IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (AGAINST CONVICTION) NO. 1515 of 2013

With
R/CRIMINAL APPEAL NO. 1315 of 2013

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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PARMAR CHHAGANBHAI BHOJABHAI & ANR.
Versus
STATE OF GUJARAT

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Appearance:
C B DHOLAKIA(7493) for the Appellant(s) No. 1
MR BHAVESH B SARODE(6454) for the Appellant(s) No. 2
MR JAGDISHBHAI B SHRIMALI(10628) for the Appellant(s) No. 1
MR YOGESH G KANADE(3114) for the Appellant(s) No. 1
MR KANVA ANTANI, APP 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 : 24/02/2026

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

1. Feeling aggrieved and dissatisfied with the judgment and order dated 21.03.2013 passed by the learned Second Additional Sessions Judge, Mehsana in Sessions Case No. 100 of 2011, whereby the learned Sessions Judge convicted the original accused Nos. 1 Chhaganbhai Bhojabhai Parmar and 2 Dashrathbhai Ambalal Raval for the offence punishable under Section 302 read

with Section 34 of the Indian Penal Code, 1860 and sentenced them to undergo life imprisonment and fine of Rs.1,000/- each in default, simple imprisonment for one month while acquitting the original accused No.3 Gangaben w/o Chhaganbhai Bhojabhai Parmar of all the charges under Sections 302, 323, 504, 506(2), 34 of the Indian Penal Code and Section 135 of the Bombay Police Act, 1951, the State has preferred Criminal Appeal No. 1315 of 2013 against the acquittal of accused No.3, whereas original accused Nos. 1 and 2 have preferred Criminal Appeal No. 1515 of 2013 against their conviction and sentence. Both the appeals arise out of the same judgment and are being disposed of by this common judgment.

2. The case of the prosecution, in brief, is that on 24.05.2011 around 17:00 hours in the evening, at Chandigadh area near Jogani Mata Temple, Sujatpura Road, Taluka Kadi, District Mehsana, a quarrel took place between the complainant Ashaben w/o Sureshbhai Bhikhabhai Raval and accused No.3 Gangaben w/o Chhaganbhai Bhojabhai Parmar on account of a trivial incident the previous day 23.05.2011 involving water splashing from a pit on accused No.3 while the complainant's son was playing. It is alleged that accused No.3 instigated accused Nos.1 and 2 Chhaganbhai Bhojabhai Parmar and Dashrathbhai Ambalal Raval, who were armed with swords, to attack the deceased Sureshbhai Bhikhabhai Raval - husband of the complainant. Accused Nos.1 and 2 are stated to have inflicted blows with swords on vital parts of the body of the deceased, including the chest, back of shoulder, abdomen, hands and face. The deceased, upon sensing the attack, tried to escape from the scene but was allegedly pursued and further assaulted by accused Nos.1 and 2 near the house of witness Monghabhai Lilabhai Desai. As a result of these blows on vital parts of the body with a dangerous weapon, the deceased sustained

multiple deep incised and penetrating wounds, started bleeding profusely and collapsed. Upon hearing the screams and commotion, the complainant Ashaben and other relatives, including Raval Kantibhai Jakshibhai and nephew Ankur Bachubhai Raval, rushed to the spot and witnessed the deceased lying in a pool of blood. The accused also assaulted the complainant by grabbing her hair and beating her severely. On seeing people gathering at the spot, the accused fled away in a rickshaw, threatening the family with dire consequences. Immediately thereafter, the injured deceased was taken by the complainant, Raval Kantibhai Jakshibhai, Thakor Ratuji and others first to Kadi Government Hospital via 108 ambulance and, owing to the seriousness of the injuries, was shifted to Civil Hospital, Ahmedabad for specialized treatment. Unfortunately, during the course of treatment at Ahmedabad Civil Hospital, Sureshbhai succumbed to the injuries sustained. It is the case of the prosecution that accused Nos.1 and 2, with the common intention and knowledge that the blows inflicted by a dangerous weapon - sword on the vital part were sufficient in the ordinary course of nature to cause death, intentionally caused the death of Sureshbhai and thereby committed the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, while accused No.3 shared the common intention by instigation and assault on the complainant and thereby committed the offence punishable under Section 302 r/w 34 IPC, apart from other offences under Sections 323, 504, 506(2) IPC and Section 135 of the Bombay Police Act.

3. Upon registration of the FIR being Kadi Police Station C.R. No.111/2011, the investigation was initially carried out by PSI T.J. Vaghela. Statements of the complainant and other material witnesses were recorded, and upon the death of Sureshbhai at

Ahmedabad Civil Hospital, PSO Jashubhai Jethabhai Parmar was deputed to conduct the inquest and collect the post-mortem report and death certificate. PSI Alpeshkumar Vadilal Rajgor, who later took over the investigation, prepared the panchnama of the scene of offence, recorded further statements, arrested the accused, and in the presence of panch witnesses recovered two swords (one big and one small) used in the assault at the instance of accused Nos.1 and 2 from bushes near ONGC well. The muddamal articles, including blood-stained clothes of the accused, were seized, necessary medical papers and FSL reports were collected and, on completion of the investigation, a charge-sheet was filed before the learned JMFC, Kadi, where it was registered as Criminal Case No.821 of 2011, which was committed to the Sessions Court and registered as Sessions Case No.100 of 2011.

4. The learned Second Additional Sessions Judge, Mehsana framed the charges against the accused and proceeded with the trial. In order to establish the charges levelled against the accused, the prosecution examined in all 16 witnesses and produced and relied upon 35 documentary evidences. After completion of the prosecution evidence, the further statement of the accused was recorded under Section 313 of the Cr.P.C., wherein the accused denied all incriminating circumstances appearing against them and pleaded innocence, asserting that they had been falsely implicated in the case due to prior enmity.

5. In order to prove the charge, the prosecution examined as many as 16 witnesses and exhibited 35 documents.

Oral Evidences:

Sr. No.	Exh.	Particulars

1	12	Dr. Bakulbhai Prabhubhai Patel
2	17	Ashaben Sureshbhai Raval
3	19	Pankajbhai Lakhamanji Thakor
4	27	Raval Kantibhai Vershibhai
5	28	Monghabhai Lilabhai Desai
6	29	Ankurbhai Bachubhai Raval
7	30	Mukhtyar Amirmiya Dolani
8	36	Patel Ramesh bhai Gokaldas
9	41	Dr. Hetal Chinubhai Patel
10	45	Kiritbhai Chandulal Jani
11	47	Pareshkumar Chandubhai Patel
12	48	Jashubhai Jethabhai Parmar
13	52	Dilawarkhan Aajamkhan
14	56	Takhuji Javanji Vaghela
15	64	Jashvantbhai Moghjibhai
16	66	Alpeshkumar Vadilal Rajgor

Documentary Evidences:

Sr. No.	Exh.	Particulars
1	13	Certificate of treatment of the deceased at Kadi CHC
2	15	Case papers
3	18	Complaint / FIR
4	20	Panchnama of the scene of offence / crime scene panchnama
5	21 to 26	Muddamal slips (seized property / evidence slips)
6	31	Panchnama as per Section-27
7	32	Muddamal slip

8	32 to 33	Muddamal slips
9	34	Inquest panchnama
10	35	Panchnama of seizure of the deceased's clothes
11	37	Panchnama of the physical condition of the accused persons and seizure of their clothes
12	38 to 40	Muddamal slips
13	42	List
14	43	P.M. Note
15	44	Certificate of Cause of Death
16	46	Copy of the notification / proclamation regarding weapons / arms license
17	49	Duty Report from Kadi Hospital
18	50	List prepared for taking action based on the Duty
19	51	List
20	53	Copy of Station Diary
21	54	Depute order
22	55	List prepared for conducting post-mortem proceedings
23	57	Report prepared for registering the offence
24	58	On-site copy of the post-mortem form
25	59	Report sent to the Executive Magistrate, Ahmedabad, for conducting inquest panchnama of the body
26	60	Receipt of taking possession of the body
27	61	Receipt regarding handling of the body
28	62	Blood sample slip
29	63	Mobile Investigation Van FSL Mahesana Certificate

30	65	Report sent to the Mamlatdar Shri, Kadi, for preparing the map of the scene of offence
31	67	Muddamal dispatch note
32	68	Receipt of Muddamal received by FSL
33	69	Forwarding letter of the F.S.L. Ahmedabad
34	70	F.S.L Report
35	71	F.S.L serological report

6. Learned advocates appearing for the appellants–accused Chhaganbhai Bhojabhai Parmar and Dashrathbhai Ambalal Raval have vehemently submitted that the impugned judgment of conviction and order of sentence cannot be sustained. They contended that the prosecution case rests primarily on the testimony of the complainant Ashaben PW-2, who is the wife of the deceased, with no independent eyewitness to the entire assault. It was urged that her evidence contains certain variations when compared with the FIR, particularly regarding attribution of blows, precise place of assault, and sequence of events. They further pointed out that the scene of offence panchnama shows no blood stains at the complainant's house, that Monghabhai PW-5 denied assault inside his premises, and that some panch witnesses gave contradictory depositions. While the FSL report confirms the deceased's blood group on the clothes of the accused, it was argued that this does not conclusively prove that the appellants inflicted the fatal blows, as proximity during the incident cannot be ruled out. In view of these submissions, it was prayed that the conviction and sentence imposed by the learned Sessions Court cannot be sustained and the appeals be allowed.

7. Opposing the contentions, learned APP for the State stoutly defended the impugned judgment and order of the learned

Sessions Court, submitting that the conviction rests on a cogent and reliable chain of circumstances fully satisfying the principles laid down by the Hon'ble Supreme Court. He highlighted: (i) the eyewitness account of complainant Ashaben PW-2 who saw accused Nos.1 and 2 inflicting sword blows on vital parts of the deceased and accused No.3 assaulting her; (ii) evidence of Monghabhai Lilabhai Desai PW-5 corroborating that the deceased ran to his house shouting for help with accused Nos.1 and 2 chasing him with blood-stained swords; (iii) postmortem report at Exh-43 establishing homicidal death due to penetrating incised wounds on vital parts, sufficient in the ordinary course of nature to cause death and consistent with sword blows; (iv) swords recovered at the instance of accused Nos.1 and 2 under Section 27 of the Indian Evidence Act, corroborated by panchnama; (v) FSL serological report confirming deceased's blood group on clothes of all three accused; (vi) proved motive through prior quarrels and earlier complaint; and (vii) no plausible explanation offered by the accused in statements under Section 313 Cr.P.C. He submitted that the prosecution has established guilt of accused Nos.1 and 2 under Section 302 read with Section 34 IPC, and the Sessions Court rightly convicted them. He conceded minor contradictions in ocular account but maintained they do not affect the core case. Regarding accused No.3, he submitted her acquittal is justified as evidence falls short of proving common intention for murder.

8. Having heard the learned advocates for the appellants–accused and the learned APP for the State, and having carefully considered the entire evidence on record, the findings of the learned Sessions Court, the nature of the incident, and the rival submissions, this Court is of the considered opinion that the chain of circumstances is complete, continuous, and unbreakable so as to

exclude every reasonable possibility consistent with the innocence of accused Nos.1 and 2 and to establish their guilt for murder beyond reasonable doubt. The ocular account of Ashaben PW-2, though containing certain variations vis-à-vis the FIR, is substantially reliable when read as a whole; such variations regarding specific roles, place, and sequence are natural in a sudden, traumatic incident witnessed under extreme stress and do not go to the root of the matter. The absence of blood stains at the complainant’s house per scene panchnama does not discredit her version, as blood trail may have begun during chase. Monghabhai PW-5 provides independent corroboration on the chase with blood-stained swords. Panch witnesses' contradictions do not render recoveries unreliable, as the Investigating Officer's evidence and FSL corroboration sustain the link under Section 27. The FSL report, proving deceased’s blood on accused's clothes, combined with motive, medical evidence, and chase, forms a complete chain pointing unerringly to guilt.

9. The record demonstrates that the ocular account of Ashaben PW-2, corroborated by Monghabhai PW-5 on chase, the postmortem establishing homicidal death by sharp weapon on vital parts, recovery of swords at the instance of accused Nos.1 and 2, and FSL confirmation of deceased’s blood on clothes of all accused create a chain that excludes reasonable doubt regarding involvement of accused Nos.1 and 2 in the murder. The prosecution has discharged the burden of proving guilt beyond reasonable doubt under Section 302 read with Section 34 IPC for accused Nos.1 and 2.

10. From the evidence on record, particularly the post-mortem report at Exh-43 and testimony of Medical Officer Dr. Hetal

Chinubhai Patel PW-9, it is clear that the deceased sustained multiple deep incised and penetrating wounds on vital parts, including a penetrating chest wound entering the lung cavity causing massive internal bleeding, sufficient in the ordinary course of nature to cause death. These injuries were caused by sharp cutting weapons like swords, consistent with the muddamal weapons recovered. The medical evidence, coupled with recovery and FSL, establishes that the assault was carried out with force, with knowledge that such acts were likely to cause death.

11. The prosecution has examined several witnesses, including the complainant Ashaben Sureshbhai Raval PW-2, Monghabhai Lilabhai Desai PW-5, Ankur Bachubhai Raval PW-6, Dr. Bakulbhai Prabhubhai Patel PW-1, Dr. Hetal Chinubhai Patel PW-9, police witnesses such as PSI T.J. Vaghela, PSO Jashubhai Jethabhai Parmar, PI Alpeshkumar Vadilal Rajgor, and panch witnesses. On perusal of their entire testimonies read together with the medical evidence, recovery panchnamas, and FSL reports, the factum of the deceased being assaulted with swords on vital parts by accused Nos.1 and 2, followed by his collapse and subsequent death due to haemorrhage and shock, stands firmly established. The manner in which the occurrence took place is that the accused, in the course of an ongoing quarrel and instigated by accused No.3, assaulted the deceased with swords while he was at or near his house. The deceased tried to escape and was chased and further assaulted. Immediately thereafter, the accused persons fled, and the deceased was taken to hospital where he succumbed. Thus, the prosecution witnesses, when their depositions are read together with the medical, recovery, and FSL evidence, clearly establish that the death of the deceased was homicidal and not natural. The evidence on record proves beyond reasonable doubt that the offence

committed attracts the offence of murder under Section 302 read with Section 34 of the Indian Penal Code.

12. It transpires that the prosecution in support of its case has examined numerous witnesses; however, the key ones are the complainant Ashaben PW-2, who proved the prior quarrel, the assault on her husband, the chase, and the role of the accused, and Monghabhai Lilabhai Desai PW-5, who independently established the crucial link of the deceased running to his house in an injured condition while being chased by accused Nos.1 and 2 with blood-stained swords. Though no stranger eyewitness saw the actual assault in its entirety, the combined and consistent evidence of the complainant (eyewitness to the initial assault) and Monghabhai (independent witness to the chase) provides sufficient corroboration. The minor discrepancies in the depositions of panch witnesses do not materially affect the core prosecution case when the recoveries are supported by the Investigating Officer's evidence and the FSL serological report.

13. It transpires from the entire material placed for consideration that the cause behind the incident, as per the case of the prosecution, is the ongoing enmity between the families, starting from a trivial water splashing incident on 23.05.2011, escalating into verbal abuse, threats, and the lodging of a police complaint by the complainant and deceased on the morning of 24.05.2011 against all three accused. The theory of the prosecution that the accused acted with common intention to cause death finds full support in the proved chain of circumstances, including the prior motive, the use of deadly weapons (swords) on vital parts, the chase with blood-stained weapons, the medical evidence of injuries sufficient in the ordinary course of nature to cause death, the recovery of the weapons, and the presence of the deceased’s blood

on the clothes of the accused. The assault was neither accidental nor under grave and sudden provocation so as to bring the case under any exception to Section 300 IPC; the acts were done with the knowledge and intention that they were likely to cause death.

14. The complainant PW-2 Ashaben Sureshbhai Raval at Exh-17, wife of the deceased Sureshbhai Bhikhabhai Raval, was examined as a key eyewitness by the prosecution. She deposed in detail about the prior quarrel on 23.05.2011 over water splashing, the fresh abuse by accused No.3 on the morning of 24.05.2011 leading to the police complaint, and the evening assault around 17:00 hours when all three accused came to her house, abused her, and upon her husband coming out, accused Nos.1 and 2 attacked him with swords on vital parts including chest and neck, while accused No.3 caught her hair and beat her severely. The deceased tried to escape and ran towards the house of Monghabhai Lilabhai Desai, but was pursued and further assaulted. The witness identified the accused in court, proved her complaint at Exh-18, and stated that the deceased was taken to hospitals where he was declared dead. Her testimony establishes a clear motive, the sequence of events, and the explicit role of the accused. The variations pointed out by the defence vis-à-vis the FIR are minor and natural in a sudden traumatic incident witnessed under extreme stress, and do not affect the credibility of the core prosecution case.

15. PW-5 Monghabhai Lilabhai Desai at Exh-28, a neighbour and independent witness, was examined to prove a crucial link in the chain. He stated that on 24.05.2011 around 17:15 hours, while he was at home, the deceased Sureshbhai came running to his house shouting “save me, save me”. He saw accused Nos.1 Chhaganbhai and 2 Dashrathbhai chasing the deceased with swords in their

hands, which were blood-stained. Becoming alarmed, he shouted at them, whereupon the accused turned back. He observed the deceased in a distressed and injured condition at his doorstep, after which people gathered and the deceased was taken to hospital. The next day, he showed the police the place where blood had fallen and soil was collected. This evidence provides valuable independent corroboration to the complainant's version regarding the chase and the blood-stained swords in the hands of accused Nos.1 and 2. The minor discrepancies in time and details between his police statement and deposition are natural and do not discredit his testimony.

16. PW-6 Ankur Bachubhai Raval at Exh-29, nephew of the deceased, was examined to corroborate the post-incident events. He deposed that around 17:00–17:30 hours on 24.05.2011, he reached near Jogani Mata Temple where he saw his maternal uncle Sureshbhai lying blood-soaked with injuries on chest, chin, waist and hands. On inquiry from the complainant Ashaben, she narrated that accused Nos.1 and 2 had beaten the deceased with swords and accused No.3 had beaten her severely, after which the accused fled in a rickshaw. He accompanied the deceased to hospitals where he was declared dead. He also confirmed the earlier quarrel over water splashing. His evidence is consistent with the complainant's version regarding injuries and transport to hospital, and provides additional corroboration to the overall prosecution narrative.

17. PW-4 Raval Kantibhai Vershibhai at Exh-27, an independent witness and rickshaw driver residing in the locality, deposed about the prior quarrel on 23.05.2011 which he personally witnessed and pacified. On the day of the incident, he returned around 5:15–5:30 PM, saw the crowd near Jogani Mata Temple, and observed the deceased lying injured and blood-soaked with injuries on chest,

hands, neck area, and waist. He accompanied the deceased to hospitals. Importantly, he stated that the deceased, while conscious, intermittently told them that Dashrathbhai and Chhaganbhai had assaulted him with swords. This statement of the deceased assumes significance as a dying declaration under Section 32(1) of the Evidence Act, further corroborating the role of accused Nos.1 and 2.

18. The combined testimony of PW-2 Ashaben, PW-5 Monghabhai Lilabhai Desai, PW-4 Raval Kantibhai Vershibhai, and PW-6 Ankur Bachubhai Raval was rightly relied upon by the learned Sessions Court to establish that the deceased was assaulted with swords by accused Nos.1 and 2, instigated by accused No.3, at or near the complainant's house, followed by chase and further assault. Their accounts are mutually corroborative on the broad facts of assault, chase, injuries, and motive. The variations pointed out by the defence are minor and do not go to the root of the matter. The evidence forms a consistent and reliable foundation for the prosecution case, sufficiently proving the participation of accused Nos.1 and 2 in the fatal assault.

19. During the investigation, the accused were medically examined and no injuries were found on them. The absence of defensive injuries on the accused is consistent with a sudden, one-sided, and overpowering assault by armed persons on an unarmed deceased. The Medical Officers opined that the injuries on the deceased were caused by sharp cutting weapons such as swords, consistent with the muddamal articles recovered. This medical finding strongly corroborates the prosecution case of lethal assault with deadly weapons on vital parts.

20. The recovery of the two swords at the instance of accused Nos.1 and 2 under Section 27 of the Indian Evidence Act has been duly proved through the discovery panchnama and the testimony of the Investigating Officer. The swords were recovered from bushes near ONGC well a place known only to the accused and provided a direct link between them and the crime. Though some panch witnesses gave inconsistent versions, the evidentiary value of the recovery is sufficiently supported by the panchnama, the Investigating Officer's evidence, and the FSL report confirming human blood of the deceased's group on the weapons. The recovery is therefore a reliable incriminating circumstance.

21. While some panch witnesses examined in relation to various panchnamas turned partly hostile or resiled in cross-examination, such partial hostility does not render the entire evidence unworthy of credence. The Investigating Officer's testimony, the contemporaneous panchnamas, and the FSL corroboration (blood of the deceased on the recovered swords and on the clothes of the accused) sustain the recoveries and seizures. The learned Sessions Court rightly sifted the grain from the chaff and placed reliance on the reliable parts of the evidence.

22. The FSL serological report conclusively establishes the presence of blood of the deceased's group on the clothes of accused Nos.1 and 2 (and also on the gown of accused No.3). This scientific evidence is highly incriminating and, when considered along with the recovery of blood-stained swords, the chase witnessed by PW-5, and the absence of any explanation by the accused in their statements under Section 313 Cr.P.C., forms a clinching link in the chain. The possibility of secondary transfer or innocent proximity is ruled out by the cumulative circumstances, including the motive, the eyewitness account, and the nature of

injuries.

23. Taking an overall view of the matter, the prosecution has proved beyond reasonable doubt the guilt of accused Nos.1 and 2 through a complete and unbroken chain of circumstances: proved motive from prior quarrel and police complaint, reliable ocular evidence of the complainant corroborated by independent witness Monghabhai PW-5 on chase with blood-stained swords, medical evidence of homicidal death by sword blows on vital parts, recovery of the weapons at the instance of the accused, FSL confirmation of the deceased's blood on the swords and clothes of the accused, flight from the scene, and failure to offer any plausible explanation under Section 313 Cr.P.C. The chain points unerringly and solely to the guilt of accused Nos.1 and 2 for the offence of murder punishable under Section 302 read with Section 34 of the Indian Penal Code. The conviction recorded by the learned Sessions Court is therefore fully justified and does not warrant interference.

24. The learned sessions court, after appreciating the evidence led by the prosecution, held that the case rested on direct ocular evidence coupled with medical and scientific corroboration, there being eyewitness account from the complainant Ashaben PW-2 to the assault. It placed heavy reliance on her testimony attributing specific sword blows to accused Nos.1 and 2 on vital parts of the deceased, instigated by accused No.3, and corroborated by Monghabhai PW-5 seeing chase with blood-stained swords. The learned sessions court observed that the deceased succumbed to penetrating chest wound and other incised injuries, and concluded that accused Nos.1 and 2 acted with common intention to cause death. The sessions court further noted that the accused offered no plausible explanation in their statements under Section 313 Cr.P.C.

regarding the blood stains on their clothes or their presence at the scene, and held that failure to explain incriminating circumstances though other material speaks volume.

25. The learned sessions court also accepted the motive and prior conduct as proved through the testimony of the complainant Ashaben at Exh-17, who deposed about the quarrel the previous day over water splashing, verbal abuse, threats to kill, and the complaint lodged on the morning of the incident against all three accused for harassment.

26. However, upon a careful reappraisal of the entire evidence in light of the submissions made by the learned advocates, this Court finds that the learned Sessions Judge has rightly appreciated the ocular, medical, and circumstantial evidence to convict accused Nos.1 and 2 while acquitting accused No.3. The testimony of the complainant Ashaben PW-2, though an interested witness, stands substantially corroborated by the independent evidence of Monghabhai Lilabhai Desai PW-5 on the crucial aspect of the chase with blood-stained swords, the post-mortem report confirming homicidal death due to sword-inflicted wounds on vital parts, the recovery of the weapons at the instance of the accused, and the FSL report establishing the presence of the deceased's blood on the clothes of accused Nos.1 and 2. The minor contradictions pointed out by the defence, such as variations in the precise sequence or attribution of blows, do not go to the root of the matter and are natural in a traumatic incident witnessed under stress. Such discrepancies do not detract from the core prosecution narrative that accused Nos.1 and 2, armed with swords and acting in concert, inflicted fatal injuries on the deceased with the knowledge that such acts were likely to cause death.

27. As held by the Hon'ble Supreme Court in ***Goverdhan and Another v. State of Chhattisgarh, 2025 INSC 47***, minor inconsistencies or discrepancies in the testimony of witnesses do not, by themselves, warrant rejection of their evidence as a whole under Section 302 IPC, provided the testimony as a whole carries a ring of truth and inspires confidence, as the court must sift the grain from the chaff and separate truth from any exaggeration or embellishment common in such witnesses.

28. As regards the motive, the evidence clearly establishes a simmering enmity between the families, escalating from the trivial water splashing incident on 23.05.2011 to verbal abuses and the lodging of a police complaint by the complainant and deceased on the morning of 24.05.2011. This prior conduct, deposed consistently by Ashaben PW-2 and supported by police records, provides a plausible trigger for the assault, negating any suggestion of false implication. The defence's contention of enmity cutting both ways is untenable, as it does not explain away the incriminating circumstances pointing squarely to the guilt of accused Nos.1 and 2.

29. The medical evidence, particularly the post-mortem report at Exh-43 and the testimony of Dr. Hetal Chinubhai Patel PW-9, leaves no room for doubt that the death was homicidal, caused by multiple penetrating and incised wounds on vital parts, including the chest wound that pierced the lung cavity, leading to massive haemorrhage and shock. The opinion that these injuries were sufficient in the ordinary course of nature to cause death, coupled with the identification of the muddamal swords as capable of inflicting such wounds, fortifies the prosecution case. The absence of defensive injuries on the accused does not aid the defence, as it

is consistent with a sudden and overpowering assault on an unarmed deceased.

30. The recovery of the swords under Section 27 of the Indian Evidence Act, though challenged on account of inconsistencies in the panch witnesses testimonies, is sufficiently corroborated by the panchnama and the FSL report confirming human blood of the deceased's group on the weapons. Even if some panch witnesses turned partly hostile, the overall evidentiary value of the recovery remains intact, as hostility does not ipso facto render the entire evidence unworthy of credence. The learned Sessions Judge has correctly sifted the grain from the chaff in accepting this link in the chain.

31. At this juncture, it would be apt to refer to ***Raja Khan v. State of Chhattisgarh, 2025 INSC 167*** as under:

> *"20. The essential ingredients of Section 27 of the Evidence Act are threefold:*
>
> > *i. The information given by the accused must lead to the discovery of the fact which is the direct outcome of such information.*
> >
> > *ii. Only such portion of the information given as is distinctly connected with the said recovery is admissible against the accused.*
> >
> > *iii. The discovery of the facts must relate to the commission of such offence.*
>
> *21. The question as to whether evidence relating to recovery is sufficient to fasten guilt on the accused was considered by this Court in* ***Bodhraj Alias Bodha & Ors. v. State of Jammu & Kashmir, (2002) 8 SCC 45****, wherein it has been held as under:-*
>
> > *"18... Section 27 of the Indian Evidence Act, 1872 (in short "Evidence Act") is by way of proviso to Sections 25 to*

26 and a statement even by way of confession made in police custody which distinctly relates to the fact discovered is admissible in evidence against the accused. This position was succinctly dealt with by this Court in Delhi Admn v. Balakrishan [(1972) 4 SCC 659] and Mohd. Inayatullah v. State of Maharashtra [(1976) 1 SCC 828]. The words 'so much of such information' as relates distinctly to the fact thereby discovered, are very important and the whole force of the section concentrates on them. Clearly the extent of the information admissible must depend on the exact nature of the fact discovered to which such information is required to relate. The ban as imposed by the preceding sections was presumably inspired by the fear of the Legislature that a person under police influence might be induced to confess by the exercise of undue pressure. If all that is required to lift the ban be the inclusion in the confession of information relating to an object subsequently produced, it seems reasonable to suppose that the persuasive powers of the police will prove equal to the occasion, and that in practice the ban will lose its effect. ***The object of the provision i.e. Section 27 was to provide for the admission of evidence which but for the existence of the section could not in consequence of the preceding sections, be admitted in evidence. It would appear that under Section 27 as it stands in order to render the evidence leading to discovery of any fact admissible, the information must come from any accused in custody of the police.*** *The requirement of police custody is productive of extremely anomalous results and may lead to the exclusion of much valuable evidence in cases where a person, who is subsequently taken into custody and becomes an accused, after committing a crime meets a police officer or voluntarily goes to him or to the police station and states the circumstances of the crime which lead to the discovery of the dead body, weapon or any other material fact, in consequence of the information thus received from him. This information which is otherwise admissible becomes inadmissible under Section 27 if the information did not come from a person in the custody of a police officer or did come from a person not in the custody of a police officer. The statement which is admissible under Section 27 is the one which is the information leading to discovery. Thus, what is admissible being the information, the same has to be proved and not the opinion formed on it by the police officer.* ***In other words, the exact information given by the accused while in custody which led to recovery of the articles has to be proved.*** *It is, therefore, necessary for the benefit of both the accused and prosecution that information given should be recorded and proved and if not so recorded, the exact information must be adduced through evidence. The basic idea embedded in Section 27 of the Evidence Act is the doctrine of confirmation by subsequent events. The doctrine is founded on the principle that if any fact is discovered as a*

> *search made on the strength of any information obtained from a prisoner, such a discovery is a guarantee that the information supplied by the prisoner is true. The information might be confessional or non-inculpatory in nature but if it results in discovery of a fact, it becomes a reliable information. It is now well settled that recovery of an object is not discovery of fact envisaged in the section. Decision of Privy Council in Palukuri Kotayya v. Emperor [AIR (1947) PC 67], is the most quoted authority of supporting the interpretation that the 'fact discovered' envisaged in the section embraces the place from which the object was produced, the knowledge of the accused as to it, but the information given must relate distinctly to that effect. [See State of Maharashtra v. Dam Gopinath Shinde and Ors, (2000) 6 SCC 269]. No doubt, the information permitted to be admitted in evidence is confined to that portion of the information which 'distinctly relates to the fact thereby discovered'. But the information to get admissibility need not be so truncated as to make it insensible or incomprehensible. The extent of information admitted should be consistent with understandability.* ***Mere statement that the accused led the police and the witnesses to the place where he had concealed the articles is not indicative of the information given.***"

32. The FSL serological report, establishing the presence of the deceased's blood group on the clothes of accused Nos.1 and 2, forms a clinching piece of evidence. In their statements under Section 313 Cr.P.C., the accused offered no explanation for this incriminating circumstance, which, under the law, can be used against them to draw an adverse inference. This, combined with their flight from the scene and threats issued, as deposed by witnesses, completes the chain of circumstances unerringly pointing to their guilt under Section 302 read with Section 34 of the Indian Penal Code.

33. Turning to the role of accused No.3 Gangaben, the learned Sessions Judge has rightly acquitted her, finding insufficient evidence to establish her sharing of common intention to commit murder. While her presence at the scene and assault on the complainant are proved, leading to charges under Sections 323,

504, and 506(2) IPC, the prosecution failed to demonstrate that she instigated the fatal assault or had knowledge that death was likely to ensue. The blood stains on her gown, as per the FSL report, could be attributed to her proximity during the scuffle rather than active participation in the lethal blows. The ocular evidence does not attribute any sword blows to her, and her actions appear limited to the quarrel with the complainant. The State's appeal against her acquittal under Section 302 read with Section 34 IPC is, therefore, devoid of merit, as the findings of the learned Sessions court are neither perverse nor based on misappreciation of evidence.

34. 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."*

35. 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."*

36. In the totality of the circumstances, this Court is satisfied

that the prosecution has proved the guilt of accused Nos.1 Chhaganbhai Bhojabhai Parmar and 2 Dashrathbhai Ambalal Raval beyond reasonable doubt for the offence of murder under Section 302 read with Section 34 of the Indian Penal Code. The sentence of life imprisonment with fine, as imposed by the learned Sessions Judge, is commensurate with the gravity of the offence and does not warrant interference.

36.1 Conversely, the acquittal of accused No.3 Gangaben is well-founded and does not suffer from any infirmity calling for reversal.

37. For the foregoing reasons, Criminal Appeal No. 1515 of 2013 preferred by original accused Nos.1 and 2 against their conviction and sentence is hereby dismissed.

37.1 Criminal Appeal No. 1315 of 2013 preferred by the State against the acquittal of original accused No.3 is also dismissed.

37.2 The judgment and order dated 21.03.2013 passed by the learned Second Additional Sessions Judge, Mehsana in Sessions Case No. 100 of 2011 is confirmed.

37.3 Bail bonds, if any, of the appellants-accused Nos.1 and 2 stand cancelled, and they shall surrender within 6 weeks from the date of this order to undergo the remaining sentence.

(ILESH J. VORA,J)

(R. T. VACHHANI, J)

Kaushal Rathod

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: KAUSHAL MAHESHBHAI RATHOD(HCD0078), ENGLISH STENOGRAPHER GRADE TWO CLASS TWO, at High Court of Gujarat on 24/02/2026 17:38:46