IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF APRIL, 2025

BEFORE

THE HON'BLE MR JUSTICE S RACHAIAH

CRIMINAL REVISION PETITION NO. 568 OF 2017

BETWEEN:

VEERENDRA Y S/O YELLAPPA,
AGED ABOUT 30 YEARS, OCC: DRIVER,
R/O. INDIRA NAGAR, MANKALALE ROAD,
SAGAR TOWN-577415, SHIMOGA DISTRICT.

...PETITIONER

(BY SRI. B. S. PRASAD, ADVOCATE)

AND:

STATE BY HOSANAGARA POLICE STATION,
HOSANAGARA, SHIMOGA DISTRICT-577418,
REP. BY SPP, HIGH COURT OF KARNATAKA,
BANGALORE-560 001.

...RESPONDENT

(BY SRI K. NAGESHWARAPPA, HCGP)

Digitally signed by RENUKA
Location: HIGH COURT OF KARNATAKA

THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C PRAYING TO SET ASIDE THE JUDGMENT AND ORDER DATED 31.12.2016 PASSED BY THE PRINCIPAL CIVIL JUDGE AND J.M.F.C., HOSANAGARA IN C.C.NO.106/2015 AND THE JUDGMENT AND ORDER DATED 10.04.2017 PASSED BY THE V ADDITIONAL DISTRICT AND SESSIONS JUDGE, SHIMOGA, SITTING AT SAGARA IN CRL.A.NO.10001/2017 AND ACQUIT THE PETITIONER FROM ALL THE CHARGES LEVELED AGAINST HIM.

THIS CRIMINAL REVISION PETITION HAVING BEEN HEARD AND RESERVED ON 21.02.2025 COMING ON FOR PRONOUNCEMENT OF ORDER, THROUGH VIDEO CONFERENCING, THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE S RACHAIAH

CAV ORDER

1. This Criminal Revision Petition is filed by the petitioner, being aggrieved by the judgment of conviction and order on sentence dated 31.12.2016 in C.C.No.106/2015 on the file of the Prl. Civil Judge and JMFC, Hosanagar and its confirmation judgment and order dated 10.04.2017 in Crl.A.No.10001/2017 on the file of the V Addl. District and Sessions Judge, Shivamogga sitting at Sagar, seeking to set aside the concurrent findings recorded by the Courts below, wherein the petitioner / accused was convicted for the offences punishable under Sections 279, and 304-A of IPC.

2. The rank of the parties in the Trial Court will be considered henceforth for convenience.

The factual matrix of the case:

3. It is the case of the prosecution that on 22.05.2014 at about 7.30 p.m., the petitioner being a driver of the bus bearing Reg. No. KA-14-A-4838, drove the same in a rash and negligent manner with high speed and dashed

against the motor bike bearing Reg. No.KA-16-H-109 going towards Battemallappa to Hosanagar, as a result, the rider of the bike sustained injuries on his right shoulder, right leg and head. Consequently, he died on the spot. On the basis of the complaint, the respondent police registered a case against the petitioner for the offences stated supra. After conducting the investigation, the charge sheet was submitted.

4. To prove the case, the prosecution examined 8 witnesses as P.Ws.1 to 8 and got marked 10 documents as Ex.P1 to P10. The Trial Court after appreciating the oral and documentary evidence on record recorded the conviction for the aforesaid offences. Being aggrieved by the same, the accused approached the Appellate Court against the said judgment of conviction passed by the Trial Court. The Appellate Court dismissed the appeal by confirming the judgment of conviction passed by the Trial Court. Hence, this Revision Petition.

5. Heard Sri. B.S.Prasad, learned counsel for the petitioner and Sri.K.Nageshwarappa, learned High Court Government Pleader for the respondent.

6. It is the submission of learned counsel for the petitioner that the concurrent findings of the Courts below are not proper and contrary to the evidence on record. Therefore, the same is liable to be set aside.

7. It is further submitted that even though there is a contradiction in the evidence of witnesses and also sketch which is marked as Ex.P.10, the Courts below have committed error in appreciating the evidence properly. As per the evidence, the two wheeler came to the extreme right side and the incident had taken place nearly eight feet from the left side of the bus. If the accident had occurred as per the statement of P.Ws.1 and 3 who are the eye witnesses to the incident, the said two wheeler must have been thrown out from the right side of the bus. As the accident occurred in the middle of the road, the contributory negligence of the rider ought not to

have ignored by the Court while appreciating the evidence.

8. It is further submitted that there is no evidence to show that the offending bus was being driven with high speed in a rash and negligent manner. In the absence of evidence regarding rash and negligent driving, the conviction ought not to have been recorded in respect of offence under Section 279 of IPC.

9. It is further submitted that as the Courts below have committed grave error in applying the principle of law, interference with the said findings is required in such circumstances. Making such submissions, the learned counsel for the petitioner prays to allow the petition.

10. *Per contra*, the learned High Court Government Pleader for the respondent justified the concurrent findings and further he submitted that P.W.1 has stated in his evidence that the deceased was riding his motor cycle along with the pillion rider-C.W.2. P.W.1 was coming behind the motor cycle of which the accident occurred in his presence. He witnessed the accident and lodged the

complaint as per Ex.P.1. P.W.2 deposed in his evidence that after the accident, he went to the spot. P.W.3 being a pillion rider of the motor cycle, supported the case of the prosecution. All these witnesses are consistent that the petitioner drove the bus in a rash and negligent manner and caused the accident. Such being the fact, it is not appropriate to interfere with the findings of the Courts below. As such, he prays to dismiss the petition.

11. Having heard learned counsel for the respective parties and also perused the findings of the Courts below in recording the conviction, it is necessary to have a cursory look upon the evidence of material witnesses viz., P.Ws.1 and 3.

12. P.W.1 being a complainant stated in his evidence that he was coming behind the motor cycle of the deceased and the driver of the said bus was coming from the opposite direction with high speed in a rash and negligent manner and dashed the motor cycle of the deceased. Consequently, the deceased sustained injuries and died at the spot. Whereas P.W.3 being a pillion rider of the said

motor cycle had sustained minor injuries. P.W.3 deposed in his evidence that himself and deceased were going on the motor cycle of which the deceased was riding the same. According to him, he lodged a complaint against the driver of the bus and he supported the case of the prosecution.

13. After analyzing the evidence of P.Ws.1 and 3, it is found that P.Ws.1 and 3 are consistent in their evidence that the petitioner who being the driver of the offending bus drove the same in a rash and negligent manner coming in the wrong side and dashed against the motor cycle of the deceased. Consequently, the deceased sustained injuries and died at the spot. Though these witnesses have been subjected to cross-examination, nothing has been elicited to discredit their evidence.

14. It is established that both P.W.1 and 3 are the eye witnesses to the incident. In addition to that, it is also established that the petitioner was driving the said vehicle in a rash and negligent manner and dashed the motor cycle. Nothing is there to disbelieve their evidence.

Therefore, the findings of the Courts below are appropriate and proper and interference may not be necessary. Hence, the petition is liable to be dismissed.

15. In the light of the observations made above, I proceed to pass the following:

ORDER

The Criminal Revision Petition is dismissed.

Sd/-
(S RACHAIAH)
JUDGE

JS
List No.: 19 Sl No.: 4