



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (AGAINST ACQUITTAL) NO. 695 of 2014

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK

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Approved for Reporting	Yes	No
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STATE OF GUJARAT
Versus
SHAILESH MALDEVBHAI VADHIYA

Appearance:

MS JIRGA JHAVERI APP for the Appellant(s) No. 1

MR NAYAN D PAREKH(5010) for the Respondent(s) No. 1

CORAM: **HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK**

Date : 31/08/2026

ORAL JUDGMENT

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 11.03.2014 passed by the learned 2nd Additional Sessions Judge, Veraval at Junagadh (hereinafter be referred to as "the trial Court") in Sessions Case No.10 of 2010, whereby the trial Court has acquitted the original accused (respondent herein) from the offences punishable under Sections 306, 498(A) etc of the Indian Penal Code.



2. Short facts of the prosecution case are that prior to five years of the incident, Ramilaben (deceased) married to accused and thereafter the marriage life of husband and wife was going on smoothly. That out of the said wedlock, Ramilaben delivered two children i.e. daughter Jaanu and son Badal and they were residing separately. It is alleged that during the short span of marriage, the accused subjected to mental and physical cruelty to Ramilaben, due to which, she committed suicide by hanging herself. Hence, a complaint was lodged by the complainant before Malia Hatina 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 witnesses and in addition to this, the prosecution has also produced the documentary evidence.

4 After closure of the evidence, the statement of the accused under section 313 of the Criminal Procedure Code, 1973 has been recorded wherein he denied of having committed any offence and has stated that he is innocent.

5. 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 him.

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

7. Heard Ms.Jirga Jhaveri, learned Additional Public Prosecutor for the appellant - State of Gujarat and Mr.Nayan Parekh, learned counsel for the respondents - accused at length.

8. Ms.Jhaveri, 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.

8.1 While referring to the evidence of the witnesses and the material collected against the accused, Ms.Jhaveri, 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.

8.2 Ms.Jhaveri, 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.

8.3 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.

8.4 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.



9. Per contra, Mr.Parekh, learned counsel for the respondent - accused has 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 him. He has 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. He has also submitted that there is no iota of evidence to connect the accused with the alleged crime in question. He has 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. Mr.Parekh, learned counsel has 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 respondent has submitted that the appeal being meritless deserves to be dismissed and the impugned judgment and



order of acquittal deserves to be confirmed.

10. Considering the aforesaid submissions and aspects, this Court is first required to examine the fact of the case. That the deceased Ramilaben got married to the accused before about five years and out of the said wedlock, she delivered two children i.e. daughter Jaanu and son Badal and the deceased, her husband and children were residing separately from her in-laws at Village: Ladudi, Taluka: Malia Hatina, District: Junagadh. That on 26.08.2009, when the deceased was alone at her home, she committed suicide by hanging herself, of which, the accused immediately informed the complainant and other relatives for the incident and then they took the deceased at Dr.Gosai's Hospital situated at Talala. Though the condition of the deceased was critical, it was advised to take the deceased at Veraval Government Hospital where the complainant and the son of his brother reached to the hospital of Dr.Ramavat at that time deceased was unconscious and on the next day i.e. on 27.08.2009 at about 11.00 o'clock, deceased died in unconscious condition. Thereafter, the deceased was shifted to G. G. Hospital at Jamnagar where panel doctor performed the postmortem of the deceased and during the postmortem, the doctor has not found any external or internal injury except the ligature mark on the neck. However, the complainant i.e. father of the deceased lodged the FIR against the accused wherein it was alleged that since the accused was subjected to cause mental and physical cruelty to the deceased, earlier the deceased came to his house but after intervention of the family members and other elders of the family, she returned to her matrimonial home. That because of the ill-treatment and harassment caused to the deceased by the accused, she committed suicide by hanging herself and hence, the complaint came to be lodged by the complainant and on the basis



of the complaint, the investigation was carried out by the jurisdictional police.

11. The prosecution has examined four doctors i.e. P.W. 3 Dr.Ashish Bharatbhai Ramavat at Exhibit 20, P.W.4 Dr. Kishorkumar Raghuvirdas Hariyani at Exhibit 22, P.W. 5 Dr.Sandeep Amrutgiri Gosai at Exhibit 24 and P.W.6 Dr.Amit Panabhai Parmar at Exhibit 26. Out of these four doctors, P.W.5 first treated the deceased and thereafter P.W.3 and P.W.4 since the deceased was brought in unconscious condition, there was no occasion for the Investigating Officer either to record the FIR or the dying declaration of the deceased and after the death, the dead body was taken to the G. G. Hospital Jamnagar for performing the postmortem where P.W.6 performed the postmortem of the deceased. From their evidence, the fact reveals that there was no external or internal injury found on the body of the deceased except for the ligature mark.

12. Looking to the evidence of P.W.7 Raja Nathu Bamaniya at Exhibit 42, P.W.8 Dharmishthaben Rajabhai Bamaniya at Exhibit 53 and P.W.9 Hiteshbhai Rajabhai Bamaniya at Exhibit 55 being father, sister and brother of the deceased, it appears that there was no specific version with regard to ill-treatment or harassment caused to the deceased at the instance of the accused. There is exaggeration and omission in the version of the complainant and even the fact stated by the complainant in the complaint was stated before the Court for the first time. On the contrary, prior thereto, the accidental death was registered being Entry No.17/2009 on 27.08.2009 by one Laxmanbhai Nathabhai, which was produced on record at Exhibit 69 and at that time, none of the witnesses have made any allegation qua ill-treatment or harassment either physically or mentally caused to



the deceased at the hands of the accused. On the contrary, the evidence reveals that as and when the deceased, her husband and children came to the house of the complainant, they were staying together happily and no any complaint made by the deceased to the complainant or any family members.

13. P.W.8 in her chief-examination has specifically admitted that the accused has not subjected any physical or mental harassment to the deceased which fact was also confirmed in the cross-examination that there was no any ill-treatment or harassment caused to the deceased by the accused. From the evidence of the P.W.9, the fact reveals that the allegation qua ill-treatment or harassment caused to the deceased was not proved.

14. On perusal of the evidence of P.W.10 and P.W.11, it appears that these witnesses have admitted the fact that during the course of investigation, none of the witnesses have stated about the ill-treatment or harassment caused to the deceased. Under the circumstances, the prosecution has failed to prove the charge levelled against the accused as though the marriage span was for more than seven years, but within short span, no harassment or ill-treatment either mentally or physically meted out to the deceased by the accused. Therefore, the trial Court has, after considering the evidence of the witnesses, assigned the reasons in para 24 and 25 onward.

15. On perusal of the impugned judgment and order of acquittal, it reveals that the trial Court has, while passing the impugned judgment and order, referred and relied upon the decisions of the Hon'ble Supreme Court as well as this Court with regard to cruelty and the death caused because of ill-treatment. Considering the evidence of



the witnesses, it appears that the basic ingredients of Sections 306, 107 and 498(A) of the IPC is not at all proved by the prosecution. If the Court has to presume against the accused as provided under the provisions of Section 113(A) and 113(B) of the Evidence Act, there must be some act on the part of the accused either to provoke the accused for taking such step by ending her life but there is no instigation on the part of the accused or any abetment is proved by the prosecution against the accused. That though the accused was doing the labour work, but in the evidence of the witnesses, it was proved that the accused left the house in early morning and returned in the night as he was doing the work of agriculture and earning his livelihood. Considering the evidence of the witnesses, the trial Court has rightly passed the impugned judgment and order of acquittal and there is no any illegality or infirmity. 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.

16. 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.



17. 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.

18. Considering the decisions of the Hon'ble Supreme Court in the case of (1) Ramesh Kumar Vs. State of Chhattisgarh reported in (2001) 9 SCC 618, (2) State of Gujarat Vs. Bhaveshbhai Manilalbhai Patel reported in 2025 (2) GLR 923, (3) Ram Pyarey Vs. State of Uttar Pradesh reported in (2025) 6 SCC 820, (4) State of Gujarat Vs. Haji Haroon Meman reported in 2026 (0) JX (Guj) 105 and (5) State of Gujarat Vs. Ashwinbhai Naginbhai Tandel reported in 2025 (0) JX(Guj) 357, the present appeal being meritless deserves to be dismissed.

19. The scope and principles are enunciated by the Hon'ble Apex



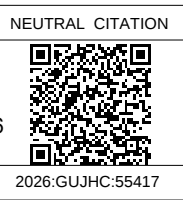
Court in case of **Chandrappa and others Vs. State of Karnataka** reported in **(2007) 4 SCC 415**, more particularly **paragraph Nos. 42 and 43**, which was subsequently re-affirmed by the Hon'ble Apex Court in the case of **Rajesh Prasad Vs. State of Bihar and another**, reported in **[2022] 3 SCC 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.

20. 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, reappraise 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.”

21. 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.

22. 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 him. 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.

23. 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. PRACHCHAK,J)

V.R. PANCHAL