Karnataka Civil Judge (Mains) 2023

Law Paper III · compulsory paper

Framing of charges and writing of judgment in Criminal case · Date: 19.11.2023 · Time: 2.30 PM to 5.30 PM · Max Marks: 100

Instructions: 1. Option is given to the candidates to write answers either in English or in Kannada. 2. If there is any discrepancy or difference in the questions in English language and Kannada language, the questions as framed in English language shall prevail. 3. Write your register number only on the cover page in the space provided in your answer book and nowhere else. You shall not write your name or make any kind of marks disclosing your identity on any part of your answer book or additional answer book. Contravention of the above instruction will entail disqualification.

1. Frame proper plea in the following case. 10 Marks

Complainant: M. Jayaram, since died, represented through his L.R.

Accused: Sri. S. Basavaraj.

It is alleged in the complaint that, the accused is known to the complainant for the past 10 years. It is submitted that in the first week of February 2012 the accused approached the complainant and borrowed a sum of Rs.9,10,000/- as hand loan with an assurance to make repayment within 3 months. After lapse of 3 months, the accused failed to make repayment as promised by him. After repeated demands made by the complainant, the accused issued 2 cheques. The first cheque dated 20/9/2009 for Rs. 1,50,000/- and another cheque dated 21/10/2012 for Rs.7,60,000/- in favour of the complainant pertaining to Canara Bank, Lottegollahalli Branch, Bengaluru. The complainant presented the aforesaid cheques, but for his surprise both the cheques were dishonoured on account of “Insufficient funds” as per Bank endorsement dated 25/10/2012. After service of notice the accused has not made payment of the loan amount or issued any reply.

2. Frame appropriate charge for the Trial of an accused on the basis of the following charge sheet material. 20 Marks

It is alleged in the charge sheet that on 14.05.2012 at around 8.30 a.m. in Talagawadi village the complainant was proceeding in front of the house of Accused No. 1 namely Puttasiddamma. Due to previous enmity, Accused Nos.1 and 2 had joined together and Accused No.1 Puttasiddamma had caught hold of the shirt collar of the complainant Sathisha and dragged him to her house and thus wrongfully restrained him. In the meanwhile, Accused No.2 / Samandaiah has assaulted the complainant on his head by means of bamboo club. Accused No.1 had then brought a plastic rope and had tied the same to his body, with an intention to cause his death. Both Accused Nos.1 and 2 had also told that he has to die in that position itself. But thereafter, on seeing CWs 2 to 5 who had come to rescue the complainant, Accused Nos. 1 and 2 had untied the complainant Sathisha. However, Accused Nos.1 and 2 had wrongfully restrained PW-1 Sathisha and also had assaulted him with means of bamboo club, as a result causing simple injuries. With these allegations, the charge sheet came to be filed against the accused persons.

3. Write a considered judgment in the following case by giving valid and cogent reasons assuming rival contentions and documents of the prosecution from the facts and evidence narrated below. 70 Marks

JUDICIAL MAGISTRATE OF FIRST CLASS, HASSAN

Complainant : State by Dudda Police Station

Vs

Accused: Ramakrishna, 27 years

Uttanahalli Village,

Shravanabelagola Post and Hobli,

Channarayapattana Taluk.

Brief facts of the case of the prosecution:

On 11.05.2011 at 11.00 am on the Tar Road of Mayasamudra Village Circle within the limits of Dudda Police Station, Hassan, deceased Rangaswamy was riding his Splendor motorbike bearing No. KA-02-ED- 7850 along with CW.1 as the pillion rider and while proceeding towards Hassan, at that time, the accused drove his Maruti Omni van bearing No. KA-22-M-6618 at high speed and in a rash and negligent manner so as to endanger human life and collided with the motorcycle coming from the opposite side. As a result, deceased Rangaswamy sustained grievous injuries on his head and right leg. The deceased Rangaswamy and CW. 1 were taken to Government hospital in Hassan for treatment. While under going treatment in the hospital, Rangaswamy succumbed to the injuries at around 2.55 p.m. on 11.05.2011 and CW. 1 suffered grievous injuries. The same has been stated in the charge sheet.

The accused appeared before the court and applied for bail through a lawyer, the bail application submitted by him was allowed and he was released on bail. After laying of the charge sheet, the accused was summoned to appear before the court through his lawyer after taking cognizance of the offence. Subsequently, plea was recorded against the accused under Sections 279, 337, 338, 304(A) of IPC and were read over to the accused. He denied the substance of accusation leveled against him and claimed to be tried.

In order to prove the guilt against the accused, the prosecution let in the following evidence before the Court.

PW1 · V- ADDITIONAL CIVIL JUDGE AND JMFC COURT, HASSAN.

The witness, was administered oath on 23.11.2015

Name of witness: Mallesha

Father’s name: Nanjegowda

Age: 45 Years

Occupation: Agriculture

Address: Chowdikoppalu

Examination in Chief by APP

I know the accused. I know the deceased Rangaswamy. About four and a half years ago myself and deceased Rangswamy, were proceeding to Hassan on a bike. Rangaswamy was riding the bike. At about 10.30 am, the accused drove his vehicle from the opposite side of Mayasamudra Gate and dashed against our motorcycle. But I am not able to say which vehicle the accused was driving.

Due to the said accident, I suffered grievous injuries on the right side of my body. Rangaswamy died due to grievous injuries sustained by him. The witness further states that the vehicle which the accused

drove and caused accident was an Omni. I was treated at Hassan Government Hospital. I have filed this complaint and it is marked at Ex.P1 with my signature at Ex.P1(a).

The accused was driving the vehicle in a rash and negligent manner. This day, I have identified the accused before the court. I have not given any further statement to the police.

(At the request made by the learned APP, the witness is treated as hostile and permitted for cross examination).

CROSS EXAMINATION BY APP:

On 16-5-2011 I have given further statement regarding identifying the accused in the police station which the witness says that I may have given in the hospital.

CROSS EXAMINATION BY COUNSEL FOR ACCUSED:

Myself and Rangaswamy left the village at 9.30a.m in the morning. We were going to attend a marriage at Hassan. I don't know how far Hassan is from our village. It is true to suggest that it takes half an hour to reach Hassan from our village by private vehicle, but we were proceeding on Rangaswamy's bike, and hence, I cannot tell about it.

It is true to suggest that the road meets Mayasamudra Circle from all four sides. We came from Heragu side. It is true to suggest that only we can see the vehicle coming from the opposite side in the circle. Since the vehicle of the accused was coming on the adjacent road, the same was not visible. I became unconscious immediately after the accident. There are no houses around the place of accident, I cannot tell the registration number of the car that caused the accident.

Since I lost my conscious immediately after the accident, I cannot tell as to whether how many people were present inside the car. I have lodged a complaint in the hospital. After that I did not go to the police station. It is not true to suggest that I am seeing the accused before the court for the first time.

I regained consciousness after reaching the hospital. After regaining consciousness, I saw the accused in the hospital. It is incorrect to suggest that the accused has nothing to do with this accident. It is not right to suggest that the accident was not due to the fault of the accused. It is not right to suggest that the accused was not driving the van which caused the accident on that day. I have not applied for accident compensation. It is incorrect to suggest that I filed a false complaint against the accused to get compensation for the said accident.

It is not true to suggest that I do not know anything about the accident because I lost consciousness immediately after the accident. It is not right to suggest that I am giving false testimony to claim compensation for deceased Rangaswamy's relatives as well as myself.

(Typed in the open court as dictated by me)

(xxxx)

PW2 · V- ADDITIONAL CIVIL JUDGE AND JMFC COURT, HASSAN.

The witness was administered oath on 31.10.2018

Name of witness: Suresh

Father's name: Nanjegowda

Age: 40 Years

Occupation: Agriculture

Address: Chowdikoppalu, Gandisi Ho, Arasikere Taluk

EXAMINATION IN CHIEF BY APP

I do not know the accused present before the court. I know the deceased Rangaswamy who is from my village. About 5 years ago deceased Rangaswamy had met with an accident when he was coming in front of Hassan's Tirumala Kalyana Mantapam. On hearing this, when I went to see Rangaswamy I saw that he was already dead. I do not know which vehicle caused the accident and at whose fault. I did not see the accident but I informed deceased Rangaswamy's family about the accident and went to my hometown. I have not given any additional statement regarding this incident.

(At the request made by learned APP, the witness is treated as hostile and permitted for cross-examination)

CROSS EXAMINATION BY AFP:

When the entire part of the statement of PW.2 was read over to him on 11.05.2011, P.W.2 completely denied the entire part of the statement given by him. His contradictory statement is marked as Ex.P.2. It is not true to suggest that, I have denied the statement given by me as per Ex.P.2, even though I knew all the details of the case and witnessed the accident. It is false to suggest that, I am giving false evidence in order to help the accused.

Cross Examination by counsel for accused: Nil

(Typed in the open court as dictated by me)

(xxxx)

PW3 · V- ADDITIONAL CIVIL JUDGE AND JMFC COURT, HASSAN.

The witness was administered oath on 31.10.2018

Name of witness: Venugopala

Father's name: Honnegowda

Age: 30 Years

Occupation: Agriculture

Address: Chowdikoppalu Village

During 2011 when I went to the police station on my personal work, the police got a document signed from me. But I do not know the contents of the said document and as to what is written in it. I have identified the place of accident as Ex.P.3 and my signature in seizure mahazar marked at Ex.P.3(a). I am not aware of the contents of Ex.P3. The police have not conducted any mahazar or seized any vehicle in my presence. I am not aware as to who else have signed Ex.P3(a).

(At the request made by learned APP, the witness is treated as hostile and permitted for cross-examination)

CROSS EXAMINATION BY APP:

When the entire part of the statement of PW.3 was read over to him, P.W.3 completely denied the entire part of the statement given by him. His contradictory statement is marked as Ex.P.3. It is not true to suggest that, I have denied the statement given by me as per Ex.P.3, even though I knew all the details of the case and signed the spot mahazar. It is false to suggest that, I am giving false evidence in order to help the accused.

Cross Examination by counsel for accused: Nil

(Typed in the open court as dictated by me)

(xxxx)

PW4 · V- ADDITIONAL CIVIL JUDGE AND JMFC COURT, HASSAN.

The witness was administered oath on 31.10.2018

Name of witness: Harisha

Father's name: Sannegowda

Age: 36 years

Occupation: Agriculture

Address: Chowdikoppalu Village

Examination in Chief by APP

During 2011 when I went to the police station on my personal work, the police got a document signed from me. I do not know the contents of the said document and as to what was written in it. I have identified the place of accident at Ex.P3 and my signature in seizure mahazar marked at Ex.P.3(b). The police have not conducted any mahazar or seized any vehicle in my presence. I am not aware as to who else have signed Ex.P3(b).

(At the request made by learned APP, the witness is treated as hostile and permitted for cross-examination)

CROSS EXAMINATION BY APP:

When the entire part of the statement of PW.4 was read over to him, P.W.4 completely denied the entire part of the statement given by him. His contradictory statement is marked as Ex.P.3. It is not right to suggest that, I have denied the statement given by me as per Ex.P.3, even though I knew all the details of the case and signed the spot mahazar. It is false to suggest that, I am giving false evidence in order to help the accused.

Cross Examination by counsel for accused: Nil

(Typed in the open court as dictated by me)

(xxxx)

PW5 · V- ADDITIONAL CIVIL JUDGE AND JMFC COURT, HASSAN.

The witness was administered oath on 31.10.2018

Name of witness: Shreenivasa

Father's name: Krishnegowda

Age: 30 Years

Occupation: Agriculture

Address: Bittanakoppalu Village

Examination in Chief by APP

I am the owner of Maruti Omni car bearing No. KA-22-M-6618. I rented the said Maruti van in 2011. At that time Dudda police called me and told that my van is involved in an accident and asked me to come to the police station and to receive it. Accordingly, I went to the police station, wrote a

undertaking and reclaimed my car. PW.5 has identified his signature in the undertaking which is marked as ExP.4(a). I do not know as to who was injured in the accident involving my Maruti van and due to whose fault the accident occurred. I do not know the accused who is present before court. I do not know as to who drove the vehicle in the year 2011. I do not know who were affected by the said accident. I have not given any statement regarding the incident.

(At the request made by learned APP, the witness is treated as hostile and permitted for cross-examination)

CROSS EXAMINATION BY APP:

When part of the statement of PW.5 was read over to him that he had re-claimed his Maruti Omni Van from the police, PW.5 denied it completely. Then the entire part of the statement of PW.5 was read out to him. But PW.5 denied the entire part of the statement given by him. His contradictory statement is marked as Ex.P.5. It is not true to suggest that, I have denied the statement given by me as per Ex.P.5 and even though I knew all the details of the case and identified the accused. It is false to suggest that, I am giving false evidence in order to help the accused.

Cross Examination by counsel for accused: Nil

(Typed in the open court as dictated by me)

(xxxx)

PW6 · V- ADDITIONAL CIVIL JUDGE AND JMFC COURT, HASSAN.

The witness was administered oath on 12.12.2013

Name of witness: Pandu

Father's name: Karigowda

Age: 42 Years

Occupation: Agriculture

Address: Heddanahalli Village

Examination in Chief by APP

I do not know the accused who is present before court and also I do not know the deceased Rangaswamy. I did not see the accident and do not know as to how the accident occurred and due to whose fault. During 2011 when I went to Dudda police station for my personal work, the police got a document signed from me which is marked as Ex.P3. I do not know what said document is and what is written on Ex.P3. My signature is marked at Ex.P.3(c). The police have not seized any vehicle in my presence. I do not know who else have signed Ex.P3. I have not given any statement regarding the incident.

(At the request made by learned APP, the witness is treated as hostile and permitted for cross-examination)

CROSS EXAMINATION BY APP:

When PW.6 was asked to read a part of his statement that, "I would have identified it, if I had seen it two years ago", he denied it completely. The entire portion of the said statement was marked as Ex.P. 11. PW.6 was asked to read Ex.P.3 in its entirety but he completely denied the same. It is false to

suggest that, though I know all the facts of the case and witnessed the accident and given a statement as per Ex.P11 and signed the Ex.P11 on the spot, I am giving false evidence in order to help the accused.

Cross Examination by counsel for accused: Nil

(Typed in the open court as dictated by me)

(xxxx)

PW7 · V- ADDITIONAL CIVIL JUDGE AND JMFC COURT, HASSAN.

The witness was administered oath on 03.01.2019

Name of witness: Devendra S M

Father's name: Lt. Mogannagowda

Age: 54 Years

Occupation: Police Inspector

Address: Bantwala

Examination in Chief by APP

I was working as a PSI, in Dudda Police Station, Hassan from September 2008 to 2011.

On 11.05.2011 when I was in charge of the police station at around 11 O'clock, I received the statement of the injured CW1 from Dudda Government Hospital at about 12 noon as per Ex.P1 and returned to the police station at about 12.45 noon. I registered a case in P.S.Crime No.78/2011 under Sections 279, 337 IPC. I have marked my signature at Ex.P1(b). I have submitted the complaint and FIR to the Hon'ble Court and my superiors. The witness identified his signature in FIR at Ex.P12 and the same is marked as Ex.P. 12(a).

On the same day, visited the place of occurrence. As shown by the eyewitnesses CW3, in the presence of CW.10 and 11 drew the mahazar. I seized the Hero Honda Splendor bike bearing No.KA-02-D-7850 and Maruti Omni car bearing No. KA-22-M-6618 for further action and obtained the signatures of the witnesses at the place of incident. This witness identified his signature at Ex.P3 and the same was marked as Ex.P3(d). A rough sketch of the scene of accident was drawn. The seized vehicles were mentioned in P.S. Crime No.42/2011 and the same was produced before court. Witness identified his signature on the rough sketch as per Ex.P13 and the same was marked as Ex.P13(a). I will identify the vehicles that have been seized on the spot, if seen. Witness identifies his signature on the memo of Dudda Hospital as per Ex.P. 14 and the same was marked as Ex.P14(a). On the same day at 3 o'clock in the afternoon, I received a wireless message from the District Police Control Room, Hassan, that the other injured Ramaswamy alias Rangaswamy, who had been injured in Crime No.78/11, had died. At that time, I visited the Hassan Government Hospital and I accepted the memo and requested to add offences under Section 304(A) IPC to the already reported case. The witnesses have identified their signatures on the requisitions at Ex.P.15 and 16 respectively and their signatures were marked as per Ex.P. 15(a) and 16(a). Since it is the case of the said fatal accident, I sought permission for further investigation of the case from the Hassan Circle Inspector/C.W. 19, who gave a oral direction to proceed with the case. On the same day, I have undertaken further investigation of the case. I visited the Hassan Government Hospital and conducted inquest over the dead body of deceased Rangaswamy in the presence of CW 4-6. The witness has identified his signature on Ex.P6 and the same was marked as Ex.P6(a). The statements of his blood relatives CWs 7-9 have been obtained and placed on file. A

request was made to the Government Medical Officer, Hassan, to know the actual cause of death of deceased Ramaswamy.

The statement of CW.3 has been obtained on 13.5.2011 as per Ex.P.11. The signature of witness is marked as Ex.P.11(a).

On 11.05.2011, a request has been submitted to the Regional Transport Department, Hassan, to examine the seized vehicles and give a report. The statement of the witness CW.2 is marked as Ex.P.2 and his signature was marked as Ex.P.2(a). Then the file was forwarded to CW.19 for further investigation.

I visited the scene of the crime after recording the First Information Report. It is incorrect to suggest that I have not received any statement. It is incorrect to suggest that I have not drawn the Mahazar. I have orally requested the mahazar witnesses. It is incorrect to suggest that, I have created rough sketch, conducted spot Mahazar and inquest report in the police station. It is incorrect to suggest that I have created all the documents for the purpose of the case, that the vehicles involved in the accident and the accused, have nothing to do with this case. It is incorrect to suggest that no accident has taken place and I am deposing falsely with an intention to help CW. 1.

Re- Examination: Nil

(Typed in the open court as dictated by me)

(xxxx)

PW8 · V- ADDITIONAL CIVIL JUDGE AND JMFC COURT, HASSAN.

The witness was administered oath on 03.01.2019

Name of witness: Yashodha

Husband’s name: Ramaswamy

Age: 40 Years

Occupation: House wife

Address: Kudukundikoppalu Village

Examination in Chief by APP

Deceased Rangaswamy, is my husband. He died in an accident about 8 years ago. Deceased Rangaswamy had met with an accident and one of the members of the public called me and informed me about the same. When I went to see him in the Hospital, the police got signed 2 documents from me. I don't know what is that document and what was not written in it. Two months after his death, I gave a undertaking to the Dudda police station and took possession of the bike in which my husband deceased Rangaswamy met with an accident. The witness identified the certificate and undertaking as per Ex.P. 17 and 18 respectively and the signatures of the witnesses in them were marked as Ex.P. 17(a) and 18(a). I do not know not know the contents of Ex.P. 17 and 18 are and how the accident occurred and due to whose fault. I have not given any statement regarding the incident.

(At the request made by learned APP, the witness is treated as hostile and permitted for cross-examination)

CROSS EXAMINATION BY COUNSEL FOR ACCUSED:

Amongst the entire statement of this witness, a portion i.e., "It should be known on 11.05.2011" was read over to her, to which this witness denied the same. The said portion is marked as Ex.P. 19. It is incorrect to suggest that knowing all the facts of the case at Ex.P. 19, witness has given false testimony to help the accused.

(Typed in the open court as dictated by me)

(xxxx)

PW9 · V- ADDITIONAL CIVIL JUDGE AND JMFC COURT, HASSAN.

The witness was administered oath 14.02.2019

Name of witness: Venugopala

Husband's name: Lt. Ramu

Age: 53 Years

Occupation: Circle Inspector

Address: Bengaluru

Examination in Chief by APP

From 2008 to 2011, I served as Hassan Rural Circle Inspector. Duda station comes under my jurisdiction.

I received and verified the document dated 16.5.2011 from CW.18. I continued the investigation. On the same day, the accused and the owner of the vehicle/CW. 12 were summoned to the police station. After accused was brought to the police station and produced, he was released. On obtaining suitable undertaking as per Ex.P4 from the owner of the vehicle/CW12 the custody of Maruti Van bearing No. KA-22-M- 6618 which caused the accident was released in favour of CW12. I identified signatures as per Ex.P4 and ExP5 and the same were marked as Ex.P4(b) and Ex.P5(a). On the same day, I secured further statement of complainant CW1. On 25.05.2011, I secured the IMV report pertaining to the Maruti Van bearing No.KA-22-M-6618 and the same was marked as Ex.P.8 and added to the file. Witness identified signature as per Ex.P8, and the same was marked as Ex.P8(a). The photographs of two vans were seen and identified in the court as Ex P.20 and 21. Witness has also identified the accused present in the court. When I was transferred, I handed over the file to CW.20.

CROSS EXAMINATION BY COUNSEL FOR ACCUSED:

It is incorrect to suggest that I have not received any statement. It is incorrect to suggest that I have not recorded any further statement of the complainant. It is incorrect to suggest that as per the instructions of my superior officers and for the purpose of statistics of the police station I have falsely deposed as above.

(Typed in the open court as dictated by me)

(xxxx)

PW10 · V- ADDITIONAL CIVIL JUDGE AND JMFC COURT, HASSAN.

The witness was administered oath 14.02.2019

Name of witness: Y Satyanarayana

Father / Husband's name: Lt. Yellegowda

Age: 44 years

Occupation: CPI

Address: Hassan

EXAMINATION IN CHIEF BY APP

I was working at Hassan Rural Police Station as P.S.I. from 21.07.2011 to 05.12.2011. On 22.7.2011 I received the file from one Krishnappa, P.S.I. after verifying the same. On 6.8.2011, the injured CW. 1, received the certificate of injury from Hassan Government Hospital as per Ex.P. 10 and identified and marked the same as Ex.P10(a). The post mortem report of deceased Rangaswamy has been received as per Ex P7. His signature was marked as Ex.P7(a).

On the same day, the IMV report of Hero Honda Splendor bearing No. KA-02-ED 7850, which met with an accident, was received and it has been marked as Ex.P.9. The witness identifies his signature at Ex.P.9 and the signature of the witness which is marked as Ex.P.9(a). As the investigation in the case has been completed and sufficient evidence has been found against the accused, I submitted the charge sheet to the court on the same day.

CROSS EXAMINATION BY COUNSEL FOR ACCUSED:

It is incorrect to suggest that I have submitted false charge sheet. It is also incorrect to suggest that I have produced false wound certificate.

(Typed in the open court as dictated by me)

(xxxx)

STATEMENT OF THE ACCUSED UNDER SECTION 313 OF CODE OF CRIMINAL PROCEDURE

All the incriminating evidence appearing against the accused was read over to him and accused denied them as false and stated that he was driving his vehicle slowly and he was not responsible for the cause of the accident.

ARGUMENTS FOR THE PROSECUTION.

The learned Assistant Public Prosecutor has argued that due to rash and negligent manner of driving by the accused being the driver of Maruti Omni Van bearing KA-22-M-6618 which hit against the motor cycle bearing Regn.No.KA-02-ED-7850 ridden by deceased Rangaswamy, he sustained grievous injuries on his head, right leg and even though he was provided treatment at Government Hospital, Hassan, he succumbed to the said injuries while under treatment on 11.05.2011 at 2.55 p.m. Prosecution has let in several witnesses in support of its case and also produced documentary evidence. PWs.2, 3, 4 and 6 are the eye witnesses to the incident and so also, witnesses to spot mahazar and seizure mahazar. Based on the complaint of PW. 1, PWs.7, 9 and 10 who are the police/official witnesses, thoroughly investigated the case and laid the charge sheet against the accused and their evidence entirely supports the case of the prosecution. It was argued by the learned Assistant Public Prosecutor that the evidence let in by the prosecution is free from any infirmities and would establish the case of the prosecution beyond all reasonable doubt. Therefore, the learned Assistant Public Prosecutor prayed to convict the accused.

ARGUMENTS FOR THE ACCUSED.

The learned counsel for the accused argued that evidence let in by the prosecution is full of material contradictions, variations and discrepancies. He argued that PWs.2, 3, 4 and 6 who are the eye witnesses to the incident turned hostile to the case of the prosecution and they did not withstood to

their version. Even though they are eye witnesses to the incident but in their evidence, they have stated that they have not witnessed the incident and they have not seen the accused. Even though they were cross-examined by the prosecution, nothing worthwhile was elicited through their evidence. PW.8 is the wife of deceased Rangaswamy @ Ramaswamy and she has stated that her husband died due the road accident. PWs.7, 9 and 10 are the police officials and they have deposed only about the official duty carried on by them. Therefore, on perusal of the entire case of the prosecution, there is no direct evidence to prove the guilt of the accused that due to his rash and negligent driving, the incident had occurred. Therefore, learned counsel for the accused prayed to acquit the accused of the offences leveled against him.