



REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO.2902 OF 2026
(Arising out of SLP (Crl.) No.573 of 2026)**

**MOHAMMAD HANIF JAINUM
KHALIFA**

...APPELLANT

VERSUS

THE STATE OF KARNATAKA

...RESPONDENT

J U D G M E N T

N.V. ANJARIA, J.

Leave granted.

2. The appellant herein, who was serving as a driver in the Karnataka State Road Transport Corporation¹ bus, came to be tried and convicted by the Court of learned 1st Addl. Civil Judge & JMFC, Athani at Athani² by judgment and order dated 26.12.2015 passed in C.C. No.933 of 2011 for the offences under Sections 279 and 304A of the Indian

¹ Hereinafter, "KSRTC".

² Hereinafter, "trial court".

Penal Code, 1860³ and under Section 134 read with Section 187 of the Motor Vehicles Act, 1988⁴. The appellant came to be sentenced to undergo simple imprisonment for four months for the offence punishable under Section 279, IPC and to undergo simple imprisonment for six months for the offence punishable under Section 304A, IPC.

2.1 The Court of VII Addl. Dist. & Sessions Judge, Belagavi, sitting at Chikodi⁵ dismissed Criminal Appeal No.12 of 2016 preferred by the appellant against the judgment of the trial court by maintaining the conviction and sentence recorded by the trial court.

2.2 The aggrieved appellant approached the High Court of Karnataka, Dharwad Bench⁶ by filing Criminal Revision Petition No.100222 of 2018 under Section 397 of the Code of Criminal Procedure, 1973. The High Court, by order dated 25.03.2025 which is the order impugned in this appeal, allowed the Revision Petition in part, maintaining the conviction of the appellant, however, observed that the

³ Hereinafter, "IPC".

⁴ Hereinafter, "MV Act".

⁵ Hereinafter, "Appellate Court".

⁶ Hereinafter, "High Court".

doctrine of merger would apply and since the sentence of six months' simple imprisonment was awarded for the offence punishable under Section 304A, IPC, sentence under Section 279, IPC could not have been separately awarded. Accordingly, the High Court set aside the sentence of four months simple imprisonment imposed by the trial court for the offence punishable under Section 279, IPC, maintaining the rest of the sentence.

3. As per the case in the complaint filed by the informant, who was a permanent resident of village Mangasuli, on 17.04.2011 at around 03.30 pm, he along with his sister-in-law Shobha and her mother Housabai took the bus bearing registration No.KA-23-F-390 driven by the appellant to travel from Athani to return home. At around 04.30 pm, since they were to alight from the bus, the bus conductor whistled to stop the bus near Mallayya Temple.

3.1 It is the prosecution case that while the informant along with his sister-in-law and mother were in the process of taking off from the bus, the appellant-accused, driver of the said bus, moved the bus in a rash and negligent manner which resulted in falling down of said Shobha from the bus.

She sustained grievous injuries on her head. She was thereafter shifted to the hospital, however, later she succumbed to her injuries. Based on the complaint of the informant, First Information Report⁷ was registered against the appellant at Kagawad Police Station for the offences punishable under the aforementioned sections of IPC and MV Act.

3.2 For convicting the appellant, the trial court reasoned that the informant (PW1) and Housabai (PW4)-mother of deceased testified consistently that the appellant-accused moved the bus while deceased Shobha was in the process of getting down from the bus, and thus she fell down from the bus and subsequently died due to injuries sustained by her. It was held that starting the vehicle before the passenger could safely disembark would constitute rash and negligent driving. It was further observed that the evidence of Popat Ramchandra Patil (PW5), who was coming from behind the said bus on a motorcycle, corroborated that

⁷ Hereinafter, "FIR".

the bus had stopped near Mallayya Temple and that it started moving when Shobha was getting down.

3.3 The Appellate Court dismissed the appeal confirming the judgment and order passed by the trial court convicting and sentencing the appellant by relying upon the testimonies of PW1, PW4 and PW5. It was the defence taken by the appellant that the deceased tried to alight from the bus herself in a hurried manner and because of that she suffered injuries. As stated above, the High Court partly allowed the Revision Petition by maintaining the conviction of the appellant, however, setting aside the sentence in respect of the offence punishable under Section 279, IPC and the sentence for the offence punishable under Section 304A, IPC was maintained.

3.4 Offence under Section 279, IPC relates to rash driving or riding on a public way. It says whoever drives any vehicle or rides on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment which may extend to six months or fine or with both. The other section under which the appellant was

charged was Section 304-A, IPC, which is about causing death by negligence. The offence is committed when anyone causes the death of any person by doing any rash or any negligent act not amounting to culpable homicide, and such offender shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both.

4. Heard learned advocate-on-record Mr. Deshpande Chinmay Arvind for the appellant and learned Additional Advocate General Mr. Prateek K Chadha assisted by learned advocate-on-record Mr. Naveen Sharma and other advocates for the respondent. They took the court through the relevant evidence on record.

5. Taking a bird's eye view of the evidence led by the prosecution, it consisted of the testimony of the complainant Shamra Yalu Mane (PW1) who deposed about his going in the bus with deceased Shobha and her mother and about they having told the conductor that they would be getting down near Mallaiah Temple. PW1 stated that when they were getting down, the bus conductor whistled to stop the bus, upon which the bus was stopped. While said Shobha

had been alighting, the accused driver drove the bus leading to her fall from the bus and suffer fatal injury, it was stated. Housabai Dadasaheb Mali (PW4), mother of deceased Shobha, also travelling along, narrated the similar account that the driver moved the bus while her daughter Shobha was yet to get down. In her cross-examination, she stated that the conductor and the driver stopped the bus in order to enable them to get down from the bus but drove the bus early and negligently.

5.1 Rajaram Sukaram Male (PW2) was called by the police for the Panchnama purpose. He turned hostile partially and stated that the police did not take his signature on the Panchnama and he did not sign the Panchnama. Govind Maruthi Inamdar (PW3), who was another witness, going on his motorcycle at the place in question, stated in his deposition that his signature was taken by the police who insisted him that he (PW3) had seen the accident and accordingly his signature was taken on the document. Nothing material came out from the deposition of PW1 and PW3. PW5, Popat Ramachandra Patil, who was coming from behind the bus on a motorcycle, was examined and stated

that he saw the deceased falling down from the bus and suffering a head injury. Investigating Officer Jayappa Sharanappa Nyamegoudar (PW7), who had carried out the investigation and filed the chargesheet, was another witness examined.

5.2 Figures in the set of evidence is the testimony of Kalludeppa Muthappa Batakurki (PW6), who was the conductor in the bus in question. The translated version of the examination-in-chief of PW6 as on record, in its relevant part, is extracted below,

“On the said date when the passengers asked me to stop the said bus near the cross, and I gave the signal for stopping the bus by whistling. And on my whistling the accused have stopped the bus and the passengers have got down from the bus. And after the passengers got down from the bus, I have told to the accused to move the bus, and while the accused was driving the bus, I heard the passengers the screaming noise and when I looked into...”

5.2.1 PW6 further stated that he saw a woman falling down from the bus and after the bus was stopped, subsequently, they took the said woman (Shobha) to Mangasuli Hospital, and thereafter to Miraj Hospital for treatment, where she subsequently died. The aforequoted

part of evidence of PW6 remained intact during his cross-examination. He denied in his cross-examination that it was correct to suggest that it was on account of negligence of the accused driver that Shobha fell down from the bus.

5.2.2 It unequivocally emanates from the testimony of PW6-conductor of the bus that the passenger had asked him to stop the bus, that he gave signal by whistling for stopping the bus, that the bus was therefore stopped by the appellant-accused-driver, at which juncture the passengers alighted from the bus. He stated that after passengers got down from the bus, he told the driver to move the bus. At that time, he listened to the screaming of the passengers.

5.3 It needs no more than the common knowledge that in any vehicle, particularly in a passenger bus, the conductor happens to be a person in-charge, who not only issues the tickets, but also discharges the function to regulate the movement of the bus. It is at the indication of the conductor by whistling or by ringing bell, as the case may be, that the driver of the bus is conveyed as to when the bus should be stopped to enable the passengers to alight at a particular station and when to start the bus again.

5.3.1 It is the conductor who signals the driver in appropriate way to start the bus or to start again after stoppage, the passengers having got off the bus. The driver of the bus, who would otherwise be concentrating on the driving, would depend upon the indications, signals or whistling from the conductor to monitor and regulate the movement of the bus. The application of the mind by the driver has to stay in driving of the bus for the stakes of safety, while he would follow the conductor's signals for starting, stopping and moving the bus. The above aspect and the consideration would be material and would weigh in concluding about the negligence of the bus driver-appellant-accused.

5.4 The testimony of PW6 in terms suggests that upon his whistle, the accused driver has stopped the bus and after the passenger got down from the bus, he again whistled. Thereupon the appellant started the bus. In other words, the appellant-driver acted by following the indication of whistling provided by the conductor for stopping and restarting the bus, as deceased Shobha, her mother and the appellant were to get down from the bus near Mallaiah

Temple. When the appellant accused had followed the instructions of the conductor in stopping and moving the bus, which the appellant was duty-bound to do, it would be both unreasonable and illogical to attribute any negligence on his part.

5.4.1 The appellant driver was not expected to turn his head back and to see himself whether the passengers had alighted. His dependence on the signal of whistling to start the bus was a normal and natural conduct. Holding that the appellant-accused in capacity of the driver conducted himself without due care or with negligence would not be a justifiable conclusion in the facts of the case. It is therefore difficult to conclude with definitiveness that deceased Shobha had died on account of driver's negligence. The driver acted as per the conductor's indicative instructions. The deceased might have slipped from the bus due to her own conduct less than careful. The driver, in any view, deserves to be exonerated from the charge of acting negligently.

5.5 Ravi Kapur vs. State of Rajasthan⁸, was the case of a road accident involving an issue of rash and negligent driving. This Court expressed itself about relevant considerations and nature of proof to be applied. It was observed that the negligence has to be inferred from the attendant circumstances. It quoted with approval the concept of negligence analysed in *Halsbury's Laws of England* (4th Edition), Volume 34, Para 1 (pg. 3), which stated,

“Negligence is a specific tort and in any given circumstances is the failure to exercise that care which the circumstances demand. What amounts to negligence depends on the facts of each particular case. It may consist in omitting to do something which ought to be done or in doing something which ought to be done either in a different manner or not at all. Where there is no duty to exercise care, negligence in the popular sense has no legal consequence...”

5.5.1 In **Ravi Kapur** (supra), the Court highlighted the concept of “culpable rashness” and “culpable negligence”. These concepts and considerations become relevant in the road accident cases to judge the negligence for becoming an offence in eye of law. The “culpable rashness” or “culpable

⁸ (2012) 9 SCC 284.

negligence” amounts to acting with the consciousness that mischievous and illegal consequences may follow by such act, but with the hope that they will not, and often with the belief, that the actor has taken sufficient precautions to prevent their happening.

5.5.2 In the facts of the case, it could not be said that the driver did not exercise the due care which he was required to take. In the totality of facts and the scenario from evidence emerging, this Court is not inclined to hold that there was any culpable negligence on the part of the appellant.

5.6 “Recklessness” is perhaps a higher degree of “carelessness”. One acts reckless when one conducts himself regardless or heedless of the possible harmful consequences of one’s act. The recklessness covers a whole range of state of mind from failing to give any thought to what is to be acted upon. Recklessness presupposes that no thought was given in the matter by the doer before he did the act.

5.6.1 When the appellant-driver acted by following the conductor’s instructions and moved the bus, he cannot be

said to be reckless, even though the movement of the bus had the consequence of the passenger falling down. The act on part of the appellant was preceded by a thought and the thoughtfulness of the mind by heeding to and guided by the conductor's whistling. The passenger in the present case, though fell down, the appellant-driver could not have been saddled with the negligence. Nor was it a case of *res ipsa loquitur*.

5.7 It was observed in **Ravi Kapur** (supra) that negligence and rashness, to be punishable in terms of Section 304A, IPC must be attributable to a state of mind wherein the criminality arises because of no error of judgment but of a deliberation in the mind risking the crime as well as the life of the person who may lose his life as a result of the crime. The factor of such "deliberation in mind" could be said to be absent in the instant case on part of the driver, who acted *bona fide* on the instructions of the conductor in moving the bus. He could not be said to have acted with negligence, much less criminally negligence.

5.8 In **State of Karnataka vs. Satish**⁹, this Court observed that merely because a truck was driven at a high speed, it does not bespeak of either “negligence” or “rashness” by itself. These are relative terms, observed the Court. In a given case, therefore, “rashness” or “negligence” cannot become presumptive, but must be informed by attendant facts, circumstances and the evidence.

6. The dictum of common sense often guides the process of interpretation and application of law, for, the law is also common sense when exposed to certain set of facts and circumstances. In natural exposition, the law becomes common sense. Therefore, the common sense and common wisdom can well be a canon for appreciating the evidence. This is more true when it comes to dealing with or judging human conduct. Applying common sense, common wisdom and common understanding while appreciating day-to-day affairs and natural human activities in the walks of life helps one to judge the things nearer to the truth. The truth, more often than not, emanates from common sense. Therefore, applying the yardstick of common sense and common

⁹ (1998) 8 SCC 493

wisdom in appreciating the evidence and the effect thereof, more particularly in criminal cases, brings home the correct picture.

6.1 The factum obtained that the appellant-driver acted regarding stoppage and movement of the bus upon whistling of the conductor, as established from the above-highlighted evidence of PW6, guides this Court to conclude that the driver could not have been held negligent. He discharged his duty to drive the bus and regulate the movement of the bus in accordance with the instructive signals from the conductor. In the ultimate analysis, it was the conductor who was to ensure the due movement of the bus and who would be stepping inside the bus or alighting from the bus, as the case may be. The evidence does not suggest that the driver was negligent and whose negligence resulted into the fall of said passenger-Shobha from the bus while getting off the bus.

7. In light of the above facts, circumstances and the principles of law to be applied, it is not possible to hold that the appellant-driver acted “in a manner so rash or negligent”. He could not have been treated as guilty of some

omission or doing something which may require him to adjudge as negligent, nor the appellant was guilty of any rash or negligent act satisfying the ingredients of Section 304A, IPC. It is difficult to conclude with definitiveness by pinpointing and attaching negligence on the part of the appellant that deceased-Shobha died on account of negligence in driving or because of rash or reckless driving by the appellant.

7.1 The deceased might have slipped while alighting from the bus because of her own movement being less than careful at the time of getting down. The appellant-driver acted as per the conductor's indicative instructions in moving the bus. The appellant deserves to be exonerated from the charge of acting negligently.

8. For the discussion and the reasons supplied as above, the courts below as well as the High Court committed a concurrent manifest error in convicting and sentencing the appellant.

9. The impugned order dated 25.03.2025 passed by the High Court of Karnataka, Dharwad Bench in Criminal

Revision Petition No. 100222 of 2018, convicting the appellant for the offences under Sections 279 and 304A, IPC and sentencing him under Section 304A IPC, deserves to be set aside. The same is hereby set aside.

10. The appellant is held not guilty and is acquitted of the offences under Section 279 as well as under Section 304A, IPC. He shall be released forthwith if still behind the bars, provided his detention is not required for any other offence.

11. The appeal is accordingly allowed.

Any interlocutory application, as may be pending, shall not survive in view of disposal of the main appeal.

.....**J.**
[PRASHANT KUMAR MISHRA]

.....**J.**
[N.V. ANJARIA]

NEW DELHI;
MAY 27, 2026.