IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL NO. 978 of 1998

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK
and
HONOURABLE MR.JUSTICE MOOL CHAND TYAGI

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Approved for Reporting	Yes	No
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STATE OF GUJARAT
Versus
CHHATRASING JETUSING @ SADRUBHA JETHUJI THAKORE & ORS.

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Appearance:
MS JYOTI BHATT ADDL PUBLIC PROSECUTOR for the Appellant(s) No. 1
HCLS COMMITTEE(4998) for the Opponent(s)/Respondent(s) No. 1,10,11,12,2,3,4,8,9
MR HD CHUDASAMA(234) for the Opponent(s)/Respondent(s) No. 5,6,7
MR P B KHAMBHOLJA(5730) for the Opponent(s)/Respondent(s) No. 1,10,11,12,2,3,4,8,9

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CORAM:**HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK**
and
HONOURABLE MR.JUSTICE MOOL CHAND TYAGI

Date : 17/07/2026

ORAL JUDGMENT

(PER : HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK)

1. The appellant - State of Gujarat has preferred this appeal under Section 378(1)(3) of the Code of Criminal Procedure, 1973 against the judgment and order dated 30.07.1998 passed by the learned

Additional Sessions Judge, Palanpur (hereinafter be referred to as “the trial Court”) in Sessions Case No.48 of 1997, whereby the trial Court has acquitted the original accused (respondents herein) from the offences punishable under Sections 147, 148, 149, 302, 323, 325, 120(B), 201 etc of the Indian Penal Code [hereinafter be referred to as “the IPC”] and under Section 135 of the Bombay Police Act.

2. Short facts of the prosecution case are that on 28.05.1996, in the midnight at Village: Andhariya, Taluka: Vadgam, step mother-in-law namely Menba of the complainant Naniben had quarreled with her husband Jorsing Ratansing on account of drinking liquor and she was beaten her husband and step mother also demanded share in the land, due to which the accused including Menba had beaten the husband – Siddharajsing and hence, he sustained fatal injury and succumbed to the injury and the complainant and his brother-in-law also sustained injury. Hence, a complaint was lodged by the complainant before Palanpur City Police Station for the aforesaid offences. The police prepared panchnama of the scene of offence and inquest panchnama etc and after preparing the arrest panchnama, the accused came to be arrested. On completion of investigation, charge sheet was submitted into the Court of learned J.M.F.C.

2.1 The charge against the accused came to be framed by the trial Court vide Exhibit 3 for the aforesaid offences against the accused. On being explained it to them, the accused have denied having committed any offence. The accused pleaded not guilty to the charge and pleaded for trial and hence, the case was tried by the learned Additional Sessions Judge.

3. It appears from the records that to prove the case, the prosecution has examined the following witnesses.

P.W. No.	Name of Witnesses	Exhibit
1	Dr. Bhikhabhai Kohajibhai	18
2	Naniben Siddhrajsing	22
3	Mafatbhai Halabhai	25
4	Jaluba Jorsing	29
5	Bhikhabhai Rajabhai	31
6	Bhagwansing Jorsing Thakor	37
7	Dolji Motiji Barad	40
8	Gobarsing Agarsing	42
9	Mohanji Lalji	46
10	Pruthviraj Chhaganji Thakor	47
11	Bhikhaji Kaluji	48
12	Pravin Dharmabhai Shrimali	49
13	Laxman Parathibhai	50
14	Savaji Fataji Solanki	51
15	Bhikhabhai Rajabhai Nai	52
16	Dhegabhai Masharubhai	53
17	Dhanesinh Ajitsinh	54
18	Jayantibhai Dhudabhai Parmar	70

4. In addition to this, the prosecution has also produced the following documentary evidence.

Sr. No.	Particulars	Exhibit
1	Postmortem Note	19
2	Medical Certificate	20
3	Yadi sent to Medical Officer	21
4	Inquest Panchnama	23
5	Seizure Panchnama	24
6	Complaint	26

7	Yadi sent to Police Sub Inspector	27
8	Copy of register entry	28
9	Panchnama of the scene of offence dated 30.05.1996	41
10	Panchnama dated 31.05.1996	43
11	Police report	55
12	Yadi sent to Police Sub Inspector	56
13	Yadi sent to Police Sub Inspector	57
14	Receipt	58
15	Panchnama dated 31.05.1996	59
16	Panchnama dated 31.05.1996	60
17	Panchnama dated 01.06.1996	62
18	Panchnama dated 01.06.1996	63
19	Panchnama dated 04.06.1996	64
20	Panchnama dated 03.06.1996	66
21	Letter (F.S.L.)	67
22	Forwarding Note	68
23	F.S.L. Report	69

5. After closure of the evidence, the statements of the accused under section 313 of the Criminal Procedure Code, 1973 have been recorded wherein they denied of having committed any offence and have stated that they are innocent.

6. After hearing both sides and considering the evidence on records, the trial Court by impugned judgment and order has acquitted the accused from all the charges levelled against them.

7. Being aggrieved by and dissatisfied with the aforesaid judgment and order of acquittal the appellant – State of Gujarat has preferred this appeal.

8. Heard Jyoti Bhatt, learned Additional Public Prosecutor for the appellant – State of Gujarat and Mr.H. D. Chudasama, learned counsel and Mr.P. B. Khambholja, learned counsel for the resective respondents – accused at length.

9. Learned Additional Public Prosecutor appearing for the appellant – State of Gujarat has submitted the same facts which are narrated in the memo of appeal and has also submitted that the prosecution has examined witnesses and produced documentary evidence, despite this fact, the trial Court has not considered the same in its true and proper perspective in passing the judgment and order of acquittal. She, while referring to the entire oral as well as documentary evidence, has assailed the impugned judgment and order and submitted that the trial Court has not taken into consideration the evidence connecting the accused to the alleged offence in its proper perspective and even the prosecution has been able to prove the charges levelled against the accused. While referring to the evidence of the witnesses and the material collected against the accused, learned Additional Public Prosecutor has submitted that the prosecution has established the case against the accused by examining the witnesses, who have supported the case of the prosecution, however, the trial Court has discarded and disbelieved the evidence of these witnesses. She has submitted that the witnesses have fully supported the case of the prosecution, however, the trial Court has not appreciated the same and passed the judgment and order of acquittal which is illegal and unjust. She has submitted that it is settled legal position that the evidence of a single witness is sufficient for conviction if the same is reliable and trustworthy and in the present case, though the evidence of all the witnesses are reliable and trustworthy, without any cogent reason,

the trial Court has disbelieved and discarded the evidence of the witnesses.

9.1 Learned Additional Public Prosecutor has further submitted that the impugned judgment of acquittal is contrary to the evidence on record, based on erroneous appreciation of material evidence, and has resulted in a miscarriage of justice and the findings recorded by the learned Trial Court are perverse and unsustainable in law, thereby calling for interference by this Court in the exercise of its appellate jurisdiction. She has also submitted that the learned Trial Court has materially erred in holding that the prosecution has failed to prove its case beyond reasonable doubt and the findings recorded by the trial Court were therefore perverse, illegal, and contrary to the evidence on record.

9.2 Learned Additional Public Prosecutor has submitted that the accused has formed unlawful assembly with an intention to commit the murder of deceased Siddhrajsing by their respective weapons like Swords, Dharia, Sticks, Knife and Dhoka etc. and they have assaulted upon the complainant – Naniba and thereby Bhavansing and Jaluben sustained injury and have tried to destroy the evidence. She has submitted that the accused – Jaswantsing inflicted blow of Stick, accused – Chhatrasing inflicted bow of Dharia, accused Odharsing inflicted blow of Knife, accused – Menba inflicted blow of sword, accused Jorsing inflicted blow of Dharia and other accused inflicted with their respective weapons. She has submitted that the trial Court has not properly appreciated the evidence of Naniben, Bharatsing Ishwarsing, Bhagwansing and Jaluba and thereby committed an error in acquitting the accused for the alleged offence. She has submitted that the accused ought to have convicted on the basis of the evidence

of Dr. Bhikhabhai who examined at Exhibit 18 and this doctor performed the postmortem of deceased and issued death certificate of the deceased and also stated that the injuries as stated in the postmortem note were sufficient in ordinary course of nature to cause the death of the deceased. She has also submitted that the trial Court has not appreciated the evidence of the complainant – Naniba, who stated in her deposition that on the date of incident, a mob of 10 – 12 persons rushed including the accused Chhatrasing inflicted blow of Dharia on the head of deceased and other persons inflicted blows of sticks. She has submitted that the respondents have committed a breach of Notification issued under the Bombay Police Act by the District Magistrate and thereby committed an offence under Section 135 of the Bombay Police Act and it is also a settled legal position that the evidence of the injured witnesses should be believed in its true and proper spirit.

9.3 According to learned Additional Public Prosecutor, the trial Court ought to have convicted the accused and ought to have imposed necessary sentence. She has prayed to allow the present appeal and to quash and set aside the impugned judgment and order of acquittal.

10. Per contra, both learned counsel for the respondents – accused have supported the impugned judgment and order and has submitted that the trial Court has not committed any error of law and fact in acquitting the accused from the charges levelled against them. They have submitted that the ingredients of the offence alleged against the accused are not proved beyond reasonable doubt and, therefore, the trial Court has rightly acquitted the accused as the complainant has failed to prove the charge levelled against the accused. They have also submitted that there is no iota of evidence to connect the

accused with the alleged crime in question. They have submitted that the evidence led by the prosecution suffers from material contradictions, omissions, and inconsistencies, which create serious doubt about the veracity of the prosecution case and the prosecution has failed to establish the essential ingredients of the alleged offences and has not produced reliable, trustworthy, and corroborative evidence connecting the respondent with the commission of the alleged offence. They have submitted that it is a settled principle of criminal jurisprudence that the presumption of innocence in favour of an accused is further strengthened by an order of acquittal. It is submitted that unless the findings recorded by the trial Court are shown to be perverse, illegal, or contrary to the evidence on record, the Appellate Court should be slow in interfering with an order of acquittal. It is submitted that the appellant has failed to point out any infirmity, illegality, perversity, or misreading of evidence in the impugned judgment and order and the findings recorded by the learned trial Court are based upon proper appreciation of the evidence and settled legal principles. Learned counsel for the respondents has submitted that the appeal being meritless deserves to be dismissed and the impugned judgment and order of acquittal deserves to be confirmed.

10.1 In support of his submissions, Mr.Chudasama, learned counsel for the respondents has relied upon the decisions of the Hon'ble Supreme Court in the case of **Ramesh Babulal Doshi Vs. State of Gujarat** reported in **(1996) 9 SCC 225** and **P. Somaraju Vs. State of Andra Pradesh** reported in **(2026) 1 SCC (Cri.)** 65.

11. On perusal of the impugned judgment and order of acquittal passed by the trial Court, the questions arise for determination are as

under:-

(1) whether the trial Court has rightly justified in passing the judgment and order of acquittal.

(2) whether the trial Court has rightly appreciated the oral as well as documentary evidence led by the prosecution in recording the reasons.

(3) whether there are any illegality, irregularity and perversity in the impugned judgment and order of acquittal.

12. Considering the above referred averments and issues arising in the present appeal, let first examine the facts of the case. That on 28.05.1996 at bout 1.30 a.m i.e. midnight of 28th May and early hours of 29th May, the complainant Nimaben along with her husband namely Sidhdhrajsing, her sister-in-law, her brother-in-law namely Bhagwansing Jorsing Thakor were sleeping under the beneath a nim tree at their agricultural field at that time accused persons including the father, step mother of the deceased and other relatives of the step mother have assaulted the husband of the complainant and in the result, Sidhdhrajsing sustained the injury and succumbed to the injury. The complainant along with her brother-in-law sustained injuries at the hands of the accused. It appears from the record that the prosecution has examined eighteen witnesses including the medical officer and the police personnel and also led the documentary evidence. It reveals from the record that the twelve accused have inflicted the blows by their respective weapons to the deceased. Now on perusal of the evidence of P.W.2 wife of the deceased, it appears that she alleged that on account of an agriculture field of her father-in-law, accused No.3 being step mother of the deceased was demanding share from the land of P.W.4 i.e. real

father of the deceased and in the result, the family members of accused No.3 have hatched conspiracy and formed an unlawful assembly have reached at the resident of the deceased in the midnight who happened to be the son of accused No.4. This witness has stated that she along with her husband and sister-in-law sleeping on different cots under the beneath a nim tree, when she woke up due to screaming and shouting, she found that her husband was lying in injured condition and blood was oozing from the back of his head. This witness has further stated that when she screamed and shouted for help, her sister-in-law was running at the place and accused have chased two witnesses. From the evidence of P.W.2, it appears that in her chief examination, this witness had given detail about the incident in question, whereas, in her cross-examination, she deposed completely contrary version and not supported her own case.

13. In the cross-examination, P.W.2 has stated that she had taken her husband to the Civil Hospital at around one or two o'clock. When she brought her husband to the Palanpur Civil Hospital, hers husband had already died. The treatment for the injuries she had sustained was done by the doctor during the night. It must have taken about five to ten minutes to treat her, and she was in the hospital itself until she lodged the complaint. In the morning, many people from their village had come, and at night as well, many people had come. It is true that, Bhagvansing, her brother-in-law (*Devar*), was also with her. She has stated that five children were born to Menba from her father-in-law, out of which one is a son and four are daughters. It is true that, second marriage of her father-in-law Jorsing took place at Antroli village, and from that marriage as well, a daughter was born to her father-in-law, who is alive. That daughter as well as her mother both reside in Antroli village. This witness has two agricultural fields; there

is no well. She cultivated the land. It is not true that, quarreled used to take place between Menba and me regarding that land. It is not true that, Menba used to quarrel with me stating that, she wanted a share in the land. It is not true that, she had stated in her statement before the police on 30/05/1996 that, "Menba quarreled with them saying give the share of the land." This land belongs to her father-in-law Jorsing's ancestors. Menba cultivated this land. There are two fields, out of which they cultivated one field and Menba cultivated the other field. Menba cultivated the field that was on the way towards the (*Illegible*) side from the village, and she had never stopped Menbaa from cultivating that field. It is true that, no quarrel has ever taken place between Menba and herself regarding the land. Her father-in-law Jorsing has not had any quarrel with them regarding the land. It has never happened that, Jorsing quarreled demanding a share of the land. She has been residing in Andhariya village for eight years. She stated that, during that period of eight years, no dispute has taken place between us and Jorsing and Menba regarding the land. It is true that, while going from Palanpur to Ambaji, ther village came towards the Antroli village. Andhariya village is two-three km away from the road. There was an approach road leading to their village from the road going to Ambaji. Their houses were situated in the village, which were on one side. While entering the village, the first house was them. Their house has been constructed on wasteland; it has not been constructed in an agricultural field. The houses of other brothers of Jorsing were situated in the village. The houses of Rajusing Magansing and Babusing Magansing were not on wasteland. Their houses were situated near the well and their well was situated opposite our house on the eastern side. The village lies to the west of their house. After their house, there is a road, and thereafter the houses of the village begin. The houses situated at the

beginning of the village belong to the people of her caste i.e. Darbar. There were approximately 200 houses of Darbar. In which there were ten houses of her family and the rest were from their Mohalla. There were four houses of their Mohalla and rest of the houses were of other Darbar families. There was no other road other than the road to reach Ambaji road from Andhariya. She has no knowledge that whether the road leading to Andhariya village from Ambaji road ends in Andhariya village or not. Saku village situated to the North of their village. After leaving the road from her house, the house of her father in law namely Jorsing situated. No quarrel used to occur between her mother-in-law and father-in-law. She has never heard of any quarrel between her mother-in-law and father-in-law. Her father-in-law never told her that he had a quarrel with his wife. Menba used to tell her that “her husband beaten her.” Now She stated that, her mother-in-law never came to her to tell about quarrel. She did not know that, whether two years ago, before this incident occurred, Siddharajsing inflicted a cut wound on the hand of Menba by hitting her and regarding which a complaint was lodged by Menbaa against her husband in Vadgaam Police Station or not? It is not true that her husband inflicted a blow of axe on the head of Jorsing regarding which Jorsing filed a case in Vadgaam Police Station against my husband. She did not know that both the cases were pending in the Court at Palanpur and she also did not know that her husband used to attend the hearing dates in this cases. It is not true that two cases regarding liquor has been filed against her husband. It is not true that, the cases were pending in the Court at Palanpur. It is not true that, a case against her husband is filed for spilling all the milk belonging to a person of their village from Raval community while taking it to the Dairy. It has occurred that Jetusing inflicted a blow to the chest of my husband with a stick and Jetusing is the father of accused Chhatrasing

and Odharsing. Jetusing inflicted a blow of stick on the leg of her brother-in-law, Bhagvansing and blows of sticks were inflicted repeatedly, Odharsing inflicted a blow of stick on her. Odharsing had two weapons - knife and stick and Odharsing did not inflict any blow of knife on her. Jetusing was only having a stick with him and other than that he did not hit anything. She has also stated in the complaint that, Jetusing inflicted a blow of stick on her husband. They were hitting her husband on all over his body. Jetusing did not hit her sister in law. This witness has stated that Karansing and Gambhirsing were empty handed and both of them had called the other accused, who were her relatives. She has not seen the house of Karansing and she has already seen Karansing and the age of Karansing was approximately 30 to 35 years. She has seen Karansing about two to three years ago while passing by. She did not know the name of the father of Karansing. Karansing and Gambhirsing were provoking everyone in this incident. She did not see if they were having scythe with them or not and she has not stated in the complaint that Gambhirsing and Karansing were having scythe with them but she stated their names in the complaint. After stating the complaint she came to know that she has falsely dictated the names of Karansing, Jetusing and Gambhirsing. It is true that, Police informed her that there was no person named Karansing, when She stated the name of Karansing in her complaint and that’s why she informed Police that she had falsely dictated the name of Karansing.

14. It appears that the said fact has not been supported by the evidence of P.W.4. Except for these two witnesses, none of the independent witnesses have supported the case of the prosecution. It also appears from the record that the panchas have not supported the case of the prosecution and declared hostile and, therefore, the

panchnama of the recovery and panchnama of the scene of occurrence has not been proved by the prosecution. Surprisingly, P.W.6 who happened to be the brother of the deceased and also slept in the veranda of the house, was shown to be an injured witness.

15. On perusal of the cross-examination of P.W.2, it reveals that this witness has specifically stated that she has given only four names of the accused and remaining names were given by the villagers and all the names of the assailants given by the P.W.2 without actually knowing their names. One of the person shown to be the accused had died before about ten years, however, she had referred the name of that deceased person as an assailant and then she realized that the said person died prior to the date of incident, she had named that accused because of the villagers. Considering the material on record and the the injury sustained on the body of the deceased, it appears that the only head injury was caused by some heavy weapon which was proved to be fatal in nature, otherwise, no correspondence injury was found on the body of the deceased and the cause of death was mentioned by the doctor was proved to be fatal. But if the twelve accused were simultaneously inflicting the blows by sticks, sword, dharia, and other iron pipes then there was every possibility that there were multiple injury found on the body of the deceased but the same were not found. Whereas, in her cross-examination, P.W.2 has completely washed out the story of the prosecution more particularly in paras – 15, 16, 17 and 18, which does not inspire any confidence. Considering the fact that at the time of drawing the panchnama of the scene of offence, only one cot was found in the house and on the said cot, one quilt was sprayed over with the blood then the rest of the two cots as per the case of the complainant the blood was not found at the place. From the records, it emerges that whether there was any

electricity available at the residence because the incident occurred in the midnight and looking to the panchnama of the place of offence, there was no mention of electricity and none of the witnesses had referred about the electricity then there were possibility that the complainant could not identify all twelve accused except accused No.3 and 4 since they were being father-in-law and mother-in-law of the complainant. So far as the dispute with regard to the land is concerned, there is no material come forth on record and the dispute between the father and son as the father-in-law of the complainant resided next to the house of the deceased and near the vicinity 6 – 7 people resided in their house constructed in their respective agriculture field. However, Neither the statements the nearby witnesses have been recorded nor examined as witnesses in the present case. On perusal of the impugned judgment and order, it appears that the trial Court has observed the relevant findings from para 5 to para 16 and discussed at length and appreciated the evidence of those witnesses. It also appears that the trial Court has rightly observed that the evidence led by the prosecution does not at all inspired any confidence and except the P.W.2, her sister-in-law, none of the witnesses have thrown light on the incident in question. Considering the evidence of P.W.6, it appears that when hewoke up, he saw that his brother was lying in bleeding condition and he feared that he would also be caused injury or killed by the accused and, therefore, he was running away from the place and at that time, accused ran and tried to chase the witnesses. The material contradictions and omissions were proved through the evidence of P.W.6. On examining the evidence of P.W.6, it emerges that he admitted that the step mother is real aunt of the deceased and it was the second marriage of his father with her matrimonial aunt since his real mother died and before the incident, the deceased had already

parted with the share and individual land to his step mother (masi). If this Court considers the fact that when P.W.6 woke up, the incident of causing injury to the deceased was already over and, therefore, he has not seen the actual incident whereby the injury caused to the deceased by whom and with which weapon and, therefore, the depositions of the said three witnesses including P.W.3, P.W.4 and P.W.6 is completely contrary and it does not inspire any confidence as they are the interested witnesses and, therefore, their depositions cannot be brushed aside on account of that they are interested or family members of the deceased. Their evidence is required to be examined and scrutinized as it has been held by the Hon'ble Apex Court that the quantity of the witnesses is not material or quality of the witnesses is required to be considered as it was held by the Hon'ble Apex Court that the realization on the testimony of the witnesses is reiterated by the Hon'ble Supreme Court in the case of ***Jagdish Vs. State Of Haryana*** reported in **(2019) 7 SCC 711**. In the case of Jagdish (supra), the Hon'ble Supreme Court has held and observed in para 8 as under:-

> *"8. For appreciating the rival submissions, it will be apposite to refer to the provisions of Sections 3(1)(r) and 3(1)(s) of the SC-ST Act, which read thus:*
>
> "3. Punishments for offences of atrocities.—
>
> (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,--
>
> (a) .....
>
> (b) .....
>
> xxx xxx xxx
>
> (r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled

Tribe in any place within public view;

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;"

16. In the case where the Court has convicted the accused person, while deciding the appeal, the Hon'ble Supreme Court has considered the fact the prosecution witnesses were unreliable and on an appreciation of evidence the prosecution story was found highly improbable and inconsistent of ordinary course of human nature. It is pertinent to refer to the decision of the Hon'ble Supreme Court in the case of **Inderjeet Singh Vs. State (Nct Of Delhi)** reported in **AIR 2020 SC 4894**. The relevant headnote of this decision reads as under:-

"(a) Indian Penal Code, 1860 - S. 34, 302 - Arms Act, 1959 - S. 27 - Evidence Act, 1872 - S. 3 - murder - conviction and sentence - sustainability - testimony of sole eye witness, who is a close relation of deceased - case primarily hinges on testimony of sole eye witness, PW-1, brother of deceased - assailants were only armed with hockey sticks and a knife and not with any fire arms - testimony of PW-1 and also his conduct at time of incident - unnatural conduct of PW-1 and PW-11 two brothers of deceased which have noticed from record is that though they claim to be present at time of occurrence but no attempt was made by them to save their brother from assault, merely on threat extended by assailants armed with hockey sticks and a knife - this unnatural conduct totally against natural human behaviour casts a serious doubt of shadow on presence of eye witness on spot at time of occurrence - moreover facts stated by PW-1 in this regard has not been corroborated by other brother PW-11 - other unnatural conduct of two brothers PW-1 and PW-11 just after incident again makes their presence on spot extremely doubtful - there was a medical clinic of just nearby place of incident and first endeavour of two brothers would have been to take injured brother to clinic for immediate medical aid or try and get some medical aid from clinic but no efforts made to get medical aid - it is highly unnatural that two real brothers made no efforts to save life of third brother who was severely injured

if they were present at place of incident - since there are serious doubtful aspects in conduct of PW-1 and his conduct does not appear to be natural it would not be safe to accept his evidence without corroboration more particularly when two other eye witnesses, one being a real brother of deceased has turned hostile - there are inherent improbabilities in prosecution story - conduct of eye witness is inconsistent with ordinary course of human nature hence, it would not be safe to convict appellants upon uncorroborated testimony of sole eye witness - since, prosecution has miserably failed to prove guilt of accused beyond doubt appellants therefore must be given benefit of doubt - impugned orders of Courts below set aside - appellants are directed to be released forthwith unless required in any other case - appeals allowed. (Para 19,20,21,22,23,24,25,26,32,35)

(b) Evidence Act, 1872 - S. 134 - evidence - testimony of sole eye witness - evidentiary value - as a general rule, Court can and may act on testimony of single eye witness provided he is wholly reliable - there is no legal impediment in convicting a person on sole testimony of a single witness - that is logic of S. 134 of Evidence Act - but if there are doubts about testimony, Courts will insist on corroboration - it is not number, quantity but quality that is material - time honoured principle is that evidence has to be weighed and not counted - on this principle stands edifice of S. 134 - test is whether evidence has a ring of truth, is cogent, credible and trustworthy or otherwise. (Para 16)"

17. In view of the above, I am of the opinion that the trial Court has not committed any error of facts and law in passing the impugned judgment and order and there is no any illegality and infirmity found in the judgment and order.

18. It is well settled by catena of decisions that the an Appellate Court has full power to review, re-appreciate and reconsider the evidence upon which the order of acquittal is founded. However, Appellate Court 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 their innocence is further reinforced, reaffirmed and strengthened by the trial Court.

19. Further, 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. Further, while exercising the powers in appeal against the order of acquittal, the Court of appeal would not ordinarily interfere with the order of acquittal unless the approach of the lower Court is vitiated by some manifest illegality and the conclusion arrived at would not be arrived at by any reasonable person and, therefore, the decision is to be characterized as perverse. Merely because two views are possible, the Court of appeal would not take the view which would upset the judgment delivered by the Court below. However, the Appellate Court has a power to review the evidence if it is of the view that the conclusion arrived at by the Court below is perverse and the Court has committed a manifest error of law and ignored the material evidence on record. A duty is cast upon the Appellate Court, in such circumstances, to re-appreciate the evidence to arrive to a just decision on the basis of material placed on record to find out whether the accused are connected with the commission of the crime with which they are charged.

20. The scope and principles are enunciated by the Hon’ble Apex Court in case of ***Chandrappa and others Vs. State of Karnataka***

reported in ***(2007) 4 SCC 415***, more particularly ***paragraph Nos. 42 and 43***, which was subsequently re-affirmed by the Hon'ble Apex Court ***Rajesh Prasad Vs. State of Bihar and another***, reported in ***[2022] 3 SCC 471***, wherein, the Hon'ble Apex Court has enunciated the general principles in case of acquittal, more particularly in ***paragraph No. 26*** the general principles are set out by the Hon'ble Apex Court based upon various decisions of the Hon'ble Apex Court. Then in case of ***Babu Sahebagouda Rudragoudar Vs. State of Karnataka, reported in AIR 2024 SC 2252 = (2024) 8 SCC 149,*** the Hon'ble Apex Court has dealt with the similar issue, more particularly, in ***paragraph Nos. 37 to 40.*** Hence, we are in complete agreement with the findings recorded by the trial Court.

21. It is also worthwhile to refer to the recent decision of the Hon'ble Supreme Court in the case of ***Ramesh vs. State of Karnataka, reported in [2024] 9 SCC 169***, wherein the Hon'ble Supreme Court has held and observed in paras-20 and 21 as under:-

> *"20. At this stage, it would be relevant to refer to the general principles culled out by this Court in Chandrappa and others vs. State of Karnataka , regarding the power of the appellate Court while dealing with an appeal against a judgment of acquittal. The principles read thus:*
>
> *"42. .... (1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.*
>
> *(2) The Code of Criminal Procedure, 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 emphasize 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.

21. In Rajendra Prasad v. State of Bihar, a three-Judge Bench of this Court pointed out that it would be essential for the High Court, in an appeal against acquittal, to clearly indicate firm and weighty grounds from the record for discarding the reasons of the Trial Court in order to be able to reach a contrary conclusion of guilt of the accused. It was further observed that, in an appeal against acquittal, it would not be legally sufficient for the High Court to take a contrary view about the credibility of witnesses and it is absolutely imperative that the High Court convincingly finds it well-nigh impossible for the Trial Court to reject their testimony. This was identified as the quintessence of the jurisprudential aspect of criminal justice. Viewed in this light, the brusque approach of the High Court in dealing with the appeal, resulting in the conviction of Appellant Nos. 1 and 2, reversing the cogent and well-considered judgment of acquittal by the Trial Court giving them the benefit of doubt, cannot be sustained."

22. Considering the entire evidence on record, it clearly appears that there is no credible evidence to connect the present accused with the alleged crime and the evidence on record is not so convincing to

prove beyond reasonable doubt that the accused has committed the alleged crime. Therefore, the accused cannot be convicted on the evidence on record.

23. On perusal of the impugned judgment and order, it clearly transpires that the trial Court has not committed any error of fact and law in appreciating the evidence on record and in acquitting the accused from the charges levelled against them. Even on re-appreciation of the evidence, it clearly transpires that the prosecution has miserably failed to prove the charge levelled against the accused beyond reasonable doubt. Therefore, the impugned judgment and order of the trial Court is sustainable and the present appeal is liable to be dismissed.

24. In view of the above, the present appeal is devoid of merits and it deserves to be dismissed. Resultantly, it is dismissed. The impugned judgment and order of acquittal passed by the trial Court is hereby confirmed. Bail bond stands cancelled. Record and proceedings be sent back to the concerned Trial Court forthwith.

(HEMANT M. PRACHCHHAK,J)

(MOOL CHAND TYAGI, J)

V.R. PANCHAL

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: VIJAYKUMAR RAMESHBHAI PANCHAL(HC00171), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 17/07/2026 17:39:15