

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL APPEAL NO. 28 of 2013****FOR APPROVAL AND SIGNATURE:**

**HONOURABLE MR. JUSTICE CHEEKATI MANAVENDRANATH ROY**  
**and**  
**HONOURABLE MR.JUSTICE D. M. VYAS**

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Approved for Reporting	Yes	No

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STATE OF GUJARAT

Versus

RAMABEN @ SAGUBEN RANJITBHAI CHU.KOLI &amp; ANR.

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Appearance:

MR BHARGAV PANDYA, APP for the Appellant(s) No. 1  
MS HETA PANCHAL FOR HL PATEL ADVOCATES(2034) for the  
Opponent(s)/Respondent(s) No. 1,2

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**CORAM: HONOURABLE MR. JUSTICE CHEEKATI**  
**MANAVENDRANATH ROY**  
**and**  
**HONOURABLE MR.JUSTICE D. M. VYAS**

**Date : 26/06/2025**

**ORAL JUDGMENT**  
**(PER : HONOURABLE MR.JUSTICE D. M. VYAS)**

1. This acquittal appeal is preferred by the State of Gujarat under Section 378 of the Criminal Procedure Code ('the CRPC' for short) against the judgment and order dated 08/10/2012 passed by the learned 2<sup>nd</sup> Additional Sessions Judge, Surendranagar in Sessions Case No.48 of 2011

wherein, the respondents-original accused no.1 Ramaben @ Saguben Ranjitbhai Chu.Koli, accused no.2, Jerambhai Ishwarbhai Chu.Koli, came to be tried for the offences punishable under Sections 302, 306, 323, 504, 506(2) read with Section 114 of the Indian Penal Code, 1860 ('the IPC for short). At the end of the trial, the trial court acquitted the respondents from all the charges giving the benefit of doubt.

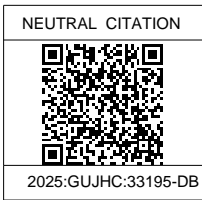
2. Brief facts of the case, giving rise to the present appeal, are as under:

3. It is the case of the prosecution that on 10/03/2011, the complainant Janakben Gelabhai Solanki, mother of the deceased Jashuben went for making bread at Bhavna Roadways where at about 8:00 p.m., her son-in-law Dhirubhai came there on bicycle and took her on bicycle for home. At about 8:45 p.m., they have reached at the house and at that time, mob of persons are gathered near the house. The complainant inquired about the same. Her neighbours Bayaben, Babubhai and her son Kana informed her that about 7:30 p.m. when Jashuben went at the shop of Jayeshbhai, at that time, on road, Saguben and Ranjitbhai quarreled with

Jashuben and dragged her by holding her hair. Thereafter, Jashuben came home and behind her, Saguben also came home quarreled with her and broken her bangles. At that time, her younger son Kano was also present at home and Saguben sent him outside the room by threatening him. Thereafter, Saguben went from there after beating Jashuben and after sometime, Jashuben poured kerosene on her body and set herself on fire. In fired condition, she came outside the house. Therefore, Somabhai and other persons put rajai on her and extinguished the fire. Thereafter, son-in-law of the complainant and other relatives took Jashuben at Gandhi Hospital where daughter of the complainant declared dead. Therefore, complaint was lodged by the complainant.

4. It is further alleged that from last three months, the son-in-law (A-2) of Saguben pressurized the deceased for living with him and also threatened to the deceased.

5. After registration of the FIR for the aforesaid offences, necessary investigation was carried out. During the course of investigation, as sufficient material was found against the accused, ultimately, charge sheet was filed before the



concerned magistrate court. However, as the case being exclusively sessions triable, the same was committed before the Sessions Court, Surendranagar as per the provisions of Section 209 of the Criminal Procedure Code where the case was registered as Sessions Case No.48 of 2011.

6. During the trial, an application vide Exh.35 was filed for adding the charge under Section 302 read with Section 114 of the IPC. The same is allowed and opportunity of further cross examination of material witnesses of the prosecution was given.

7. The learned trial court framed the charges of the alleged offences against the accused but the accused have pleaded not guilty. Thereafter, the trial was initiated.

8. To prove the charges against the respondent accused, the prosecution admits the following documentary as well as oral evidences in support of the case.

**Oral evidences:-**

Exh.13	Dr. Bansi Gautambhai Vaghela
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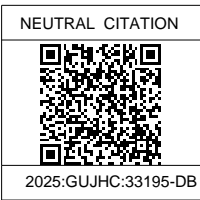
Exh.15	Janakben Jeshingbhai
Exh.24	Vasantben Bhupatbhai
Exh.25	Amitaben Gelabhai
Exh.26	Kanjibhai Gelabhai
Exh.27	Jayesh Naginbhai Thakkar
Exh.29	Shamjibhai Virsangbhai
Exh.30	Bhalia Prakash Mohanlal
Exh.31	Balmukund Gautambhai Bhatt

**Documentary evidences:-**

Exh.14	PM note
Exh.17	Inquest Panchnama
Exh.18	Panchnama of place of incident
Exhs.20 to 22	FSL Documents
Exh.32	Station Diary Entry No.3 of 2011 of Vadhavan Police Station
Exh.33	Accidental death register entry no.6

9. After completion of the prosecution evidences, further statement of the accused under Section 313 of the Cr.P.C. was recorded with regard to incriminating circumstances made in the evidences rendered by the prosecution and they have denied it and not lead any evidence in defense.

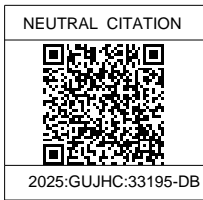
10. The learned trial court, after appreciating and examining the oral as well as documentary evidences, acquitted the respondents-accused from the charges.



11. In view of the aforesaid facts and circumstances, the appellant-State of Gujarat has come up before this Court by way of this appeal and challenged the impugned judgment and prayed to set aside the acquittal judgment passed by the learned trial court.

12. We have heard learned APP Mr. Bhargav Pandya appearing for the appellant-State and learned advocate Ms.Heta Panchal for HL Patel Advocates for the respondents-accused at length on facts of the case as well as provision of law.

13. Learned APP Mr. Bhargav Pandya appearing for the appellant-State of Gujarat, assailing the impugned judgment and order of acquittal, submitted at length the facts of the oral evidences of the prosecution witnesses and vehemently argued that PW-5, Kanjibhai Gelabhai, brother of the deceased Jashuben (eye witness) supported the prosecution case. It is further submitted that PW-8 Shamjibhai, brother-in-law of the deceased supported the prosecution case. The learned trial court failed to appreciate the ocular evidence of

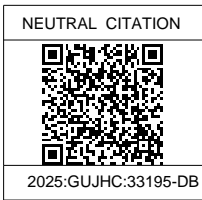


material witnesses of the prosecution.

13.1. Learned APP further submitted that the prosecution has examined PW-1, who has performed the postmortem of the deceased and further submitted that the deceased Jashuben sustained the burns injury of second and third degree all over the body except hands and legs and vehemently argued that the prosecution has produced the corroborative evidence to prove the charges levelled against the respondents-accused.

13.2. Learned APP further submitted that other family members of the deceased also supported the prosecution case and learned trial court ought to have consider the oral as well as documentary evidences but it has failed to appreciate the same and recorded the erroneous findings. It is further submitted that the impugned judgment is not just, legal and proper and required to be interfered by this Court and lastly prayed to allow this appeal and set aside the impugned judgment passed by the learned trial court.

14. On the other hand, learned advocate Ms. Heta Panchal appearing for the respondents-accused has submitted at



length the facts of the oral as well as documentary evidences produced by the prosecution and argued that the prosecution has miserably failed to prove the death of the deceased as homicidal death and further submitted that there is no any eye witness in the prosecution case and vehemently argued that as per the prosecution case PW-5 is out of the room and nobody has seen the alleged incident. It is further submitted that PW-8 has not seen the deceased and the accused no.2 together at any point of time before the incident.

14.1. Learned advocate appearing for the respondents-accused further submitted that learned trial court has deeply scrutinized the prosecution evidences and recorded the reasons which are just, legal and proper and not required to be interfered by this Court and lastly prayed to dismiss the appeal.

15. Before dealing with the rival contentions of the parties, it would be appropriate to analyze the medical evidence produced by the prosecution.

16. The prosecution has examined PW-1, Dr. Bansi G.

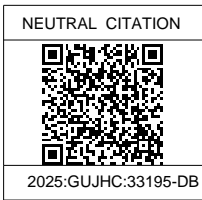


Vaghela vide Exh.13 appreciating the oral evidence of the medical officer. He has clearly stated that he has unable to give the opinion that the death is accidental or suicidal. He has produced the PM report vide Exh.14. It appears from the PM note that cause of death is extensive burns on the body.

17. Considering the ocular and documentary evidences, it appears that the medical officer himself is not in a position to give an opinion whether the death is accidental or suicidal. Considering these facts, the prosecution has miserably failed to prove the fact that the death of the deceased is homicidal death.

18. The prosecution has examined PW-5, Kanjibhai Gelabhai at Exh-26, brother of the deceased Jashuben. During the cross examination, the defense side proved materiel contradiction and omission in the ocular evidence of the prosecution witness.

19. The prosecution has examined PW-8, Shamjibhai at Exh.29. The prosecution witness stated the facts during the cross examination that he has not seen his sister-in-law with



Jerambhai (A-2). This important fact is required to be considered.

20. Considering the facts and circumstances of the prosecution case and deep scrutiny of the evidences available on record, it appears that PW-5, brother of the deceased is not an eye witness of the incident. The PW-8 clearly stated that he has not seen the deceased with A-2. The complainant and other family members have not seen the incident and the prosecution has miserably failed to prove the charges levelled against the accused.

21. At the outset, it is required to be noted that the principles which would govern and regulate the hearing of appeal by this Court against an order of acquittal passed by the trial Court, have been very succinctly explained by the Apex Court in a catena of decisions. In the case of **M.S. Narayana Menon @ Mani Vs. State of Kerala & Anr., (2006) 6 S.C.C. 39**, the Apex Court has narrated the powers of High Court in appeal against the order of acquittal. In Paragraph-54 of the said decision, the Apex Court has observed as under:

*“54. In any event the High Court entertained an appeal treating to be an appeal against acquittal, it was in fact exercising the revisional jurisdiction. Even while exercising an appellate power against a judgment of acquittal, the High Court should have borne in mind the well-settled principles of law that where two view are possible, the appellate Court should not interfere with the finding of acquittal recorded by the Court below.”*

21.1. Further, in the case of **Chandrappa Vs. State of Karnataka, (2007) 4 S.C.C. 415**, the Apex Court has laid down the following principle;

*“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, re-appreciate 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 emphasis 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."*

21.2. In the case of **State of Goa V. Sanjay Thakran & Anr., (2007) 3 S.C.C. 75**, the Apex Court reiterated the powers of the High Court in such cases. In Paragraph-16 of the said decision, the Court observed as under;

*"16. From the aforesaid decisions, it is apparent that 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 any of the accused is connected with the commission of the crime he is charged with."*

21.3. Similar principle has been laid down by the Apex Court in the cases of **State of Uttar Pradesh Vs. Ram Veer Singh & Ors, 2007 A.I.R. S.C.W. 5553** and in **Girja Prasad (Dead) by LRs Vs. State of MP reported in 2007 A.I.R. S.C.W. 5589**. Thus, the powers, which this Court may exercise against an order of acquittal, are well settled.

21.4. It is also a settled legal position that in acquittal appeal, the appellate Court is not required to re-write the judgment or to give fresh reasonings, when the reasons assigned by the Court below are found to be just and proper. Such principle is laid down by the Apex Court in the case of **State of Karnataka Vs. Hemareddy reported in AIR 1981 S.C. 1417**, wherein, it is held as under:

*"... This Court has observed in Girija Nandini Devi V. Bigendra Nandini Chaudhary (1967)1 SCR 93: (AIR 1967 SC 1124) that it is not the duty of the appellate Court when it agrees with the view of the trial Court on the*

*evidence to repeat the narration of the evidence or to reiterate the reasons given by the trial Court expression of general agreement with the reasons given by the Court the decision of which is under appeal, will ordinarily suffice."*

21.5. Thus, in case the appellate Court agrees with the reasons and the opinion given by the lower Court, then the discussion of evidence is not necessary.

22. Considering the impugned judgment and order of the learned trial Court and the aforesaid reasoning and bearing in mind the statutory provisions, as well as the judgments of the Hon'ble Apex Court, this Court is of the considered opinion that the present appeal does not warrant any interference in the impugned judgment and order passed by the learned trial Court. We find that the findings recorded by the learned trial Court are absolutely just and proper and in recording the said findings, no illegality and infirmity has been committed by it. We are therefore, in complete agreement with the findings and ultimate conclusion recorded by the learned trial Court and there is no reasons to interfere with the same.

23. The present appeal of the State is accordingly dismissed.



Bail bond, if any, shall stand cancelled.

24. Record and proceedings be sent back forthwith to the concerned court.

**(CHEEKATI MANAVENDRANATH ROY, J)**

**(D. M. VYAS, J)**

ILA