



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL APPEAL (AGAINST ACQUITTAL) NO. 1993 of 2012

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

BALKRUSHNA @ KISHANBHAI S/O LAVJIBHAI CHAUHAN

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Appearance:

MS JYOTI BHATT, ADDL. PUBLIC PROSECUTOR for the Appellant(s) No. 1

HCLS COMMITTEE(4998) for the Opponent(s)/Respondent(s) No. 1

MS MARIYA M DALAL(3957) for the Opponent(s)/Respondent(s) No. 1

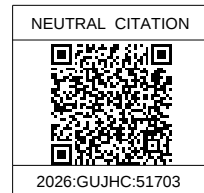
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CORAM: HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK

Date : 11/08/2026

JUDGMENT

1. The appellant - State of Gujarat has preferred this appeal under Section 378(1)(3) of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Code' for short) against the judgment and order dated 19.07.2012 passed by the learned 6th Additional Sessions Judge, Rajkot (hereinafter be referred to as "the trial Court") in Sessions / Atrocity Case No.126 of 2010, whereby the trial Court has acquitted the original accused (respondent herein) from the offences punishable under Sections 306, 498A, 506 and 504 of the Indian Penal Code (hereinafter referred to as 'the IPC' for short).



2. Short facts of the prosecution case are that, the complainant, deceased Varshaben wife of the respondent lodged complaint against the present respondent with Mahila Police Station, which was registered as II.C.R.No.76/10 for the offences punishable under Sections 498A, 306, 506 and 504 of the IPC. It is the case of the prosecution that, the deceased/complainant Varshaben solemnized her inter-caste civil marriage with present respondent - Balkrushna @ Kishan Lavjibhai Chauhan against the will of her parents and during the course of 6 months of marriage life, respondent knowing very well that the deceased/complainant would not get support from her parents, he caused physical and mental harassment to the deceased/complainant and also abused her, which was not tolerated by her and the respondent created a circumstances to commit suicide and pursuant to that, on 30.04.2010, the deceased/complainant Varshaben poured kerosene on her body, set herself on fire with matchstick and because of the burn injuries, she was admitted in hospital and during the course of her treatment, on 05.05.2010, she died.

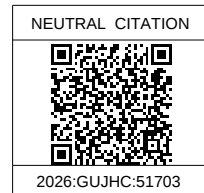
2.2 On the basis of the said complaint, investigation was initiated and after thorough investigation, as there was sufficient evidence against the respondent-accused, charge sheet was filed before the Court of learned Chief Judicial Magistrate, Rajkot. As the offences committed by the accused was exclusively triable by the Court of Sessions, as per the provisions of 209 of Criminal Procedure Code, the learned Judge committed the case to the Court of Sessions and the case was transferred and placed for trial before the learned 6th Additional Sessions Judge, Rajkot, which has been numbered as Sessions Case No. 126 of 2010.

2.3 Thereafter, charge was framed against the accused for the offences punishable under Sections 498A, 306, 506 and 504 of the Indian Penal Code. The accused pleaded not guilty to the charges and claimed to be tried.

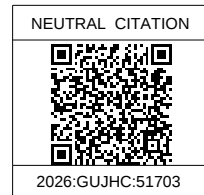
3. It appears from the records that to prove the case, the prosecution has examined the following witnesses:-

Sr. No.	Name of the witness	Particulars	Exhibit
1	Rajeshbhai Tulsibhai Bagthariya	Panch Witness	16
2	Shaileshbhai Parsottam Solanki	Panch Witness	19
3	Gopalbhai Chhaganbhai Parmar	Panch Witness	21
4	Dilipbhai Chhaganbhai Chauhan	Panch Witness	22
5	Dr. Altaf Osman Dal	Medical Officer	25
6	Bhupendrasinh Chandansinh Chauhan	Father of the Deceased	30
7	Jyotiben w/o Bhupendra Chauhan	Mother of the Deceased	32
8	Bipinkumar Premjibhai Virza	Medical Officer	34
9	Ranchhodbhai Vihabhai Rajpara	Executive Magistrate	40
10	Champaben Rameshbhai Chauhan	Neighbour of the Deceased	43
11	Surendrasinh Bhupendrasinh Chauhan	Brother of the Deceased	44
12	Jyotsnaben Lalajibhai Chauhan	Landlady of the Deceased	45
13	Jivabhai Naranbhai Ram	Investigating Officer	46
14	Narmadaben Shantialal Savaniya	-- --	55

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



Sr. No.	Particulars	Exhibit
1	Panchnama of the scene of offence	17
2	Detention panchnama of the Accused	20
3	Inquest Panchnama	23
4	Post-Mortem Form	26
5	Letter regarding conducting the P.M. by the Panel Doctor	27
6	P.M. Report	28
7	Cause of Death Certificate	29
8	Receipt of handing over the dead body	31
9	Medical Certificate of the Accused	35
10	Medical Certificate of the deceased Varshaben	36
11	Yadi regarding receipt of Patient's Medical Certificate	37
12	Yadi regarding request to come and record the D.D.	41
13	Dying Declaration	42
14	Depute Order for investigation	47
15	Yadi regarding request to come and record the D.D.	48
16	Complaint of the complainant	49
17	Forwarding letter mentioning brief facts of the complaint	50
18	Statement of the deceased Varshaben	52
19	Yadi to the FSL Officer regarding to conduct site inspection	53
20	Letter written to the Ma. Nagar Police Station regarding dispatch of Site Inspection Report	54
21	FSL report of Mobile Laboratory	54
22	Yadi regarding request to come and fill Inquest	56
23	Order of Investigation	57,58
24	Report for addition of Section 306 of IPC	59
25	Detention Memo	60
26	Letter regarding dispatch of Muddamal to FSL, Junagadh for analysis	61
27	Acknowledgment receipt of Muddamal received by FSL, Junagadh	62
28	Forwarding Letter along with FSL Report	63



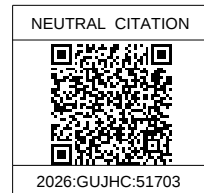
5. After closure of the evidence, the statement of the accused under section 313 of the Criminal Procedure Code, 1973 has been recorded wherein he denied of having committed any offence and have stated that he is innocent.

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 him.

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 Ms.Mariya M. Dalal, learned counsel for the respondent – accused at length.

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. Ms.Bhatt, 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. 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. She has submitted that the witnesses have fully supported the case of the prosecution, however, the trial Court has not appreciated the same and passed the judgment and order of acquittal which is illegal and unjust. She has submitted that it is settled legal position that the evidence of a single witness is sufficient for conviction if the same is reliable and trustworthy and in the present case, though the evidence of all the witnesses are reliable and trustworthy, without any cogent reason, the trial Court has disbelieved and discarded the evidence of the witnesses.

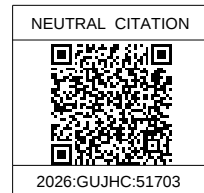
9.1 Learned APP Ms. Bhatt has submitted that the trial Court has failed to consider the fact that the deceased herself had lodged the FIR against the respondent, wherein she had specifically stated that, on account of her husband's habit of consuming liquor, a quarrel had taken place between the husband and wife and, therefore, on the fateful day, i.e., 30.04.2010, the deceased Varshaben committed suicide. This fact was supported by PW-6, the father of the deceased, PW-7, the mother of the deceased, and PW-11, the brother of the deceased. However, the trial Court failed to properly appreciate the evidence of these witnesses while passing the impugned judgment and order. She further submitted that the marriage span of the deceased was only six months and that the deceased had married against the wishes and will of her parents, as it was an inter-caste marriage. Therefore, neither of the family members was happy with

their decision to reside together. Consequently, the deceased and her husband left their usual place of residence and shifted to Rajkot, where they were engaged in labour work for their livelihood, as the husband of the deceased was working as a labourer and earning his livelihood. According to Ms.Bhatt, learned Additional Public Prosecutor, the trial Court ought to have convicted the accused and ought to have imposed necessary sentence. She has prayed to allow the present appeal and to quash and set aside the impugned judgment and order of acquittal.

10. Per contra, Ms.Dalal, 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. She 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. She has also submitted that there is no iota of evidence to connect the accused with the alleged crime in question. She has prayed to confirm the impugned judgment and dismiss the present appeal.

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

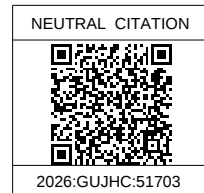
- (1) whether the trial Court is justified in passing the judgment and order of acquittal.
- (2) whether the trial Court has rightly appreciated the evidence led by the prosecution in recording the reasons.



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

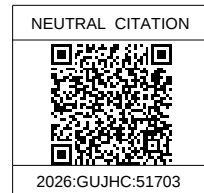
12. I have heard the learned counsel appearing for the respective parties and perused the material placed on record. Before parting with this judgment, it is necessary to examine the case presented by the prosecution before the trial Court. That, on 30.04.2010, at about 9:45 p.m., when the deceased, Varshaben, was at her home, the respondent-husband came home in a drunken condition. When she asked him why he had consumed liquor, the respondent became enraged, started abusing her, and also assaulted her. As the deceased had married against the wishes of her family members, the respondent was aware that there was no one to support her and, therefore, he subjected her to mental and physical cruelty from time to time. The deceased could not tolerate the cruelty inflicted upon her by the respondent and, unable to bear such harassment and torture, she committed suicide by pouring kerosene on herself and set herself ablaze.

13. In the facts and circumstances of the case narrated above, if the evidence of PW-6, the father of the deceased, is examined, he has admitted in his deposition that, after his daughter Varsha married the respondent against their wishes and came to reside at Rajkot, they were not aware of her whereabouts or those of her husband. He further deposed that, after the marriage, they had visited the deceased for the first time only at the hospital. In fact, on perusal of the record, it is found that, on 30.04.2010 itself, the deceased was admitted to the hospital by the respondent-husband, who had also sustained burn injuries while attempting to save the deceased. He was admitted to the same hospital as an indoor patient and remained



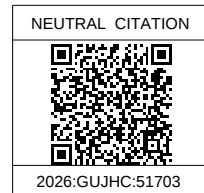
under treatment for four days. He was thereafter arrested on 03.05.2010. At the time of his arrest, the Arrest Panchnama at Exh.-20 records that the respondent had sustained serious burn injuries to his face, cheeks, lips, chin and nose, as well as to both hands and legs. This circumstance suggests that he had made an attempt to save the deceased. He had immediately taken the deceased to the hospital, where an accidental death entry had already been registered, pursuant to which the Executive Magistrate was called.

14. Now, considering the evidence of PW-9, Ranchhodbhai Vihabhai Rajpara, the Executive Magistrate, at Exh.-40, he has deposed that, while he was on duty on 30.04.2010, he received a police yadi from the Police Sub-Inspector, Malaviya Nagar Police Station, on 01.05.2010 at about 12:50 a.m. for recording the dying declaration of the deceased, Varshaben, wife of Kishanbhai Lavjibhai Chauhan. Pursuant thereto, he visited the hospital where the deceased was admitted as an indoor patient and recorded her dying declaration. In his deposition, he stated that, at the time of recording the dying declaration, the deceased was unable to affix her signature as she had sustained burn injuries to both her hands and bandages had been applied to both hands. Therefore, he obtained the impression of her left-leg thumb on the dying declaration. This witness has also categorically stated that the deceased was conscious and in a fit state of mind while her statement was being recorded. On perusal of the dying declaration recorded by PW-9, it appears that the time of commencement was mentioned as about 1:10 a.m., and the time of completion was mentioned as 1:40 a.m. In the dying declaration, the deceased herself stated that there was no quarrel between her and her husband and that there was no reason for her to commit suicide. She further stated that the burn injuries sustained by her were



accidental. This was the first version given by the deceased. Her left-leg thumb impression was obtained by the Executive Magistrate on the dying declaration. Thereafter, when the police reached the hospital at Rajkot, the Investigating Officer recorded the FIR, wherein the facts stated were completely contrary to those mentioned in the dying declaration.

15. PW-13, Jivabhai, PSI, Malaviya Police Station, examined at Exh. 46, has stated in his deposition before the trial Court that, after the police reached the hospital and consoled the deceased, she herself narrated the facts contained in the FIR. This clearly indicates that the version subsequently given by the deceased to the police was a subsequent version, made only after the police had reached the hospital. Furthermore, during his cross-examination, it emerged that, in the documents at Exhs. 49 and 52, the left-leg thumb impression of the deceased, Varsaben, was obtained on Exh. 52, whereas Exh. 49 bears the name "Vaishali." There is no evidence on record to establish whether the writing or signature appearing on Exh. 49 was in the handwriting of the deceased. No admitted signature, handwriting specimen, or other document of the deceased was available before the trial Court for the purpose of comparison or examination. Under these circumstances, and particularly in view of the fact that the independent witnesses did not support the case of the prosecution, the prosecution failed to establish its allegations by cogent and reliable evidence. More particularly, the owner of the house where the deceased resided with her husband was examined by the prosecution but did not support its case. Likewise, the neighbour examined by the prosecution also did not support the prosecution's version. In the absence of cogent, reliable, and corroborative evidence, the prosecution has failed to establish that the deceased was subjected to



cruelty or harassment at the hands of the respondent. Consequently, the prosecution has also failed to establish the necessary ingredients of Sections 306, 498-A, 506, and 504 of the IPC against the respondent.

16. So far as the ingredients of Sections 306 and 498A of the IPC are concerned, it would be appropriate to refer to the decisions of the Hon'ble Apex Court rendered in case of **Ram Pyarey Vs. State of Uttar Pradesh**, reported in **[2025] 6 SCC 820** and in case of **Ramesh Kumar Vs. State of Chhattisgarh**, reported in **[2001] 9 SCC 618**, wherein the Hon'ble Apex Court has observed that merely because the deceased died within a period of seven years of marriage, the provisions of Sections 306 and 498A of the IPC cannot be automatically attracted. The prosecution has to produce cogent and material evidence before the trial Court to establish the allegations and substantiate them with foundational facts and supporting material. It would also be appropriate to refer to the decisions of this Court rendered in case of **State of Gujarat Vs. Haji Haroon Meman**, reported in **2026 (0) JX (Guj) 105**, in case of **State of Gujarat Vs. Ashvinbhai Naginbhai Tandel**, reported in **2025 (0) JX (Guj) 357** and in case of **State of Gujarat Vs. Bhaveshbhai Manilalbhai Patel**, reported in **2025 (2) GLR 923**.

17. After considering the oral as well as documentary evidence led by the prosecution, as discussed in paragraphs 6 and 7 respectively, the trial Court framed the issues in paragraph 11. In paragraph 13, the trial Court discussed in detail how the prosecution had failed to establish its case against the respondent in the absence of any independent witness supporting the prosecution's case that the respondent had in any manner incited or abetted the commission of

the crime in question. On the contrary, the facts reveal that the respondent had tried to save his wife, deceased Varshaben, and, in the process, himself sustained serious burn injuries. He was admitted as an indoor patient at the hospital, from where he was arrested by the Investigating Officer. The trial Court, after referring to the decisions of the Hon'ble Supreme Court as well as this Court, examined the veracity and genuineness of both the documents, viz., Exh. 49 and Exh. 52. Upon considering the facts and circumstances of the case, the trial Court came to the conclusion that the prosecution had miserably failed to establish its case against the present respondent. From paragraphs 25 to 28, the trial Court, after referring to various decisions, recorded detailed reasons for disbelieving the case of the prosecution. 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 I do not find any illegality, perversity, or infirmity in the impugned judgment and order warranting interference by this Court.

18. 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.



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

20. The scope and principles are enunciated by the Hon'ble Apex Court in case of **Chandrappa and others Vs. State of Karnataka** reported in **(2007) 4 SCC 415**, more particularly **paragraph Nos. 42 and 43**, which was subsequently re-affirmed by the Hon'ble Apex Court **Rajesh Prasad Vs. State of Bihar and another**, reported in **[2022] 3 SCC 471**, wherein, the Hon'ble Apex Court has enunciated the general principles in case of acquittal, more particularly in **paragraph No. 26** the general principles are set out by the Hon'ble Apex Court based upon various decisions of the Hon'ble Apex Court. Then in case of **Babu Sahebagouda Rudragoudar Vs. State of**



Karnataka, reported in AIR 2024 SC 2252 = (2024) 8 SCC 149, the Hon'ble Apex Court has dealt with the similar issue, more particularly, in **paragraph Nos. 37 to 40**. Hence, I am in complete agreement with the findings recorded by the trial Court.

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

"20. At this stage, it would be relevant to refer to the general principles culled out by this Court in Chandrappa and others vs. State of Karnataka , regarding the power of the appellate Court while dealing with an appeal against a judgment of acquittal. The principles read thus:

"42. (1) An appellate court has full power to review, 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."

22. Considering the entire evidence on record, it clearly appears that there is no credible evidence to connect the present accused with the alleged crime and the evidence on record is not so convincing to prove beyond reasonable doubt that the accused has committed the alleged crime. Therefore, the accused cannot be convicted on the evidence on record.

23. On perusal of the impugned judgment and order, it clearly transpires that the trial Court has not committed any error of fact and law in appreciating the evidence on record and in acquitting the accused from the charges levelled against 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.



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

(HEMANT M. PRACHCHHAK,J)

Dolly