IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL NO. 1112 of 1998

FOR APPROVAL AND SIGNATURE:

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

==========

Approved for Reporting	Yes	No
	√	

==========

STATE OF GUJARAT
Versus
NATHA NANAJI BHARWAD & ORS.

==========

Appearance:
MS JYOTI BHATT APP for the Appellant(s) No. 1
HCLS COMMITTEE(4998) for the Opponent(s)/Respondent(s) No. 1,2,3,4
MR VIRAT G POPAT(3710) for the Opponent(s)/Respondent(s) No. 1,2,3,4
PETITION/APPEAL WITHDRAWN/DISMISSED for the Opponent(s)/Respondent(s) No. 5

==========

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

Date : 14/09/2026

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 21.09.1998 passed by the learned Sessions

Judge, Rajkot in Sessions Case No. 181 of 1996, whereby the trial Court has acquitted the original accused (respondents herein) from the offences punishable under Sections 302, 364, 120B, 342, 114 etc of the Indian Penal Code and under Section 135 of the Bombay Police Act.

2. Short facts of the prosecution case are that Vallabhbhai Bijalbhai (deceased) was residing at Village: Bedala, who abducted minor daughter of one Hakka Pola Bharwad namely Anuben on 15.06.1996, for which the FIR came to be lodged at Rajkot Taluka Police Station. That keeping grudge, on 02.09.1996 at about 8.00 AM, Vallabhbhai Bijalbhai was driving the Matador bearing registration No. GJ-03-V-3756 and in between Village: Hadmatiya – Golida, accused No.5 – Govind Lakhubhai Bharwad was standing on the road and stopped the vehicle and boarded into Matador and when they reached near Village: Dhadhiya, accused No.5, who was sitting in Matador, tried to put his leg on the break and also tried to snatch the steering from Vallabhbhai and in the event, accused No.5 pushed Vallabhbhai from the vehicle and at that time accused No.1 tied both hands of Vallabhbhai and inflicted the stick blow on the hands and legs, at that time, accused No.4 was driving the Hero-Honda Motorcycle and proceeded towards Village: Bedala at about 9.30 AM and they got down from the motorcycle and accused No.1 threw Vallabhbhai on the road and accused No.2 and 3 were inflicted stick blow on the hands and legs of Vallabhbhai, due to which, he sustained injuries and succumbed to the injury. Hence, a complaint was lodged by the complainant before jurisdictional Police Station for the aforesaid offences. The police prepared panchnama of the scene of offence 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 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 trial Court.

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.Anilkumar Gordhandas Patel	15
2	Dr.Jitendrabhai Jivrajbhai Joshi	20
3	Vinunagar Gulabgar Gosai	25
4	Nagjibhai Mangabhai	26
5	Chanabhai Mohanbhai Koli	27
6	Vasubhai Bhagvanbhai Koli	28
7	Dhanjibhai Jadavbhai	29
8	Ranchhodbhai Bijalbhai Koli	30
9	Shivabhai Bodhabhai Rathod	31
10	Rameshbhai Vaghjibhai	32
11	Girirshbhai Durlabhjibhai Luhana	25
12	Hothibhai Aamadbhai Sandhi	41
13	Rameshbhai Vashrambhai Aahir	43
14	Kamleshbhai Jayantibhai Lohana	45
15	Ahmedbhai Hasambhai Shaikh	47
16	Surajbhan Umaravsinh Yadav	67
17	Abhesinh Popatbhai Rathod	69
18	Ambashankarbhai Morarjibhai Pancholi	71
19	Rajendrasinh Ghanshyamsinh Vaghela	72

20	Ramvilas Shivpujansinh Sing	78
21	Mathurdas Prabhudas Ramanand	84
22	Rameshbhai Juesingbhai	86

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

Sr. No.	Particulars	Exhibit
1	Postmortem note	16
2	Opinion of cause of death of the deceased	17
3	Letter written by Medical Officer to the Police Inspector	18
4	Yadi for sending sealed bottle of blood sample of deceased	19
5	Certificate of Dr. Joshi for giving primary treatment to deceased Vallabhbhai	21
6	Treatment case papers of deceased	22, 23
7	Details of treatment given to deceased	24
8	Posthumous form sent along with the deadbody	38
9	Inquest panchnama	37
10	Recovery panchnama of the clothes of the deceased	39
11	Arrest panchnama of accused No.5	40
12	Arrest panchnama of accused No.1, 2 and 3	42
13	Seizure panchnama of string	46
14	Seizure panchnama of Hero-Honda Motorcycle	48
15	Letter written to FSL	60
16	Forwarding Note sent along with letter	61
17	Report of sample of sealed sent to FSL for analysis	62
18	Letter written by Additional Police Commissioner to the FSL	63
19	Receipt of Chemical Department	64

20	Report of Chemical	65, 66
21	Order passed by PSI Shri Yadav	68
22	Map of scene of offence	70
23	Receipt regarding collecting the things from the dead body of the deceased and sent the dead body given to the brother of deceased.	49
24	Yadi written by Police Inspector to Medical Officer	51
25	Yadi written by PSI to Medical Officer for taking medical certificate of Vallabhbhai Bijalbhai	52
26	Form with regard to sending things to the FSL	53
27	Details sent along with the same	54
28	Case paper of Vallabh Bijal	55
29	Form for sending things to the FSL	56
30	Arrest panchnama of accused No.4	44
31	Yadi written by PSI to Medical Officer for taking blood sample	57
32	Notification of law and order	59
33	Panchnama of the scene of offence	36
34	Panchnama of the place where Vinugar Gulabgar Sadhiya caught steering of the Matador	73, 74
35	Order with regard to handing over investigation to Police Inspector by PSO	77
36	Entry with regard to receiving the message from the Hospital for dying Vallabh Bijal during the treatment	80
37	Letter for production of the accused before the Magistrate	75
38	Remand application, which was rejected	76
39	Entry of Hospital Police Chowki with regard to admission of Vallabh Bijal and dead	79
40	Letter written by PI to the Magistrate for addition in charge	81
41	Yadi sent for adding Section 120(B) in the charge	82
42	Report of heavy offence	83

43	Yadi of Hospital Police Chowki Register	85
44	Entry for admission in hospital for treatment to Vallabh Bijal	87

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 Ms.Jyoti Bhatt, learned Additional Public Prosecutor for the appellant – State of Gujarat and Mr.Viral Popat, learned counsel appeared for the respondents – accused, however, he remained absent.

9. Ms.Bhatt, 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. Learned Additional Public Prosecutor, 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.

9.1 While referring to the evidence of the witnesses and the material collected against the accused, Ms.Bhatt, 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. Learned Additional Public Prosecutor 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.

9.2 Ms.Bhatt, learned Additional Public Prosecutor 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.

9.3 Ms.Bhatt, 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. Learned Additional Public Prosecutor 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.

9.4 Ms.Bhatt, learned Additional Public Prosecutor, while appreciating the evidence of P.W.1 examined at Exhibit 15, who performed the postmortem of the deceased, P.W.2 examined at Exhibit 20, who treated the deceased and prepared MLC papers before whom the deceased stated that he assaulted by accused with pipe and because of that he found injury on the body of deceased, P.W.8 examined at 30 and P.W.9 examined at 31, the trial Court has considered the evidence and passed the impugned judgment and order of acquittal, which is illegal, improper and erroneous. She has submitted that P.W.3, who was cleaner of Matador driven by the deceased and accompanied at the time of incident, examined by the prosecution, however, his evidence has not been appreciated by the trial Court. She has submitted that the prosecution examined all relevant witnesses, who were also examined by the defence and their evidence has remained unshaken in their deposition.

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

10. 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 or not?

(2) whether the trial Court has rightly appreciated the oral as well as documentary evidence led by the prosecution in recording the reasons or not.

(3) whether there is any illegality, irregularity and perversity in the impugned judgment and order of acquittal or not.

11. Considering the aforesaid submissions and aspects, this Court is first required to examine the fact of the case. That Vallabhbhai Bijalbhai (deceased) was residing at Village: Bedala, who abducted minor daughter of one Hakka Pola Bharwad namely Anuben on 15.06.1996, for which the FIR came to be lodged at Rajkot Taluka Police Station. That on 02.09.1996 at about 8.00 AM, the deceased was driving the Matador bearing registration No. GJ-03-V-3756 and in between Village: Hadmatiya – Golida, accused No.5 – Govind Lakhubhai Bharwad was standing on the road and stopped the vehicle and boarded into Matador and when they reached near Village: Dhadhiya, accused No.5, who was sitting in Matador, tried to put his leg on the break and also tried to snatch the steering from Vallabhbhai and in the event, accused No.5 pushed the deceased from the vehicle and accused No.1 tied both hands of deceased and inflicted the stick blow on the hands and legs, at that time, accused No.4 was driving the Hero-Honda Motorcycle and proceeded towards Village: Bedala at about 9.30 AM and they got down from the motorcycle and accused No.1 threw deceased on the road and accused No.2 and 3 were inflicted stick blow on the hands and legs of deceased, due to which, he sustained injuries and succumbed to the injury.

12. On perusal of the evidence of P.W.2, it appears that he

admitted that, since the deceased had been infused with blood, he had noticed that there was no external bleeding injury on the body of the deceased. However, he stated that, in the case of internal injuries, bleeding was taking place internally. Now, in light of the evidence of P.W.1, it appears that, in paragraph 11, he specifically deposed that the injuries found on the body of the deceased were not on any vital part of the body and were not likely to cause death.

13. On perusal of the evidence of P.W.3, it emerges that he was not declared hostile; however, his evidence requires close scrutiny. He was the cleaner of the Matador, which was being driven by the deceased. He deposed that accused No.5 was sitting inside the Matador and tried to stop the vehicle by snatching the steering wheel from the deceased. As a result, the deceased jumped from the vehicle. Thereafter, the vehicle became uncontrolled and went into a ditch, due to which the deceased sustained an injury to his leg. He thereafter jumped from the vehicle and was unable to walk. In paragraph 13 of his cross-examination, P.W.3 deposed that accused No.5 was sitting inside the Matador, i.e. in the driver's cabin. Though accused No.5 was present in the Trial Court, P.W.3 deposed that he had not seen accused No.5 present in the Court. Even accused No.1 was not identified, and no Test Identification Parade was held by the concerned Investigating Officer. Thus, P.W.3 was the first witness who allegedly saw the incident. Thereafter, the injured was taken to the hospital, and in sequence thereto, Dr. Joshi was the second person before whom the deceased gave a history of the incident.

14. From the evidence of P.W.4, who was the brother of the deceased, it appears that he was informed by his brother that the deceased, namely Vallabhbhai, had been beaten and was lying on the

road. Upon receiving the information, he reached the place and found the deceased in a bleeding condition, with fractures to his right hand and leg. Thereafter, he went in search of a vehicle to take the injured to the hospital. In his cross-examination, P.W.4 admitted that the injured had informed him that he had been beaten by Natha, Rama and Chela with sticks. He also admitted that, although he had placed the injured in a vehicle, no bloodstains were found on his clothes at that time, whereas the clothes of his brother had bloodstains.

15. On perusal of the evidence of P.W.5 and P.W.6, it appears that they had been informed by one Shivabhai (P.W.9). On considering the evidence of the brother of the deceased, Ranchhodbhai, vis-à-vis the evidence of P.W.9, even if P.W.9 is considered to be a chance witness, the conduct of Shivabhai does not appear to be natural. He saw the injured in a bleeding condition, yet instead of providing any primary treatment or taking immediate steps to assist him, he immediately rushed to Village Bedala and informed the family members of the deceased. There is no explanation as to how much time he took to reach the village or when he returned to the spot. In fact, he projected himself as a witness to the incident and stated that the deceased had informed him that the three persons who were walking towards the village had caused injuries to him with sticks. He deposed that he had not seen the faces of all three accused persons and had only seen them from behind. He further stated that none of the accused persons had turned towards him. In his cross-examination, P.W.9 specifically stated that none of the accused persons had turned towards him and that he had not seen their faces.

16. On perusal of the evidence of P.W.21, it appears that he was on duty as a Police Constable at the Civil Hospital. He recorded the

statement of the deceased, which was sought to be treated as a dying declaration. However, the said statement was not brought on record, as P.W.21 deposed that he had destroyed the statement. This constitutes the substance of the evidence of P.W.21.

17. The evidence of P.W.21, the Head Police Constable posted at the Civil Hospital, is important. He recorded the history of the incident and made an entry thereof, which was in the nature of a factual document and was sought to be treated as a statement amounting to a dying declaration. However, the said document has not been brought on record. This constitutes a serious lapse on the part of the investigating agency and the police authorities who investigated the crime in question.

18. The cumulative effect of the prosecution evidence is that, upon evaluating and examining the depositions of the witnesses, the incident as narrated by them is not supported by either the oral or the medical evidence led by the prosecution. If the injuries sustained by the deceased are considered, they were not on any vital part of the body. This is also supported by the deposition of P.W.1, who, in paragraph 11, specifically stated that none of the injuries was likely to cause death.

19. So far as the involvement of accused Nos.4 and 5 is concerned, no specific names were mentioned; rather, unknown persons were referred to in connection with the incident. No Test Identification Parade was held. Another aspect that requires consideration is the deposition of P.W.8, who is the brother of the deceased. In paragraph 12 of his cross-examination, it has been specifically stated that blood of the same group as that of the injured was not available and,

therefore, blood was procured from outside. While the blood was being transfused into the deceased, his condition became serious and thereafter he died. This raises a possibility that the deceased may have succumbed to the injury due to complications arising from the blood transfusion. From his evidence, it appears that the deceased referred only to the names of three assailants, and no role was attributed to accused Nos.4 and 5. The same fact was narrated by P.W.9, who stated that he had seen three persons coming from the direction of the sim and proceeding towards the village. When he reached the deceased, the deceased informed him that three persons had inflicted injuries on his legs and hands with sticks. However, this aspect is not supported by the other evidence on record. If the history given by the deceased to the doctor is considered, the deceased stated before the doctor that he had been beaten with an iron pipe, whereas the witnesses have referred to the use of sticks. The witnesses are ordinary villagers or cattle grazers who would ordinarily be carrying sticks while grazing cattle.

20. It also appears from the record that there is no satisfactory explanation as to how the injured was untied or by whom he was untied. The police did not recover the string from the spot. The Trial Court, in paragraphs 60 and 61, has discussed the evidence of the witnesses as well as the authorities cited at the Bar in detail. The Trial Court also observed that the police had recovered the string from the house of accused No.1 and that the same was recovered at the instance of accused No.1. However, there was no evidence explaining how the string reached the house of accused No.1, who had untied the deceased, or from where the string had been brought. From the evidence of the so-called eyewitnesses, it appears that they had not

seen any string in the hands of accused No.1 while accused Nos.1 and 3 were proceeding towards the village. Considering the overall facts and evidence on record, the Trial Court, in paragraph 71, came to the conclusion that the prosecution story was not believable.

21. Looking to the evidence of the witnesses, namely, the near relatives of the deceased and the chance witnesses, including Shivabhai and another witness, it appears that their evidence does not inspire confidence and lacks truthfulness. They are interested witnesses/partisan witnesses. The evidence of the natural witness, Vinugar, is completely contrary to the evidence of Ranchhodbhai, the brother of the deceased, and the other witnesses. Vinugar also referred to the name of one Govindbhai and another accused, neither of whom was identified in Court. In the absence of any Test Identification Parade, the evidence of such witnesses requires close scrutiny. After considering the evidence of all these witnesses, the Trial Court passed the impugned judgment and order. It is now well settled by the Hon'ble Supreme Court in ***Masalti, Munga Ram, Bhagwati, Chandan Singh, Laxmi Prasad v. State of Uttar Pradesh***, reported in **AIR 1965 SC 202**, that the quality of evidence is material and not merely the number of witnesses who give such evidence. The Constitution Bench has enunciated the principles governing the appreciation of the depositions of witnesses. It is true that a conviction can be sustained only when the evidence on record inspires confidence and establishes the prosecution case beyond reasonable doubt. In the present case, the prosecution examined twenty-two witnesses; however, none of their depositions inspires confidence, and the truthfulness of their evidence is doubtful, as their versions materially changed and their testimony was shaken during

cross-examination by the defence. The brother of the deceased, Ranchhodbhai, and Shivabhai are partisan witnesses. Shivabhai is also considered to be a chance witness, as he was grazing his cattle in the nearby area and allegedly heard the shouting and screaming when the persons were proceeding towards the village. He had not seen their faces. However, when he enquired from the injured, the injured allegedly informed him that the three persons proceeding towards the village had inflicted injuries upon him. He, in turn, informed the brother and other family members of the deceased. Upon receiving the said information, they proceeded to the spot, where they allegedly found the injured lying in a pool of blood. This version is contrary to the medical evidence, as the doctor noticed that there was no external bleeding and that blood was oozing internally from the body of the deceased. In light of the aforesaid facts and the principles enunciated by the Hon'ble Supreme Court, so far as the evidence of the witnesses is concerned, this Court is in complete agreement with the findings recorded by the Trial Court. In view of the above, we are of the opinion that the Trial Court has not committed any error of fact or law in passing the impugned judgment and order. We find no illegality or infirmity in the judgment and order passed by the Trial Court.

22. It is well settled by catena of decisions that 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.

23. 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.

24. 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 in the case of ***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.

25. 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."

26. 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.

27. 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.

28. 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 14/09/2026 17:17:09