



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL NO. 354 of 2012

With

R/CRIMINAL APPEAL NO. 994 of 2012

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK

Approved for Reporting	Yes	No
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BIPINBHAI PUNABHAI DODIYA

Versus

STATE OF GUJARAT & ORS.

Appearance:

MR DEVARSHI C SHAH(5545) for the Appellant(s) No. 1

MR SAMEER H LALAKIYA FOR MR DIPAN DESAI(2481) for the Appellant(s)
No. 1

MS MEDHA N PANDYA(6171) for the Opponent(s)/Respondent(s) No. 2,3,4,5

MR ROHAN SHAH, ADDL. PUBLIC PROSECUTOR for the
Opponent(s)/Respondent(s) No. 1

CORAM: HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK

Date : 27/08/2026

COMMON JUDGMENT

1. Criminal Appeal No.354 of 2012 has been preferred by the appellant - original complainant 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 21.02.2012 passed by the learned Sessions Judge, Ahmedabad (Rural) (hereinafter be referred to as "the trial Court") in Sessions Case No.45 of 2008,



whereby the trial Court has acquitted the original accused (respondent Nos.2 to 5 herein) from the offences punishable under Sections 498A, 323, 306, 504, 114 of the Indian Penal Code (hereinafter referred to as 'the IPC' for short) and under Sections 3 and 7 of the Dowry Prohibition Act.

1.1 Whereas, Criminal Appeal No.994 of 2012 has been preferred by the appellant - State of Gujarat under Section 378(1)(3) of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Code' for short) against the very same judgment and order dated 21.02.2012 passed by the learned Sessions Judge, Ahmedabad (Rural) in Sessions Case No.45 of 2008.

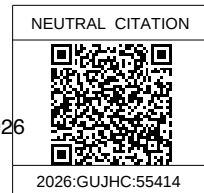
1.2 Since both these appeals arise out of the same order i.e. order dated 21.02.2012 passed by the learned Sessions Judge, Ahmedabad (Rural) in Sessions Case No.45 of 2008, they are heard analogously and are being disposed of by this common judgment.

2. Short facts leading to filing of these appeals are that, the complainant Bipinbhai was serving with the Office of Superintendent of Stamp, Gandhinagar and was having one son and one daughter in his family. The daughter of complainant namely, Bhavna was aged about 22 years as on date of incident and marriage of daughter Bhavna had taken place with accused Bharatbhai Khetaria, resident of Anand Park Society, Isanpur on 24.08.2004 by way of court marriage as daughter Bhavna was in love with accused Bharat. That, family members of daughter Bhavna and accused Bharat were not ready for this marriage and they had raised objections, inspite of that, parents of daughter Bhavna had permitted for love marriage, but parents of accused Bharat had not permitted for love marriage. That, after her



marriage, daughter Bhavna was staying with husband Bharatbhai, father-in-law Mavjibhai, mother-in-law Maniben, Jeth Ashokbhai and Jethani Minaben in a joint family from 09.09.2004 and she had stayed for a period of seven months with respondents and during that period, accused Bharatbhai, father-in-law Mavjibhai, mother-in-law Maniben and Jeth Ashokbhai were taunting her about not bringing dowry. That, accused persons told her to bring Rs.2 lac from her parents on the ground that father of daughter Bhavna had not incurred any expenditure towards marriage. That, accused persons had also demanded flat in the form of dowry and accordingly, flat bearing No.B-4/401 was purchased by complainant, where daughter Bhavana and her husband were staying. According to complainant, complainant had given Rs.1 lac and Golden ornaments of about 10 Tolas to daughter Bhavna and she was staying in that flat since from last two years, inspite of that, accused persons were giving physical and mental torture to her on petty matters and therefore, she committed suicide by hanging herself below the fan. Therefore, complainant Bipinbhai lodged aforesaid complaint before Police Inspector, Vejalpur Police Station, which was registered at C.R. No.I-115/2008 for alleged breach of Sections 498A, 323, 306, 504, 114 of IPC and Sections 3 and 7 of Dowry Prohibition Act and investigation machinery was put into motion.

2.2 On the basis of aforesaid complaint, investigation was carried out. During investigation police recorded statements of witnesses, drawn necessary panchnama and as there was sufficient evidence connecting accused persons with crime produced in this case, charge sheet was filed before the Court of learned Magistrate for alleged offence under Sections 498A, 323, 306, 504, 114 of IPC and Sections 3 and 7 of Dowry Prohibition Act.



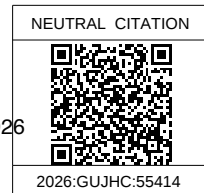
2.3 As the offences committed by the accused persons were absolutely triable by the Court of learned Sessions Judge, same was committed to the Court of learned Sessions Judge, Ahmedabad (Rural) under Section 209 of Cr.P.C. and numbered as Sessions Case No.45/2008.

2.4 Thereafter, respondents were ordered to issue with summons and after service of summons, respondents had appeared before the Court, wherein they have not pleaded guilty for the charges levelled against them and claimed to be tried.

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

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|---|--------|
| (1) Dr. Rohit Chimanlal Zarivala | Exh.28 |
| (2) Bipinbhai P. Dodia, Complainant | Exh.31 |
| (3) Executive Magistrate, Laxmanbhai Keshavlal Parghi | Exh.42 |
| (4) Devjibhai Pithabhai Dodia | Exh.45 |
| (5) Govind M.Makwana Panch | Exh.46 |
| (6) Vinod K.Vora Panch | Exh.49 |
| (7) PSO, Vikramsinh K. Vaghela | Exh.52 |
| (8) Dy.S.P. M.C.Patel | Exh.55 |
| (9) ACP Shri B.R.Patel | Exh.57 |
| (10) Dy.S.P.Shri R.A.Jadeja | Exh.58 |
| (11) PSI, Punaji Kuberji Gameti | Exh.59 |

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



(1)	Suchi Patra	Exh.53
(2)	Complaint	Exh.33
(3)	Panchnama of place of offence	Exh.47
(4)	P.M. Note of deceased Bhavnaben	Exh.30
(5)	Xerox copy of Share certificate of deceased Bhavnaben's flat	Exh.32
(6)	Panchnama of dairy and other articles seized from the house of deceased Bhavnaben	Exh.50

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

6. After hearing both sides and considering the evidence on records, the trial Court by impugned judgment and order has acquitted the accused from all the charges levelled against them.

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

8. Heard Mr.Sameer H. Lalakiya, learned counsel appearing on behalf of Mr.Dipen Desai, learned counsel for the appellant - original complainant, Mr.Rohan Shah, learned Additional Public Prosecutor for the appellant - State of Gujarat and Ms.Medha N. Pandya, learned counsel for the respondents - accused at length.

9. Learned counsel and learned Additional Public Prosecutor appearing for the respective appellants have submitted the same



facts which are narrated in the memo of appeal and have 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 counsel and learned Additional Public Prosecutor, while referring to the entire oral as well as documentary evidence, have 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, it is 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. It is 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. It is 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 The learned counsel and the learned Additional Public Prosecutor appearing for the respective appellants have submitted that the prosecution has proved the ill-treatment and harassment meted out to the deceased at the hands of the respondents, which led



the deceased, Bhavnaben, to commit suicide by hanging herself. It is further submitted that, despite the prosecution having established the said facts, the Trial Court failed to consider the same while passing the impugned judgment and order of acquittal. It is further submitted that while recording the impugned judgment and order, the Trial Court failed to consider an important piece of evidence, namely, the diary written by the deceased Bhavna, from which certain extracts were produced on record. The said writings of the deceased were not appreciated and considered by the Trial Court in their true and proper perspective while passing the impugned judgment and order of acquittal and thus, the same is erroneous, illegal and unjust. According to learned counsel and learned Additional Public Prosecutor, the trial Court ought to have convicted the accused and ought to have imposed necessary sentence. It is therefore, prayed to allow the present appeal and to quash and set aside the impugned judgment and order of acquittal.

10. Per contra, Ms.Pandya, learned counsel for the respondents - 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 them. 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 not an iota of evidence connecting the accused with the alleged crime in question. She has submitted that the deceased Bhavna, along with her husband Bharat, was residing separately from the other respondents-accused, who were residing at Isanpur, which was situated approximately 10 kilometres away from



the place of the incident.

10.1 Ms. Pandya, learned counsel has further submitted that it has come on record through the evidence of the witnesses that, at the time of the incident, neither the husband nor any of his family members was present at the place of occurrence. The husband was informed about the incident by PW-4, namely, Devjibhai Pithabhai Dodiya, who made a telephone call to him, pursuant to which they immediately rushed to the place of occurrence. It is further submitted that, by that time, the concerned jurisdictional police and the doctor had already been informed, and the relatives of the deceased Bhavna had also been called. In the presence of the police and the doctor, the body of the deceased Bhavna was brought down, and upon examination, the doctor declared her dead. Thereafter, as the death was confirmed, the body of the deceased Bhavna was sent to L.G. Hospital for post-mortem examination, where PW-1, Dr. Rohit Chimanlal Zariwala, examined the body and confirmed that the cause of death was asphyxia due to strangulation. Thus, the factum and cause of death were duly established. It is, therefore, submitted that the Trial Court, after duly appreciating the evidence on record, has rightly passed the impugned judgment and order of acquittal.

10.2 Ms. Pandya, learned counsel has further submitted that, though the incident had occurred on 23.01.2008, the complaint was lodged by the complainant only on 03.03.2008, i.e. after a delay of about two months. So far as the delay in lodging the FIR is concerned, no explanation whatsoever has been rendered either by the complainant or by PW-10, the Investigating Officer. She has submitted that it has further emerged from the evidence of the Investigating Officer that, when the panchnama of the place of offence and the inquest



panchnama were drawn in the presence of PW-4 and other relatives of the deceased, no details, documents, or any other incriminating material were found during the course of the investigation. This fact has also been confirmed from the evidence of the Investigating Officer. Under such circumstances, it is submitted that the diary which was subsequently produced before the Trial Court appears to have been subsequently brought into existence, and even at the time of lodging of the FIR, the said diary was not produced before the Investigating Officer.

10.3 Ms. Pandya, learned counsel has further submitted that it is also evident from the evidence of PW-9, ACP B.R. Patel, at Exh. 57, that the diary and other documents, which were mainly relied upon by the prosecution, were not seized by the Investigating Officer in accordance with the procedure prescribed under the provisions of the Cr.P.C. This fact has also been admitted by the Investigating Officer and after considering all these aspects and the evidence on record, the Trial Court has rightly passed the impugned judgment and order of acquittal. She has therefore, 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. I have also gone through the impugned judgment and order passed by the trial Court. It is necessary to first examine the facts of the case as adhered by the appellant before the trial Court. On 23.01.2008, at about 12:30 to 15:30 hours, PW-4, who was the uncle of the complainant, visited the residence of the deceased Bhavna. When he rang the doorbell, the door was not opened, as it was locked from inside. He therefore immediately telephoned the complainant, namely, his nephew Bipinbhai, and informed him that he was at Bhavna's residence and that, despite ringing the doorbell, she was not opening the door. The complainant, Bipinbhai, then tried to contact Bhavna on her mobile phone; however, she did not answer the call. Thereafter, with the assistance of the neighbours, he attempted to gain entry into the house from the rear side of the kitchen, with the help of children who were present there. When the door was opened from inside, they entered the flat and found that the deceased Bhavna had hanged herself to a fan with saree and her dead body was lying in hanging condition. Therefore, they immediately informed the nearest jurisdictional police station, i.e., Vejalpur Police Station, and the police mobile van also reached the place immediately. They also called the doctors. When the door was opened, the dead body of Bhavna was found inside the house in a hanging condition and therefore, the police untied the saree with which she had allegedly committed suicide and brought down the body of deceased Bhavna.

13. The police immediately prepared the panchnama of the place of offence and also drew the inquest panchnama in the presence of the



panch witnesses, the complainant, and PW-4. Initially, the said incident was registered as an accidental death entry, being AD Entry No. 4 of 2008, in the station diary. The said incident was accordingly investigated, and the initial investigation in connection with the accidental death was conducted by PW-11, PSI Poonaji Kuberji Gamit. Thereafter, the statements of the witnesses were recorded. From the statements initially recorded, no fact was revealed indicating that the deceased had been subjected to any ill-treatment or harassment at the hands of the respondents.

14. If the evidence of PW-1, Dr. Rohit, at Exh.-28 is considered, it reveals that the deceased died due to asphyxia resulting from strangulation. The injury found on the body of the deceased was also caused by strangulation. Therefore, so far as the unnatural death of the deceased, Bhavnaben, is concerned, the same stands proved by the evidence of the said doctor.

15. Now, so far as the allegations of instigation and abetment are concerned, the prosecution has relied upon the evidence of PW-2, complainant Bipinbhai, who is the father of the deceased, Bhavna. If his evidence is carefully considered, particularly his cross-examination, it appears that the complainant admitted before the Trial Court that immediately after the incident, the Investigating Officer had recorded the statements of all the concerned persons, including the complainant and PW-4, who was the uncle of the complainant. They were present at the place of the incident and were among the first persons to witness the incident. However, in their initial statements recorded by the Investigating Officer, they had not made any allegation against the respondents regarding harassment, ill-treatment, or any demand for dowry. It is further revealed from the



evidence of the complainant that the deceased, Bhavna, was residing separately with her husband in a flat which had been purchased and owned by the complainant in the name of the deceased, Bhavna. It is also revealed that, for the last two years, they had been residing separately from the other family members and in-laws. It is further revealed that, during the four years of their wedlock, not a single complaint was made by the complainant against the respondents regarding any harassment, ill-treatment, or demand for dowry. When the complainant was questioned with regard to the resolutions passed by their community concerning marriage and other rituals to be observed by the members of the community, he categorically denied that he was not ready and willing to produce any such resolution. He further stated that whatever may have been provided in such resolution was not binding upon him. It was further suggested to the complainant that the said flat, which was originally in the name of the deceased, Bhavna, was subsequently transferred in the name of his son. In fact, from the evidence on record, it is revealed that the said flat was transferred by the complainant in the name of his son.

16. Now, if the aforesaid evidence is considered vis-à-vis the evidence of the Investigating Officers, namely PW-8, PW-9, PW-10 and PW-11, it is clear that they have not supported the story put forward by the complainant with regard to the diary allegedly written by the deceased, which was subsequently recovered by the complainant and produced before the Investigating Officer. This fact is not supported by the evidence of either the police witnesses or the panch witnesses. However, the said witnesses were cross-examined by the learned Public Prosecutor before the Trial Court. From their evidence, it is revealed that, during the course of preparation of the panchnama, they had minutely inspected the place of the incident and had



recorded the details thereof in the panchnama. At that time, no such diary was found at the place of the incident. This fact was further confirmed by the Investigating Officers, namely PW-9 and PW-11, who deposed that during the course of investigation, no such diary was found or recovered.

17. Even PW-10, Mr. R. R. Jadeja, Dy. S.P., before whom the diary was allegedly produced, admitted before the Trial Court that no panchnama or seizure memo was prepared in respect of the said diary at the time it was produced before him. Further, even at the time of lodging of the FIR, which was delayed by almost two months, the said vital piece of evidence, as alleged by the complainant, was neither produced nor brought on record. It is further significant that the handwriting appearing in the said diary was never examined by any handwriting expert to ascertain whether the diary had, in fact, been written by the deceased or not. In the absence of any cogent and legally admissible evidence establishing the genuineness and authorship of the said diary, the document cannot be relied upon merely because it was produced by the complainant. The said document is required to be duly proved in accordance with the provisions of the Indian Evidence Act, and in the absence of such proof, it cannot be treated as a reliable or admissible piece of evidence.

18. Therefore, after considering all these facts and circumstances, it is evident that, in their initial statements recorded by the Investigating Officer, the complainant as well as PW-4 had admitted that they had neither raised any suspicion or doubt nor made any allegation against the respondents with regard to any harassment or ill-treatment allegedly meted out to the deceased. Now, in the



absence of any cogent and reliable material evidence produced by the prosecution, the basic ingredients of the offences punishable under Sections 306, 498-A and 107 of the IPC cannot be said to have been established. There is no evidence to show that the respondents had instigated, provoked, or abetted the deceased to commit suicide. In the absence of any such evidence having been led by the prosecution, the Trial Court has rightly passed the impugned judgment and order of acquittal, after referring to and relying upon the decisions of the Hon'ble Supreme Court as well as this Court, as referred to in Paragraph 26 of the impugned judgment. The Trial Court has, therefore, rightly held that the prosecution has miserably failed to prove the charges levelled against the respondents beyond reasonable doubt.

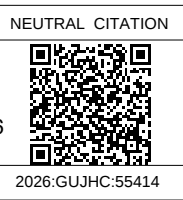
19. So far as the allegations regarding ill-treatment or harassment caused to the deceased, Bhavnaben, at the hands of the respondents are concerned, it is borne out from the evidence on record that the deceased, Bhavnaben, was residing separately with her husband i.e. respondent No.1 at Vejalpur for the last two years prior to the date of the incident. The respondent Nos. 2 to 5 were residing at Isanpur, at a distance of approximately 10 kilometres from the residence of the deceased. Therefore, from the evidence of the prosecution witnesses, it is clear that the prosecution has failed to establish, beyond reasonable doubt, that the deceased was subjected to any ill-treatment or harassment at the instance of the respondents. In the absence of any cogent and reliable evidence in this regard, the prosecution has failed to prove the charge levelled against the respondents. Thus, on perusal of the impugned judgment and the reasons recorded by the Trial Court, this Court is of the view that the Trial Court has rightly acquitted the respondents. 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.

20. 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.

21. 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

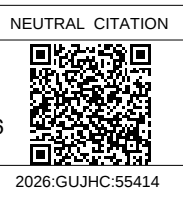


committed a manifest error of law and ignored the material evidence on record. A duty is cast upon the Appellate Court, in such circumstances, to re-appreciate the evidence to arrive to a just decision on the basis of material placed on record to find out whether the accused are connected with the commission of the crime with which they are charged.

22. 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.

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

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



"42. (1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, "substantial and compelling reasons", "good and sufficient grounds", "very strong circumstances", "distorted conclusions", "glaring mistakes", etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of "flourishes of language" to emphasize the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.

21. In Rajendra Prasad v. State of Bihar, a three-Judge Bench of this Court pointed out that it would be essential for the High Court, in an appeal against acquittal, to clearly indicate firm and weighty grounds from the record for discarding the reasons of the Trial Court in order to be able to reach a contrary conclusion of guilt of the accused. It was further observed that, in an appeal against acquittal, it would not be legally sufficient for the High Court to take a contrary view about the credibility of witnesses and it is absolutely imperative that the High Court convincingly finds it well-nigh impossible for the Trial Court to reject their testimony. This was identified as the quintessence of the jurisprudential aspect of criminal justice. Viewed in this light, the brusque approach of the High Court in dealing with the appeal, resulting in the conviction of Appellant Nos. 1 and 2, reversing the cogent and well-considered judgment of acquittal by the Trial Court giving them the benefit of doubt, cannot be sustained."



24. 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 have committed the alleged crime. Therefore, the accused cannot be convicted on the evidence on record.

25. On perusal of the impugned judgment and order, it clearly transpires that the trial Court has not committed any error of fact and law in appreciating the evidence on record and in acquitting the accused from the charges levelled against them. Even on re-appreciation of the evidence, it clearly transpires that the prosecution has miserably failed to prove the charge levelled against the accused beyond reasonable doubt. Therefore, the impugned judgment and order of the trial Court is sustainable and the present appeals are liable to be dismissed.

26. In view of the above, both the appeals are devoid of merits and deserve to be dismissed. Resultantly, both the appeals are hereby 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