IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL APPEAL (AGAINST ACQUITTAL) NO. 1495 of 2026

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STATE OF GUJARAT
Versus
SHAILESH @ AKKIBHAI BHALABHAI PARMAR & ANR.

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Appearance:
MR ROHAN H RAVAL, APP for the Appellant(s) No. 1

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CORAM: **HONOURABLE MR. JUSTICE ILESH J. VORA**
and
HONOURABLE MR. JUSTICE R. T. VACHHANI

Date : 18/09/2026

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE R. T. VACHHANI)

1. Being aggrieved and dissatisfied with the judgment and order of acquittal dated 03.09.2025 passed by the learned Additional Sessions Judge, Vadodara, in Sessions Case No.182 of 2021, whereby the respondents-accused, came to be acquitted for the offences punishable under Sections 302 and 114 of the Indian Penal Code and Section 135 of the Gujarat Police Act, the appellant has preferred the present appeal under Section 419 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (“BNSS” for short).

2. The brief facts leading to the filing of the present appeal are as under:

2.1. The respondent-accused and the deceased, Pratikbhai Patel, were on terms of enmity on account of a prior quarrel. Bearing the said animosity, and in furtherance of their design to cause the death of the deceased, the respondent-accused are alleged to have armed themselves with an iron pipe.

2.2. On 14.08.2021, at about 18:00 hours, the respondent-accused

allegedly went to the open plot of Hemantbhai Patel situated at village Bajwa and, with the intention of causing death, launched a fatal assault upon the deceased. They are alleged to have inflicted indiscriminate blows with the iron pipe on his person, caused grievous injuries and thereby caused his death. In so acting, and in mutual aid of one another, they are alleged to have committed offences punishable under Sections 302 and 114 of the Indian Penal Code and Section 135 of the Gujarat Police Act.

2.3. The complainant thereupon lodged a complaint, which came to be registered at Jawaharnagar Police Station as C.R. No.1119600921080804 of 2021 for the offences punishable under Sections 302 and 114 of the Indian Penal Code and Section 135 of the Gujarat Police Act. During the course of investigation, the alleged complicity of the respondent-accused surfaced and, they were arrested, and, upon conclusion of investigation, a charge-sheet was filed before the Court of the learned 2nd Judicial Magistrate, First Class, Vadodara. As the offences were exclusively triable by the Court of Session, the learned Magistrate, by order dated 30.10.2021, committed the case to the learned Sessions Court, Vadodara, under Section 209 of the Code of Criminal Procedure, 1973 ("the Code" for short), where it came to be registered as Sessions Case No.182 of 2021. After due compliance with Section 207 of the Code, charge under Sections 302 and 114 of the Indian Penal Code and Section 135 of the Gujarat Police Act was framed under Section 228 of the Code at Exh.-6. The pleas of the respondent-accused were recorded at Exhs.-7 and 8. They pleaded not guilty and claimed to be tried. The prosecution thereupon adduced oral and documentary evidence and closed its case by filing a closing purshis at Exh.-71.

2.4. Upon appreciation of the oral as well as documentary evidence, the

learned Sessions Court, by the judgment and order dated 03.09.2025, acquitted the respondent-accused, namely (1) Shailesh alias Akkibhai Bhalabhai Parmar and (2) Chandubhai Bhalabhai Parmar, both residing at Bajwa Road, village Karchiya, Taluka and District Vadodara, of the offences punishable under Sections 302 and 114 of the Indian Penal Code and Section 135 of the Gujarat Police Act, under Section 235(1) of the Code, for want of evidence. Being aggrieved and dissatisfied with the said judgment and order of acquittal, the appellant-State has preferred the present appeal under Section 419 of the BNSS.

3. Submissions on behalf of the Learned APP for the State:

3.1. Learned APP for the State submitted that the judgment of acquittal recorded by the City Civil and learned Sessions Court, Ahmedabad is contrary to the weight of the record and does not warrant affirmation even at the threshold. The learned Sessions Court gravely erred in discarding a complete and consistent prosecution case merely because one panch witness did not support the incident in his oral evidence. Mere hostility cannot, by itself, lead to a finding that the occurrence did not take place.

3.2. The complaint at Exh.-31 stands fully corroborated by the complainant and independent witnesses, including Witness No. 10, who supported the entire sequence of facts. Police witnesses have likewise supported the prosecution version. There is no reason to disbelieve them, police officers have no motive to depose falsely. The investigation, including the presence of the Investigating Officer (Exh.-54) and the FSL officer at the scene, find credence despite it, the same was improperly brushed aside. Even if the panchas turned hostile, the remaining evidence is not liable to be discarded. The chain stands completed by the ocular account of the complainant, the independent witnesses, the Investigating

Officer and the scientific material. No contradiction creating a reasonable doubt has emerged.

3.3. Learned APP has placed reliance is placed on the FSL report received in pursuance of the forwarding note at Exh.-56. The blood group of the deceased was “O” Positive, the same blood group was detected on the clothes of the accused, establishing a direct link. The muddamal article pipe identified as Article No. 10, read with the oral evidence of Witness No. 10, the complaint at Exh.-31 and the evidence of the Investigating Officer at Exh.-54, have nexus which the accused to the scene and the weapon. The incident was the outcome of old enmity, which motive has not been displaced.

3.4. The learned Sessions Court failed to appreciate the evidence in its proper perspective. Turning hostile of a panch cannot eclipse the consistent ocular evidence, the official acts of the Investigating Officer and the FSL finding linking the deceased’s blood to the accused’s garments. The prosecution has established the chain of circumstances beyond reasonable doubt. The view taken is not a possible view on this record, it ignores material particulars and results in miscarriage of justice. The appeal therefore deserves to be admitted. Notice be issued to the accused, the Record and Proceedings be called for, and upon hearing the judgment of acquittal deserves to be set aside on account of the nature of the occurrence and the scientific link of the deceased’s blood with the person of the accused.

4. We have heard the learned APP for the State, at the stage of admission and carefully examined the oral and documentary evidence adduced before the learned Sessions Court.

5. From the deposition of Irfanbhai Mehmudbhai Diwan (PW-11, Exh.-32), it transpires that he was employed on contract at G.S.F.C., with duty hours from 7:00 a.m. to 5:00 p.m., that on the day in question powder had settled on his boots and he therefore went to the open plot to wash them, that he left work at noon and did not return, that when he went there a quarrel was going on among Sanju, Pratik and Akki, that two brothers struck Pratik with an iron pipe, that persons present called the 108 ambulance, and that thereafter a complaint was given at Jawaharnagar Police Station. He identified his signature on Exh.-33, claimed to identify the accused present in Court, and stated that the muddamal pipe shown to him was the same pipe.

6. In cross-examination, he admitted that the police obtained his signature on a complaint already prepared by them, that he did not dictate any part of it, that he could neither read nor write except his name, that he did not read the complaint, that he had not gone to the police station that day but went there at the instance of the police and signed the paper, that washing facilities were available at the company itself, that after noon he did not go to work, that he had an eye complaint since childhood, that the complaint contains no description of the pipe, that the pipe shown in Court was bent, and that the complaint does not state where the blows were inflicted.

7. The learned Sessions Court held that this witness did not see the incident, that at the relevant time he had gone to wash his boots, that he left duty at noon and did not return, that the first information places the occurrence at about 6:00 p.m. whereas his duty ended at 5:00 p.m. and his deposition states that he left at noon, that the first information states that the accused came into the open plot and beat Pratik, whereas his deposition speaks of a quarrel among Sanju, Pratik and Akki and of two

brothers using a pipe, and that although two brothers appear to have beaten the deceased, the record does not show that they were the present accused.

8. We find no reason to interfere with that finding. A witness who left work at noon, went to wash his boots, had an untreated eye problem since childhood, did not read the complaint he signed, did not dictate it, and went to the police station only because the police asked him to sign a prepared paper, cannot be treated as an eye-witness to an incident alleged to have occurred in the evening. His identification of the accused in Court and of the bent muddamal pipe, when the first information contains no description of the pipe, has no value when he himself is not shown to have seen the assault. The difference between the first information, which states that the accused came into the plot and beat Pratik, and his deposition, which speaks of a quarrel among three persons and two brothers using a pipe, further shows that the accusation against the present accused was not based on what this witness actually saw. The learned Sessions Court was, therefore, right in holding that Exh.-32 does not connect the assault with the present accused.

9. The deposition of Hansaben Pravinbhai Dhamechiya (PW-13, Exh.-53) shows that Pratik lived in the neighbourhood, and that Pratik said he would eat bhajiya and went to the upper floor, that thereafter two boys came, called Pratik down and severely beat him, that one of them pressed his mouth, that the two boys were relatives of Pratik and used to eat and drink with him, that she did not know or identify anyone, that they first beat him with a wooden stick which broke and thereafter used an iron pipe, that a bucket of water was thrown and blood flowed, and that the incident took place at 3:00 p.m. She further stated that when the police showed her the accused and asked her, she said that she did not

recognise anyone among them, and she did not identify anyone in Court either.

10. In cross-examination, she admitted that she could not identify the accused either before the police or on the day of her deposition, that her police statement was not given to her to read, that she could not identify the pipe, and that the breaking of the wooden stick was not mentioned in her police statement.

11. The learned Sessions Court held that although the fact that two boys beating the deceased was on record, there was no identification, that her deposition placed the incident at 3:00 p.m. whereas the police statement placed it at about 6:00 p.m., that there was doubt regarding both the time and identity, and that the accused could not be convicted on this evidence.

12. We find that a witness who refuses to identify the persons standing trial both before the police and in Court, and who cannot identify the alleged weapon, does not connect the assault with the present accused. The difference between 3:00 p.m. in Court and about 6:00 p.m. in the police statement, and the fact that she stated in Court that a wooden stick broke, although this was not stated in the police statement, further show that her account is not consistent. The fact that two unidentified boys, described only as relatives who used to eat and drink with the deceased, caused injuries does not prove that the two accused before the Court were those boys. The learned Sessions Court was, therefore, right in not relying upon Exh.-53.

MEDICAL EVIDENCE:

13. Dr. Dikshit Sharishbhai Patel (PW-10, Exh.-28) was examined as the said doctor conducted the post-mortem examination of the deceased. In cross-examination, he admitted that the age of the injuries was not recorded in the post-mortem notes, that the injuries found on the deceased could have been caused by any other hard and blunt object besides the muddamal pipe, that no treatment papers of the deceased were available at the time of the post-mortem, that if the deceased had received proper and timely treatment there was a possibility of survival, that there were no stitches on the body to stop bleeding, and that rigor mortis ordinarily continues for about 30 hours. On considering this evidence, the learned Sessions Court recorded that the doctor had conducted the post-mortem and opined that the death occurred due to shock following haemorrhage from the many injuries on the body, but there was no evidence that attribute present accused persons with those injuries, and therefore the evidence of the post-mortem doctor did not assist the prosecution in proving the case against the accused beyond reasonable doubt.

14. The Medical evidence can establish the nature of injuries and the cause of death, but by itself it cannot identify the assailant. When the same injuries could have been caused by any other hard and blunt object, and the two material witnesses have failed to identify the present accused as the persons who used a pipe, the post-mortem opinion only proves that the deceased died of shock and haemorrhage from multiple injuries. It does not prove that the injuries were caused by the two accused standing trial or by the particular muddamal pipe. The fact that the age of the injuries was not recorded and that treatment papers were not available at the time of the post-mortem also leaves the medical evidence unconnected with any proved act of the accused. The learned Sessions Court was, therefore, justified in holding that Exh.-28 does not complete the prosecution case against the present accused.

INVESTIGATION AND ANALYSIS THEREOF:

15. Siddharaj Shailendrabhai Anand (PW-14, Exh.-54) stated that in August 2021 he was working as Police Inspector at Jawaharnagar Police Station, that on 14.08.2021 Irfanbhai Mehmudbhai Diwan gave a complaint in his presence against the accused, that according to the complaint, on 14.08.2021 at about 6:00 p.m., in the fali of Hemantbhai Patel at village Bajwa, the accused assaulted the deceased with an iron pipe, gave incriminate blows, caused injuries and caused his death, that the complaint is Exh.-33, and that he directed the PSO to register the offence by Exh.-40.

16. He further stated that he prepared the scene-of-offence panchnama, inquest panchnama, panchnama of the clothes of the accused, panchnama of the clothes of the deceased, and panchnama for seizure of the weapon under Section 27 of the Evidence Act, that accused Shailesh was wearing a black pant and a half-sleeved T-shirt with blood stains, that accused Chandubhai was wearing light pink jeans pant and a yellow T-shirt with blood stains, that accused Shailesh voluntarily pointed out the pipe from the bushes in the open plot of Hemant Patel, and that the identification-parade panchnama is Exh.-26.

17. He stated that the injured was unconscious and therefore his statement could not be recorded (Exh.-55), that the post-mortem requisition is Exh.-29, the post-mortem form is Exh.-30 and the post-mortem notes are Exh.-31, that the muddamal was sent to the F.S.L., that the notification pertaining to weapon is Exh.-68, and that a charge-sheet was filed after completion of the investigation.

18. In cross-examination, he admitted that the offence was registered 7 hours after the occurrence, that no evidence was collected regarding the complainant's duty hours and no further statement of the complainant was recorded, that the statement of the person who dialed 108 was not taken, that a telephonic vardhi was given at 17:59 hours on 14.08.2021, that the vardhi at Exh.-43 mentions the name of only 1 accused, that the first information does not state how the complainant knew or identified both accused, and that the investigation did not show that accused No. 2 Chandubhai was mentally ill.

19. The learned Sessions Court, having already found that the two material witnesses did not identify the present accused as the assailants, treated this police evidence as proof only of the steps taken during investigation and not as proof of the charge. Registration of the first information, preparation of panchnamas, seizure of stained clothes, a Section 27 pointing-out, an identification-parade paper, and sending the muddamal to the F.S.L. are steps of investigation. They do not become substantive proof that these two accused caused the fatal injuries, particularly when the complainant signed a complaint which he had not read, Hansaben (Exh.-53) refused to identify the accused before the police and in Court, and the first information itself does not explain how both accused were named. The 7-hour delay in registration, failure to verify the complainant's duty hours, failure to record the 108 caller, the vardhi naming only 1 accused, and the absence of any explanation in the first information as to the source of identification show that the investigation cannot fill the lacuna left by the hostile and non-identifying ocular evidence. Recovery of a pipe from bushes at the instance of 1 accused, without a reliable witness identifying the assailants, does not prove that the pipe was used by the present accused to cause the death. The evidence of Exh.-54, therefore, does not support the prosecution

case.

20. On considering the oral and documentary evidence produced by the prosecution, the first question is whether it is proved that the present accused intended to cause the death of the deceased. Hansaben (Exh.-53) stated that the accused and the deceased were friends and used to eat and drink together. The complainant (Exh.-32) was washing his boots at the time when he claimed to have been in the plot, and the record does not show that he saw the assault. There is no evidence that the present accused had an intention to kill the deceased. The medical witness proved that death was caused by shock following haemorrhage from many injuries. This does not prove that the present accused caused those injuries or that the death resulted from any act proved against them. Nothing useful to the prosecution comes from the deposition of Hansaben.

21. The police witnesses do not get support from the complainant or Hansaben. All the panch witnesses only identified their signatures on the panchnamas. Identifying a signature, by itself, does not prove the contents of the panchnama. There are material contradictions between the first information and the depositions. The F.S.L. report at Exh.-80 was not proved by examining the F.S.L. officer, and the Exh. was brought on record after examination of the accused under Section 313 of the Code of Criminal Procedure. The panch witnesses did not support the seizure of the clothes or the weapon. The learned Sessions Court, therefore, held that although an occurrence of the kind stated in the first information may have taken place, the prosecution had not produced any evidence showing the involvement of the present accused, consequently extended the benefit of this failure to the accused persons.

22. The prosecution also sought to rely upon circumstantial evidence. The record does not show that anyone saw the present accused beating the deceased. The complainant spoke of two brothers using an iron pipe, but he did not state that the present accused were those brothers. There is a material contradiction regarding the time of the occurrence. The complainant was washing his boots and, after leaving work at noon, did not return. There is no evidence of last-seen-together, the prosecution has not produced any evidence on this point. An identification parade could not be held. At no stage did the involvement or identity of the present accused emerge, even as a suspicion. The prosecution has not produced sufficient and reliable evidence to conclude that the present accused, with an intention to cause death, struck the deceased with a pipe and caused his death. The medical opinion alone cannot be treated as conclusive without independent and consistent ocular or circumstantial evidence. At the highest, the evidence shows the possibilities of two unknown persons having caused injuries. This does not prove the case against the two accused who stood on trial.

23. It transpires that there is no reliable direct witness. The two material witnesses have not identified the accused as the assailants. There is no proved last-seen-together circumstance involving the present accused. The medical evidence proves the cause of death and not the identity of the assailants. The investigation, panchnamas proved only through signatures, and an F.S.L. report which was not duly proved cannot fill these lacuna. The prosecution has failed to prove the charge against the present accused.

24. The learned Sessions Court recorded that the complainant and the other witness did not, in their depositions, support the offence alleged by the prosecution. When the prime evidence itself does not support the

prosecution case, the case cannot be proved only on the basis of supporting or investigative material. It is a settled principle that an accused is presumed innocent until the alleged offence is proved against him by legal evidence, and mere preliminary or supporting material does not remove that presumption.

25. We find no error in that approach. Once Irfanbhai Mehmudbhai Diwan (Exh.-32) is not shown to have seen the assault and does not state that the present accused were the two brothers who used a pipe, and once Hansaben Pravinbhai Dhamechiya (Exh.-53) refuses to identify them both before the police and in Court, the foundation of the prosecution case fails. The police panchnamas proved only by signatures, seizure of stained clothes, a Section 27 pointing-out, and medical evidence regarding the cause of death are only supporting material. They cannot, by themselves, replaced and take place of evidence to substantiate the charge that the accused persons committed the offence. The presumption of innocence, therefore, continues.

26. Thus, the whole case of the prosecution rests on the circumstantial evidence; however the prosecution has failed to place on record any such circumstances to link the chain so as to surface the implication of the accused in commission of the crime in question. It is pertinent to note that even as per the case of the prosecution, in absence of any motive, that itself is sufficient to dislodge the case of prosecution if other proven circumstances could form a chain so complete as to indicate that in all human probability it is accused and no one else who committed crime yet, in a case based on circumstantial evidence, motive plays an important part.

27. Now, reverting back to the facts of the present case, nothing sort of

any such material seems to be placed on record to indicate as to motive behind the commission of the offence in question and therefore, admittedly the whole case rests on the circumstantial evidence and considering the way in which the entire incident have been described, followed by the investigation carried out by the IO and to convict the accused in absence of any direct evidence though dealing with the case based on circumstantial evidence, the important aspect which requires to be considered are such as (i) whether circumstances relied by prosecution have been proved beyond reasonable doubt; (ii) whether those circumstances are of a definite tendency unerringly pointing towards guilt of accused; (iii) whether those circumstances taken cumulatively form a chain so far complete that there is no escape from conclusion that within all human probability crime was committed by accused; (iv) whether they are consistent only with hypothesis of accused being guilty; and lastly (v) whether they exclude every possible hypothesis except one to be proved.

28. In a case of circumstantial evidence, the chain is required to be completed as mandated under the law so as to indicate the guilt of the accused while discarding any other theory of the crime. If one of the link goes missing and not proved, in view of the settled law on the point, the conviction is required to be interfered with. At this stage, with profit, we may refer to the decision in case of ***Laxman Prasad Alias Laxman (supra)*** where the Hon'ble Apex Court after referring to ***Sharad Birdhichand Sarda vs. State of Maharashtra [(1984) 4 SCC 116]*** and ***Shailendra Rajdev Pasvan vs. State of Gujarat [(2020) 14 SCC 750]*** has quashed the conviction by making observations in paragraph 2 to 4 as under:

> *"2. The present one is a case of circumstantial evidence. The prosecution led evidence to establish three links of the chain: (i) motive,*

(ii) last seen, and (iii) recovery of weapon of assault, at the pointing out of the appellant. The High Court, while dealing with the evidence on record, agreed with the finding of motive and the last seen, however, insofar as the recovery of the weapon of assault and bloodstained clothes were concerned, the High Court in para 18 of the judgment held the same to be invalid and also goes to the extent to say that the recovery which has been made does not indicate that the appellant has committed the offence. Still, it observed that looking to the entire gamut and other clinching evidence against the appellant of last seen and motive, affirmed the conviction.

3. We do not find such conclusion of the High Court to be strictly in accordance with law. In a case of circumstantial evidence, the chain has to be complete in all respects so as to indicate the guilt of the accused and also exclude any other theory of the crime. The law is well settled on the above point. Reference may be had to the following cases:

(i) Sharad Birdhichand Sarda v. State of Maharashtra,
(ii) Shailendra Rajdev Pasvan v. State of Gujarat.

4. Thus, if the High Court found one of the links to be missing and not proved in view of the settled law on the point, the conviction ought to have been interfered with."

29. At this juncture, it is apt to refer the judgment of the Supreme Court, in the case of ***Tulasareddi @ Mudakappa & Anr. v. The State of Karnataka & Ors., 2026 INSC 67***, the relevant paragraphs of which read as under:

"26. At this stage, we would like to refer the decisions rendered by this Court on the aspect of interference of Appellate Court in the appeal filed by the State challenging the acquittal of the accused recorded by the Trial Court.

27. In the case of ***Babu Sahebagouda Rudragoudar v. State of Karnataka*** *this Court held in paragraphs 39 to 42 as under:*

39. This Court in Rajesh Prasad v. State of Bihar [Rajesh Prasad v. State of Bihar,(2022) 3 SCC 471 : (2022) 2 SCC (Cri) 31] encapsulated the legal position covering the field after considering

various earlier judgments and held as below : (SCC pp.482-83, para 29)

> *"29. After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal in the following words: (Chandrappacase [Chandrappa v. State of Karnataka, (2007) 4 SCC 415 : (2007) 2 SCC (Cri)325], SCC p. 432, para 42)*
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> *'42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:*

(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.

(2) The Criminal Procedure Code, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, "substantial and compelling reasons", "good and sufficient grounds", "very strong" circumstances", "distorted conclusions", "glaring mistakes", etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of "flourishes of language" to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having

secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.'

40. Further, in H.D. Sundara v. State of Karnataka [H.D. Sundara v. State of Karnataka, (2023) 9 SCC 581 : (2023) 3 SCC (Cri) 748] this Court summarised the principles governing the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378 CrPC as follows : (SCC p. 584, para 8)

"8.… 8.1. The acquittal of the accused further strengthens the presumption of innocence,

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to reappreciate the oral and documentary evidence,

8.3. The appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record,

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible, and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible."

41. Thus, it is beyond the pale of doubt that the scope of interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised within the four corners of the following principles:

41.1. That the judgment of acquittal suffers from patent perversity,

41.2. That the same is based on a misreading/omission to consider material evidence on record, and

41.3. That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

42. The appellate court, in order to interfere with the judgment of acquittal would have to record pertinent findings on the above factors if it is inclined to reverse the judgment of acquittal rendered by the trial court.

*28. In the case of **Ramesh v. State of Uttarakhand**, this Court has observed and held in para 19 & 20 as under:*

"19. In a case like this when the trial court acquitted the accused persons of their charges, the High Court could not have reversed the finding merely on the basis that other view, as recorded by the High Court, appeared to it to be a plausible view. Such an approach by the High Court, against the judgment of the acquittal, is impermissible. In this context, we may usefully refer to Kalyan v. State of U.P. [Kalyan v. State of U.P., (2001) 9 SCC 632 : 2002 SCC (Cri) 780] wherein it was held : (SCC pp. 640-41, paras 15, 18 & 20)

> *"15. … The view taken by the trial court could have been disturbed only if there were compelling reasons. We do not find any compelling reason noticed [State of U.P. v. Hari Lal, 1998 SCC OnLine All 1216 : 1999 All LJ 142] by the High Court while setting aside the order of acquittal.*
>
> *18. Even if another view regarding the occurrence was possible, as taken by the High Court, the same could not be made a basis for setting aside the order of the trial court in view of the settled position of law on the point.*
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> *20. Under the circumstances, the appeal is allowed by setting aside the judgment of the High Court convicting the accused persons and sentencing them to various imprisonments including*

life imprisonment. We uphold the order of acquittal passed by the trial court in favour of the appellants."

20. In another judgment in Basappa v. State of Karnataka [Basappa v. State of Karnataka, (2014) 5 SCC 154 : (2014) 2 SCC (Cri) 497] , this Court noticed plethora of judgments where this very principle had been adopted, as can be seen from the following discussion therefrom : (SCC pp. 158-61, paras 11-12, 14 &, 17-18)

"11. In Bhim Singh v. State of Haryana [Bhim Singh v. State of Haryana, (2002) 10 SCC 461 : 2003 SCC (Cri) 1469] , it has been clarified that interference by the appellate court against an order of acquittal would be justified only if the view taken by the trial court is one which no reasonable
person would in the given circumstances, take.

12. In Kallu v. State of M.P. [Kallu v. State of M.P., (2006) 10 SCC 313 : (2006) 3 SCC (Cri) 546] , it has been held by this Court that if the view taken by the trial court is a plausible view, the High Court will not be justified in reversing it merely because a different view is possible.…

14.In Ganpat v. State of Haryana [Ganpat v. State of Haryana, (2010) 12 SCC 59 :(2011) 1 SCC (Cri) 309] , SCC para 15, some of the above principles have been restated. To quote : (SCC p. 62)

'15. The following principles have to be kept in mind by the appellate court while dealing with appeals, particularly, against an order of acquittal:

(iv) An order of acquittal is to be interfered with only when there are "compelling and substantial reasons" for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference.'

17. … It is not the stand of the High Court that there had been some miscarriage of justice in the way the trial court has appreciated the evidence. On the contrary, it is the only stand of the High Court that on the available evidence, another view is

also reasonably possible in the sense that the appellant-accused could have been convicted. In such circumstances, the High Court was not justified in reversing the acquittal.…

18. The appeal is allowed. The impugned judgment [State of Karnataka v. Basappa, 2010 SCC OnLine Kar 5110] is set aside and that of the trial court is restored."

29. From the aforesaid decisions rendered by this Court, it can be said that if two reasonable conclusions are possible on the basis of the evidence on record, the Appellate Court should not disturb the findings of acquittal recorded by the Trial Court. Further, if the view taken is a possible view, the Appellate Court cannot overturn the order of acquittal on the ground that another view was also possible. The following principles have to be kept in mind by the Appellate Court while dealing with the appeals against an order of acquittal:

(a) whether the judgment of acquittal suffers from patent perversity,

(b) whether the judgment is based on misreading/omission to consider the material evidence on record,

(c) an order of acquittal is to be interfered with only when there are "compelling and substantial reasons" for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference.'

(d) the appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record,

(e) if the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible, and

(f) the appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no

other conclusion was possible.

30. In view of the aforesaid appreciation of the material on record, we are satisfied that the prosecution has failed to prove that the present accused were the two persons who inflicted the fatal injuries, and that the view taken by the learned Sessions Court is a plausible view, calling for no interference at this stage.

31. The learned Sessions Court has held that the two material witnesses do not identify the present accused as the assailants, the last-seen-together circumstance is not proved, the medical evidence proves the cause of death but not the identity of the assailants, and the investigation papers cannot fill the gap regarding identity. The findings are not shown to be perverse, contrary to the record, or unsustainable. No arguable ground for admission is made out. Hence, the present appeal deserves to be dismissed at this stage.

32. For the forgoing reasons, the present appeal is dismissed. Record and proceedings, if any, be remitted to the concerned Court.

(ILESH J. VORA,J)

(R. T. VACHHANI, J)

MVP

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: MITESH VIJAYBHAI PANCHAL(HCD0065), ENGLISH STENOGRAPHER GRADE TWO CLASS TWO, at High Court of Gujarat on 18/09/2026 15:15:54