IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL NO. 760 of 2003

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ILESH J. VORA

and
HONOURABLE MR. JUSTICE R. T. VACHHANI

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Approved for Reporting	Yes	No

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STATE OF GUJARAT
Versus
RAJENDRA @ RAJU JIVRAJBHAI CHAUHAN

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Appearance:
MR HARDIK MEHTA, APP for the Appellant(s) No. 1
NOTICE SERVED for the Opponent(s)/Respondent(s) No. 1

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

Date : 20/11/2025

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

1. Feeling aggrieved and dissatisfied with the judgment and order of acquittal dated 16.08.2002 passed by the learned Joint District Judge and Additional Sessions Judge, Fast Track Court, Jamnagar in Sessions Case No.9/2000, whereby the respondent-accused came to be acquitted for the offences punishable under Section 302 of the Indian Penal Code and under Section 135 of the Bombay Police Act, the appellant – State has preferred the present appeal under Section 378 of the Code of Criminal Procedure, 1973 (“the Code” for short).

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

2.1. The complainant, being the sister of the deceased, is residing with her husband at Kadiyavad, Boydi Fali, Jamnagar, while the deceased was residing with his parents and elder brother in the street of Bapu Maharaj situated behind Custom House at Jamnagar Grain Market. The further prosecution case is that on 15.12.1999 at about 12:15 hours, when the complainant was passing through Custom House after purchasing vegetables from New Bakala Market, she noticed a commotion near it. She saw a tussle between the deceased and the respondent-accused. After escaping from the grip of the respondent-accused, the deceased started running, but the respondent-accused followed him, caught hold of him, and after taking out a weapon like a knife, started inflicting continuous blows on the deceased. On hearing shouts, people from the surrounding locality gathered there. On sustaining serious injuries, the deceased fell down and died on the spot, while the respondent-accused fled from the place of offence. On these facts, the complaint was lodged with the police.

2.2. The FIR came to be registered at Jamnagar City 'B' Division Police Station under Sections 302 and 135 of the Bombay Police Act bearing C.R. No.I-624/1999. The accused was arrested on 15.12.1999 and remanded to judicial custody. After investigation, a charge sheet was filed on 06.01.2000 before the Judicial Magistrate First Class, Jamnagar, registered as Criminal Case No.90/2000.

2.3. As the Judicial Magistrate First Class lacked jurisdiction to try the offence under Section 302 IPC, the case was committed to the Sessions

Court, Jamnagar vide order dated 12.01.2000 and registered as Sessions Case No.9/2000 for trial. Upon conclusion of the prosecution evidence, the trial court put various incriminating circumstances appearing in the evidence to the respondent-accused for his explanation under Section 313 of the Code. In his further statement, the respondent-accused denied all the incriminating circumstances as false and stated that he is innocent and has been falsely implicated. After examining the oral and documentary evidence and the submissions from both sides, the learned trial court recorded a finding in favour of the respondent-accused and acquitted him of all charges.

3. We have heard the learned advocates for the respective parties and carefully examined the oral and documentary evidence adduced before the learned Sessions Court. During the course of the trial, the prosecution examined a total of 17 witnesses. The details of the oral and documentary evidence are as under:

~:: Oral Evidence ::~

Sr. No.	Particular	Exh.
1.	Dr. Kumar Dhananjaysingh – Medical Officer PW-1	20
2.	Dr. Chetan Baharilal Jani – Medical Officer PW-2	25
3.	Lilavantibai Hasmunkhbhai Solanki – Complainant PW-3	29
4.	Prabhaben Prabhudas Devjibhai – Eyewitness PW-4	30
5.	Mahesh Keshavlal – Eyewitness PW-5	31
6.	Samir Chimanlal Datani – Eyewitness PW-6	32

7.	Sandeep Shantilal Shah – Eyewitness PW-7	33
8.	Anil @ Bhagat Mohanbhai – Eyewitness PW-8	34
9.	Danabai Nathabhai Boriya – Eyewitness PW-9	35
10.	Chamanlal Nankochand Chheepa – Eyewitness PW-10	36
11.	Paresh Govindlal Khetani – Eyewitness PW-11	37
12.	Harilal Chhaganlal – Father of Deceased PW-12	39
13.	Vasnt Dhanjibhai Mange – Panch Witness PW-13	40
14.	Syed Nurmamad – Panch Witness PW-14	41
15.	Suresh Bachubhai – Witness PW-15	42
16.	Rasiklal Bhagwanji – PSO PW-16	54
17.	Bhikubha Bakulbha Jadeja – Investigating Officer PW-17	55

~:: Documentary Evidence ::~

Sr. No.	**Particular**	**Exh.**
1.	Original Complaint	56
2.	Yadi by PSI to PSO for registration of offence	43
3.	True copy of Station Diary Entry	44
4.	Message regarding cognizable offence	45
5.	Yadi by PSI for inquest panchnama	46
6.	Inquest Panchnama	47
7.	Yadi by PSI to Civil Hospital for postmortem	26
8.	Police report to Civil Surgeon	27

9.	Postmortem Report of Deceased	28
10.	Panchnama of blood-stained clothes, blood sample, PM notes	48
11.	Yadi by PSI to Civil Hospital for treatment of accused and blood sample	21
12.	Injury Certificate of Accused	25
13.	Medical case details of accused	22
14.	Certificate of collection of blood sample of accused	23
15.	Yadi by PSI to Circle Inspector for site map	49
16.	Panchnama of Scene of Offence	50
17.	Letter from Circle Inspector regarding map	51
18.	Panchnama of Arrest of Accused	57
19.	Rough Sketch of Scene of Offence	52
20.	Yadi by PSI to FSL Junagadh for examination of muddamal	53
21.	Certificate regarding authority	58
22.	Receipt of mudamal	59
23.	Forwarding letter of FSL Junagadh with opinion	60
24.	FSL Junagadh opinion on muddamal	61
25.	Forwarding letter of FSL Junagadh, Biology Department with opinion	62
26.	FSL Junagadh, Physical Sciences Department opinion	64
27.	Forwarding letter of FSL Junagadh Serological Department	63
28.	FSL Junagadh Serological Department opinion	65
29.	Prosecution Sanction	66

4. The learned APP appearing for the appellant – State submitted that the impugned judgment requires interference, primarily relying upon the deposition of the complainant examined as PW-3 at Exh.29. Her testimony, according to the prosecution, establishes the tussle on 15.12.1999 at about 12:15 hours near Custom House, Grain Market, Jamnagar, the respondent-accused inflicting blows with a knife-like weapon on the deceased, leading to his instantaneous death. It is not in dispute that the deceased suffered multiple injuries, as corroborated by the postmortem report (Exh.28) showing 13 injuries, including fatal chop wounds on the neck causing excessive bleeding. Hence, it was contended that the trial court erred in acquitting the accused.

4.1. The learned APP further submitted that the evidence of the investigating officer (PW-17 at Exh.55) and medical witnesses (PW-1 at Exh.20 and PW-2 at Exh.25) corroborates the prosecution case, particularly the recovery of blood-stained clothes and weapon (muddamal Article 4), with FSL reports (Exhs.61, 65) confirming human blood of the deceased's group on the articles. Therefore, the acquittal warrants interference and conviction of the respondent-accused.

5. Having heard the learned APP for the appellant-State and perused the depositions of the witnesses, documentary evidence, and the judgment of the Sessions Court, it is manifest that the prosecution case rests solely on the testimony of the complainant (PW-3 at Exh.29), the sister of the deceased, while all other purported eyewitnesses have turned hostile and afforded no corroboration whatsoever. Consequently, the judicial scrutiny must necessarily be confined to the deposition of this solitary witness and whether it is of such sterling quality as to inspire unwavering confidence and bring home the charges against the respondent-accused.

6. PW-3, Lilavantibai Hasmunkhbhai Solanki (Exh.29), the complainant and sister of the deceased, deposed that on 15.12.1999 at around 12:15 hours she was returning home after purchasing vegetables when she heard a commotion near Custom House, Grain Market, Jamnagar, rushed there, and saw the respondent-accused chasing and stabbing her brother with a knife-like weapon on the neck, left shoulder, and right palm during a scuffle arising from a money dispute. She raised an alarm but immediately fainted and remained unconscious for several hours. However, in cross-examination, she admitted ignorance about the lodging of the FIR (Exh.56), its contents, place, date, and time of recording, stating only that her father had it written and she later "corrected" it. She denied the existence of any vegetable market near Gadh-ni-Rang despite admitting a five-minute walk from her house to Chorawad market, and conceded that a crowd of 100-200 persons gathered instantly, obscuring her view. She described only three injuries whereas the postmortem disclosed thirteen. When shown muddamal Article-4, she vaguely stated it was "similar" to the weapon used. These admissions and contradictions render her presence highly doubtful, her version unnatural and wholly incompatible with the medical evidence, and her testimony wholly unreliable.

7. PW-12, Harilal Chhaganlal (Exh.39), father of the deceased, deposed that on being informed at 14:00 hours he reached the spot and found his son dead with injuries on neck and hands but offered no incriminating version against the accused and denied knowledge of any prior quarrel over money. He was declared hostile.

8. PW-4, Prabhaben Prabhudas Devjibhai (Exh.30), a relative expected to be an eyewitness, deposed that she reached the spot after the

incident, saw the deceased fallen and a knife lying nearby, but did not know who stabbed him or the sequence of events. She was declared hostile.

9. PW-5 to PW-11 — Mahesh Keshavlal (Exh.31), Samir Chimanlal Datani (Exh.32), Sandeep Shantilal Shah (Exh.33), Anil @ Bhagat Mohanbhai (Exh.34), Danabai Nathabhai Boriya (Exh.35), Chamanlal Nankochand Chheepa (Exh.36), and Paresh Govindlal Khetani (Exh.37) - all shopkeepers, tea-stall owners, or taxi drivers present in the immediate vicinity of the busy Grain Market and Custom House area at the relevant time, uniformly deposed complete ignorance of the incident and the assailant despite the occurrence in broad daylight in a crowded public place. All were declared hostile. PW-13 to PW-15, the panch witnesses for arrest and recovery proceedings, did not support the panchnamas in substance and were declared hostile.

10. PW-17, Bhikubha Bakulbha Jadeja (Exh.55), the Investigating Officer, confirmed procedural steps including recording of the FIR two hours after the incident, inquest, scene panchnama, and voluntary surrender of the accused with blood-stained clothes and iron strip, but admitted no recovery of a knife and uncovered no independent eyewitnesses or substantive evidence of motive.

11. The medical evidence of PW-2, Dr. Chetan Baharilal Jani (Exh.25), and postmortem report (Exh.28) establish homicidal death due to multiple chop wounds on the neck severing vital vessels, but the complainant's account of only three stab injuries and a “knife-like” weapon is wholly inconsistent with the thirteen deep chop wounds and the recovered blunt iron strip (Article-4).

12. In a broad-daylight murder in a crowded commercial locality, the wholesale hostility of every independent witness, coupled with the interested testimony of PW-3 being riddled with contradictions, unnatural conduct, and incompatibility with medical evidence, leaves the prosecution case wholly uncorroborated and resting on infirm foundations. No motive stands proved. The trial court has correctly held that the prosecution failed to prove the charges beyond reasonable doubt. The impugned judgment suffers from no perversity and warrants no interference.

13. At this stage, this Court may refer to the decision of the Hon'ble Apex Court in the case of ***Rajesh Prasad v. State of Bihar and Another [(2022) 3 SCC 471]*** encapsulated the legal position covering the field after considering various earlier judgments and held as below: -

> *"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 acquittal in the following words: (Chandrappa case [Chandrappa v. State of Karnataka, (2007) 4 SCC 415]*
>
> *"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."

14. In the case of ***H.D. Sundara & Ors. v. State of Karnataka [(2023) 9 SCC 581]*** the Hon'ble Apex Court has summarized the principles governing the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378 of CrPC as follows: -

"*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."

15. In light of the above legal position and for the reasons recorded in the foregoing paragraphs, coupled with the fact that the case of the prosecution does not get support from the evidence recorded by the learned trial Court, the present appeal fails and is accordingly dismissed. Records and Proceedings, if any, be remitted to the Court concerned forthwith.

(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 20/11/2025 16:43:15