Hospital near the main gate, on Channamma Circle Kolhapur Circle road, the driver of a truck (the accused herein) bearing registration No.KA-48/5177 came in rash and negligent manner driven his truck so as to endanger to human life and dashed to the motorcycle of Sunil; due to the said impact, Sunil fell down on the ground with his motorcycle and sustained fatal injuries; Sunil was shifted to District Hospital, where he was declared as dead; on the basis of the complaint lodged by the complainant, a case was registered before



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the North Traffic Police, Belagavi, in Crime No.71/2013; after investigation, charge sheet was filed before the JMFC-II Court, Belagavi, in C.C.No.128/2014. Learned JMFC, Belagavi, came to know that the offence alleged is punishable under Section 304 Part-II of IPC, committed the case to the Sessions Court as the offence punishable under section 304 Part-II of IPC is exclusively triable by the Court of Sessions.

3. Before the Sessions Court, after appearance of the accused and after compliance of Section 207 of Cr.P.C., and after hearing both the sides, charge was framed against the accused for the offence punishable under Section 279, 304 Part-II of IPC and under Section 185 of the Motor Vehicles Act, 1988. The accused pleaded not guilty and claimed to be tried. The prosecution, in order to bring home the guilt of the accused, examined in all 12 witnesses as PW.1 to PW.12 and got marked Exs.P.1 to P.25. After completion of the prosecution evidence,



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statement of the accused under Section 313 Cr.P.C. was recorded. He denied all incriminating circumstances appearing against him in the evidence of the prosecution witnesses. However, he did not choose to plead any defence evidence. The trial Court after hearing both the sides proceeded to pass the impugned judgment whereby the accused has been convicted for the offence punishable under Section 279, 304 Part-II of IPC and under Section 185 of the Motor Vehicles Act and sentenced him as under:

ORDER

"The accused is hereby sentenced to pay a fine of Rs.1000/- for the offence punishable u/s. 279 of IPC.

The accused is hereby sentenced to under go rigorous imprisonment for 3 years and to pay a fine of Rs.50,000/-, in default, to under go rigorous imprisonment for six months, for the offence punishable u/s. 304 II of IPC.

The accused is hereby sentenced to pay a fine of Rs.1000/- for the offence punishable u/s.185 of M.V.Act.

The accused was in judicial custody since 4.9.2015 till 26.9.2015 and further he is in



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judicial custody from 28.3.2016 and he is entitled for set off as contemplated u/s. 428 of Cr.P.C.

Acting u/s. 357 (1) Cr.P.C., out of the total fine of Rs.52,000/- collected from the accused Rs.40,000/- is hereby awarded as compensation to CW-8, Smt. Sharavva Durgappa Hanchinamani.

The interim order passed regarding the release of vehicles is hereby made absolute."

4. Being aggrieved by the impugned judgment, the accused/appellant has preferred the present appeal on the following grounds:

- a) The impugned judgment is contrary to law, facts and evidence on record.
- b) The trial Court erred in convicting the accused, though the prosecution has not proved the guilt of the accused beyond any reasonable doubt. The finding of the trial Court is contrary to the evidence of prosecution witnesses.
- c) The trial Court erred in convicting the accused relying on the evidence of the prosecution witnesses PW.1, PW.6 and PW.7, who are interested witnesses. Their testimony is not in conformity with the statement recorded by the police under Section 161 of Cr.P.C., despite the



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trial Court not appreciated the said fact and erroneously convicted the accused.

- d) There are lot of contradictions, omissions and improvements occurred in the evidence of prosecution witnesses, which are not properly appreciated by the trial Court.
- e) None of the witnesses have deposed with regard to speed and rashness driving of the vehicle and no evidence is forthcoming that the accused had consumed alcohol. Even though there are absence of materials, the trial Court has recorded the conviction, which is illegal, erroneous and liable to be set aside.

5. On these grounds, learned counsel for the appellant has prayed for allowing the appeal by setting aside the impugned judgment and sentence and prayed for acquitting the accused.

6. Heard the arguments of the learned counsels appearing for both the sides and perused the trial Court records. Now, the following point would arise for consideration in this appeal.



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"Whether the impugned judgment is illegal, perverse and calls for interference by this Court?"

7. During the course of arguments, learned counsel for the accused/appellant submitted that the trial Court without properly appreciating the evidence on record erroneously came to the conclusion that the accused drove the vehicle in a rash and negligent manner and he was intoxicated and dashed against the vehicle of the deceased. He has argued that none of the independent witnesses have supported the prosecution case except the interested witnesses and the complainant.

8. On a perusal of the evidence on record, PW.1, who is said to be the pancha witness to Exs.P.1 and P.2 has not supported the prosecution version stating that in his presence no mahazar had taken place. PW.2 is also said to be the witness to mahazars Exs.P.1 and P.2. He has supported the prosecution version stating that on 02.04.2013 the police called him to the place of accident



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and in his presence panchanamas were drawn as per Exs.P.1 and P.2 and he has also identified the photos marked as Exs.P.4 to P.7.

9. PW.3, who is the driver of the truck has deposed that, as on the date of accident, the truck was driven by the accused herein. PW.4, who is brother of the deceased has deposed about the accident and lodging of the complaint as per Ex.P.9. PW.5 is the inquest mahazar witness to Ex.P.12. PW.6 is also the brother of the deceased, who has deposed about the accident. PW.7 is also the eyewitness to the accident, who has deposed about the accident. PW.8 is the doctor who examined the accused with regard to whether he had consumed alcohol on that day and issued certificate that he had consumed alcohol but he was not intoxicated and the certificates are marked as Exs.P.13 and P.14.

10. PW.9 is the police officer who received the complaint and conducted part of the investigation. PW.10



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and PW.11 are the official witnesses. PW.12 is the FSL Officer.

11. It is the argument of the learned counsel for the accused that, on a perusal of the aforesaid evidence, only the brother of the deceased PW.4, PW.6 and another eye witness PW.7 have deposed about the alleged accident. As per the evidence of the doctor, the accused was not intoxicated though he consumed the liquor. In the cross-examination of PW.4 the complainant, it is suggested to the complainant that as the deceased took the vehicle suddenly to the right side, there was accident and it was not caused by the accused and the accident occurred only due to the rash and negligent act of the deceased, which was denied by the PW.4 and the same suggestion was put to PW.6 also. He has also denied the said suggestion. Even in the evidence of PW.7, the same suggestion was put to him. He has denied the said suggestion. However, PW.7 has admitted that he did not see how the accident



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happened. Therefore, it is the argument of the learned counsel for the accused that PW.7 is a created witness projected as eyewitness and PW.4 and PW.6, who are the brother of the deceased, absolutely there was no fault on the part of the accused and it was the fault of the deceased, the accident occurred and he has been falsely implicated.

12. Per contra, learned HCGP argued that it has come in the evidence of the doctor that the accused had consumed alcohol and though PW.4 and PW.6 are the relatives of the deceased, their evidence cannot be discarded. They have spoken about the accident how it was happened and they have also spoken about the rash and negligent driving of by the accused, therefore, taking into consideration of the evidence as a whole, the trial Court has rightly convicted the accused and there need not be any interference by this Court.



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13. On perusal of the evidence on record, as rightly argued by the learned HCGP that from the evidence of complainant PW.4, being the brother of the deceased deposed about the manner in which the accused came and caused the accident. Similarly, PW.6 who is also another brother of the deceased has spoken regarding the accident. Learned counsel for the appellant/accused argued that PW.4 and PW.6 being the brothers of the deceased, they are the interested witnesses and their evidence cannot be accepted to assess the negligence, however, the arguments of the learned counsel for the appellant/accused holds no merits, because PW.4 and PW.6 though relative of the deceased and interested witnesses, they are the eye witnesses, who actually had seen the manner in which the accused drove the vehicle and apart from their evidence, PW.7 who was also the eye witness, spoken about the alleged accident, though there are some variations in his evidence, that is not a material contraction so as to discard the evidence of PW.7 and



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taking into consideration the evidence of PW.4, PW.6 and PW.7, the trial Court has rightly convicted the accused that he has committed the alleged offence.

14. Learned counsel for the appellant/accused argued that, in this case the accused at the time of alleged accident was aged 23 years old, he was a truck driver and he was in Judicial Custody during the trial for a period of two months, taking into his background, he has no criminal antecedents, there are no other cases pending against him, and provisions of Section 304 Part-II provides punishment 'imprisonment for ten years, or fine, or both', therefore, learned counsel for the appellant/accused submitted that in the event this Court has come to the conclusion that the accused has committed the offence, as Section 304 Part-II provides discretion to award imprisonment or to impose fine, further, the accused has come from very poor family, having poor financial position and therefore submitted that the days spent by him in the



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Judicial Custody during the trial may be set of by increasing the fine amount.

15. This Court has gone through the provisions of Section 304 Part-II of IPC. As rightly argued by the learned counsel for appellant/accused, this Court may sentence the accused for imprisonment or to impose fine.

16. The trial Court has sentenced the accused for the offence punishable under Section 304 Part-II of IPC to undergo RI for a period of three years and to pay a fine of Rs.50,000/-.

17. Considering the submission of the learned counsel for the appellant/accused and taking into consideration of the year of commission of offence i.e., 2013, at that time accused was aged 23 years, and as there is a discretion to award imprisonment or to impose fine, and further on reading of the judgment cited by the learned counsel for the appellant/accused, if there are exceptional circumstances, and when there are significant



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mitigating factors, this Court is of the opinion that this Court may reduce the sentence of imprisonment awarded by the trial Court i.e., 03 years is reduced to 02 months as the accused already undergone during the trial and the fine amount imposed by the trial Court of Rs.50,000/- is enhanced to Rs.80,000/- and the remaining sentence awarded by the trial Court in respect of the offence punishable under Section 279 of IPC and under Section 185 of M.V.Act is maintained. Accordingly, the appeal is deserves to be allowed in part. Hence, the aforesaid point is answered partly in the affirmative.

18. In the result, this Court proceeds to pass the following:

ORDER

- i) The criminal appeal is allowed in part.
- ii) The impugned judgment of conviction dated 28.03.2016, passed by the IX Additional District and



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Sessions Judge, Belagavi, in S.C.No.137/2014, for the offences punishable under Section 279, 304 Part-II of IPC and Section 185 of the Motor Vehicles Act, 1988, is hereby confirmed by modifying the sentence as under:

iii) Accused is sentenced to undergo imprisonment for a period of two months and pay a fine of Rs.80,000/- for the offence punishable under Section 304 Part-II of IPC. In default of payment of fine amount, the accused shall undergo simple imprisonment for a period of six months.

iv) The sentence imposed by the trial Court in respect of offence punishable under Section 279 of IPC and Section 185 of M.V.Act is confirmed.

v) The period spent by the accused in Judicial Custody during trial is ordered to be set off against the sentence as per Section 428 of Cr.P.C.



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vi) Out of the total fine amount, a sum of ₹75,000/- is ordered to be paid to CW-8 Smt.Sharavva Durgappa Hanchinamani, as compensation and the remaining amount is ordered to be paid to the State Government.

vii) The appellant/accused shall serve the sentence in default of payment of fine amount.

viii) The appellant/accused shall pay the fine amount before the trial Court, within a period of two months from the date of this order, failing which, the trial Court is directed to issue conviction warrant to serve the sentence.

ix) The action taken by the trial Court shall be communicated to this Court.

Sd/-
(RAJESHWARI N.HEGDE)
JUDGE

MRK Ct-cmu