

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17<sup>TH</sup> DAY OF JANUARY, 2022

BEFORE

THE HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR

**CRIMINAL REVISION PETITION NO.1145 OF 2021**

**BETWEEN:**

Devendrappa H.,

...Petitioner

(By Sri Keshava Bhat A., Advocate)

**AND:**

The State by Belathangady Police Station,  
Represented by Public Prosecutor,  
High Court Building, Bengaluru-560001.

...Respondent

(By Sri K.S.Abhijith, HCGP)

This Criminal Revision Petition is filed under Section 397 read with 401 of Cr.P.C. praying to set aside the judgment dated 04.08.2021 passed by the IV Additional District and Sessions Judge, D.K., Mangaluru in CrI.A.No.2/2020, affirming the order of the Principal Civil Judge and J.M.F.C., Belthangady dated 06.12.2019 in C.C.No.07/2015.

This Criminal Revision Petition coming on for **hearing** through video conferencing this day, the Court made the following:

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**ORDER**

Heard Sri A.Keshava Bhat, learned counsel for the petitioner and the Government Pleader.

2. The petitioner was tried in the Court of JMFC, Belthangady, for the offences punishable under sections 279 and 337 of IPC, held guilty and sentenced to two months simple imprisonment and fine of Rs.1,000/- with default sentence period of 15 days imprisonment in relation to offence under section 279 IPC, and two months simple imprisonment with fine of Rs.500/- and a default sentence period of 15 days for the offence under section 337 IPC. The appeal preferred before IV Additional District and Sessions Judge, Dakshina Kannada, Mangaluru, was also dismissed, and hence this revision petition.

3. The prosecution case is that on 14.8.2014 at 4.45 PM when the petitioner was driving KSRTC bus bearing registration No.KA-19F-3219, he

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caused an accident by dashing against a private bus with registration bearing No. KA-19AC-7377. This accident occurred in the second curve at Charmadi Ghat. The occurrence of the accident is attributed to rash and negligent manner of driving by the petitioner. The trial court has believed the testimonies of the eye witnesses examined as PWs 1, 2, 3, 4 and 7 for holding the petitioner guilty of the offences. PWs1 and 2 were the passengers in the KSRTC bus, PW3 was the cleaner of the private bus, and PW4 was the driver of the private bus. The appellate court confirmed the judgment of the trial court by re-appreciating the evidence.

4. Since this is a revision petition, there is no scope for re-appreciation of evidence unless perversity in appreciation of evidence is made out. On perusing the judgments of both the courts below, I do not find perversity or infirmity in appreciation of evidence. But, Sri Keshava Bhat

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submits that if the way in which the accident occurred is seen, it can be said that it was just collision while negotiating a turn in the ghat section. The photograph of the accident scene clearly shows that probably two buses collided with each other because of the width of the road being very narrow. In this view, a lenient view may be taken and the petitioner may be just subjected to fine with an observation that the conviction is not a stigma to his employment.

5. Government Pleader submits that when there is no scope for appreciation of evidence, another view cannot be taken with regard to accident and there is no scope for reducing the quantum of sentence also.

6. The evidence shows that the accident occurred when two buses were taking turn in a curve, however because of consistent findings of both the courts below, I do not find it necessary to

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re-appreciate the evidence because there is no perversity in them. The petitioner is a driver in the KSRTC. Examined whether there is scope for imposing fine only, section 279 IPC provides for sentencing the accused with imprisonment which may extend to six months, or with fine which may extend to Rs.1,000/-, or with both. Similarly, section 337 IPC provides for sentencing an accused for imprisonment of either description for a term which may extend to six months, or with fine which may extend to Rs.500/-, or with both. Therefore having regard to the sentencing structure provided in both the sections, I am of the opinion that the sentence may be confined to fine only instead of subjecting the petitioner to imprisonment.

7. The Supreme Court in the case of **RAJBIR vs STATE OF HARYANA [AIR 1985 SC 1278]** has taken a view that the conviction of an accused

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would not affect his service. A co-ordinate bench of this court in the case of **G.T.RAVINDRA vs STATE [CRIMINAL REVISION PETITION 2280/2012)** has also had an occasion to observe that the conviction and sentence would not affect the employment of the accused therein. In this view, the sentence imposed on the petitioner is confined to fine of Rs.1,000/- for the offence under section 279 IPC and Rs.500/- to the offence under section 337 IPC with default sentence as prescribed by the trial court. The sentence of conviction shall not affect his career and shall not be treated as a remark for his employment with KSRTC. With these observations, the judgment of the appellate court is modified and the petition is disposed of.

**Sd/-  
JUDGE**

ckl/-