IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL NO. 1000 of 2003
With
R/CRIMINAL REVISION APPLICATION NO. 443 of 2003
With
CRIMINAL MISC.APPLICATION NO. 1 of 2005
In R/CRIMINAL REVISION APPLICATION NO. 443 of 2003

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ILESH J. VORA
and
HONOURABLE MR. JUSTICE R. T. VACHHANI

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Approved for Reporting	Yes	No

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STATE OF GUJARAT
Versus
MAHERIYA SINDHUKUMAR DEVJIBHAI & ORS.

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Appearance:
MR RONAK B RAVAL, APP for the Appellant(s) No. 1
KEVAL H MAHARAJA(9062) for the Opponent(s)/Respondent(s) No. 1,3,4,5
NOTICE SERVED for the Opponent(s)/Respondent(s) No. 2

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CORAM:**HONOURABLE MR. JUSTICE ILESH J. VORA**
and
HONOURABLE MR. JUSTICE R. T. VACHHANI

Date : 12/12/2025
ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE R. T. VACHHANI)

1. Feeling aggrieved and dissatisfied with the judgment and order of acquittal dated 06.05.2003 passed by the learned Additional Sessions Judge, Fast Track Court, Mehsana in Sessions Case No.280/1998, whereby the respondent-accused came to be acquitted for the offences punishable under Sections 302, 498A read with Section 34 of the Indian Penal Code, the appellant – State has preferred the present appeal under

Section 378 of the Code of Criminal Procedure, 1973 ("the Code" for short). The complainant has also preferred Criminal Revision Application No.443 of 2003 challenging acquittal of the accused under Sections 397 & 401 of the Code of Criminal Procedure.

2. The brief facts leading to the filing of the present appeal are as under:

2.1. The complainant, father of the deceased, lodged a complaint before Mansa Police Station alleging that the deceased was married to accused No.1 on 10.07.1997 at village Mane kpur, Taluka Vijapur, District Mehsana, and was residing with her husband (accused No.1), mother-in-law (accused No.2) and sisters-in-law (accused Nos.3, 4 and 5). It was alleged that within four months of marriage, the accused persons subjected the deceased to physical and mental harassment on the ground of insufficient dowry, demanding gold or three tolas, and on 17.11.1997 at about 17:00 hours, the deceased, unable to bear the harassment, poured kerosene on her and attempted suicide by setting herself ablaze. She was rushed for treatment to Gandhinagar Civil Hospital, thereafter to Ahmedabad Civil Hospital, a private clinic of Dr. Himanshu Sheth and finally to Shalby Hospital, Ahmedabad, where she succumbed to the injuries on 19.02.1998 at about 09:15 hours.

2.2. The FIR was lodged at Mansa Police Station under Sections 498A and 306 IPC, later Section 302 IPC was added. The accused were arrested and after investigation, a charge sheet was filed on 16.07.1998 before the Judicial Magistrate First Class, Mehsana, registered as Criminal Case No.414/1998.

2.3. As the Judicial Magistrate First Class lacked jurisdiction to try the offence under Section 302 IPC, the case was committed to the Sessions Court, Mehsana vide order dated 06.11.1998 and registered as Sessions Case No.280/1998 for trial. Upon conclusion of the prosecution evidence, the learned Sessions Court put various incriminating circumstances appearing in the evidence to the respondent-accused for their explanation under Section 313 of the Code. In their further statements, the respondent-accused denied all the incriminating circumstances as false and stated that they are innocent and have been falsely implicated. After examining the oral and documentary evidence and the submissions from both sides, the learned Sessions Court recorded a finding in favour of the respondent-accused and acquitted them of all charges.

3. We have heard the learned advocates for the respective parties and carefully examined the oral and documentary evidence adduced before the learned Sessions Court. During the course of the trial, the prosecution examined a total of 8 witnesses. The details of the oral and documentary evidence are as under:

~:: Oral Evidence ::~

Sr. No.	Particular	Exh.
1.	Madhuben Kantilal Parmar PW-1	14
2.	Kantilal Nathalal Parmar PW-2 (Complainant)	15
3.	Sanjaykumar Kantilal Purohit PW-3	18
4.	Ranjitsinh Visangbhai Gehlot PW-4 (Executive Magistrate)	26
5.	R. P. Jhala PSI PW-5 (Investigating Officer)	34
6.	K. N. Makwana PSI PW-6	35

Sr. No.	Particular	Exh.
7.	P. R. Raval PSI PW-7 (Investigating Officer)	38
8.	A. S. Rathod PSI PW-8 (Investigating Officer)	40

~:: Documentary Evidence ::~

Sr. No.	Particular	Exh.
1.	Original complaint of complainant Kantilal Nathalal Parmar	16
2.	Report by PSO	19
3.	Order by PSO	20
3.	Panchnama of the place of incident	21
4.	Dying declaration of the deceased	22
5.	Inquest panchnama	23
6.	Post-mortem report	24
7.	Report for adding Section 302 IPC	25
8.	Yadi to Executive Magistrate for recording dying declaration	28
9.	Original dying declaration	29
10.	Certificate of treatment given to deceased by Dr. Dreamanshu Sheth	30
11.	Report by PSI to PSO Shaher Kotda Police Station, Ahmedabad	31
12.	Report by PSO to PSI, Shaher Kotda Police Station, Ahmedabad	32
13.	Post-mortem note	33
14.	Statement of deceased recorded by PSI, Mansa Police Station	37
15.	Statement of deceased	39

4. The learned Additional Public Prosecutor appearing for the appellant – State submitted that the impugned judgment requires interference, primarily relying upon the dying declaration of the deceased recorded on 10.02.1998 (Exh.29) and the statements of PW-1 (Exh.14), PW-2 (Exh.15) and PW-3 (Exh.18). It was contended that the deceased, in her dying declaration, implicated accused Nos.1, 2 and 5 in pouring kerosene on her person and setting her ablaze on 17.11.1997 at about 17:00 hours, besides alleging persistent harassment by the accused persons for dowry. The burn injuries sustained by the deceased, as corroborated by the post-mortem report (Exh.24) and treatment certificate (Exh.30), leading to her death on 19.02.1998, were stated to be homicidal in nature. Hence, it was urged that the learned Sessions Court erred in discarding the prosecution case and acquitting the accused.

4.1. The learned Additional Public Prosecutor further submitted that the evidence of PW-4 (Exh.26), the Executive Magistrate who recorded the second dying declaration, and the investigation witnesses (PW-5 at Exh.34, PW-7 at Exh.38 and PW-8 at Exh.40) corroborates the prosecution version regarding the recording of statements and scene of occurrence, thereby warranting interference with the acquittal and conviction of the respondent-accused.

5. The learned Advocate for the respondent-accused submitted that the impugned judgment does not call for any interference. He contended that the dying declarations of the deceased are contradictory and unreliable: the first dying declaration dated 17.11.1997 (Exh.22) attributes the incident to an accident caused by her brothers visiting the house, the complaint (Exh.16) alleges suicide due to harassment without implicating anyone in the act of burning, and only the third dying declaration dated 10.02.1998 (Exh.29) implicates the accused in pouring

kerosene and setting fire, recorded nearly three months later during ongoing treatment by family members of the accused. PW-1 (mother of deceased, Exh.14) in cross-examination admitted that the deceased initially stated it was a suicide due to harassment and only later alleged involvement of accused Nos.2 and 5 in holding her and accused No.1 in lighting the fire. Similarly, PW-2 (complainant/father, Exh.15) in cross-examination categorically stated that the deceased committed suicide by pouring kerosene herself due to in-laws' harassment, and no allegation of accused burning her was made in the initial complaint or police statements. PW-3 (brother, Exh.18) also admitted in cross-examination that villagers informed him of the deceased burning herself and that she later narrated the involvement of accused only after about ten days. No independent witnesses from the neighbourhood or medical staff beyond family members were examined to corroborate the harassment or the act of burning. The panchnama of the scene (Exh.21) indicates the inner door was locked from inside with burn marks on the wooden beam, consistent with suicide rather than forced entry or restraint. It was further submitted that there was no custom of dowry in the complainant's family, as admitted by PW-1 and PW-2, and the defence plea of the deceased's pre-marital affair with her cousin, leading to forced marriage and subsequent discord, remains un-rebutted. Hence, in the absence of evidence proving the case beyond reasonable doubt, the acquittal is justified.

6. Having heard the learned advocates for both sides and perused the depositions of the witnesses, documentary evidence, and the judgment of the Sessions Court, it appears that the prosecution case, primarily resting on the dying declarations and interested family witnesses, is riddled with material contradictions and lacks independent corroboration, rendering it unworthy of credence.

7. On scrutiny of the dying declarations, which form the basis of the prosecution case, it is evident that they present mutually inconsistent versions. The first dying declaration (Exh.22) recorded immediately on 17.11.1997 by PW-4, the Executive Magistrate, states that the deceased's brothers had visited the house, and in the ensuing scuffle to create a scene, her clothes caught fire accidentally while she was cooking, causing the burns. This version aligns with the panchnama of the scene of occurrence (Exh.21), which notes that the door between the ground and upper floor was locked from inside, with fresh burn marks on the northern wooden beam and slight scorching on the edges, suggesting the deceased entered alone, locked the door, and the fire originated internally without signs of external restraint or forced intervention. PW-4, in his deposition (Exh.26), confirmed that the deceased was in a fit state of mind, having satisfied himself through preliminary questions, and she voluntarily narrated the accidental nature without any tutoring or coercion. This contemporaneous account, recorded within hours of the incident, carries significant probative value as it is least prone to embellishment. However, the prosecution's reliance on the third dying declaration dated 10.02.1998 (Exh.29), recorded nearly three months later by another Executive Magistrate, introduces irreconcilable contradictions. Therein, the deceased alleged that accused No.2 (mother-in-law) and accused No.5 (sister-in-law) held her while pouring kerosene, and accused No.1 (husband) lit the matchstick, stemming from a quarrel over returning late from the market. This delayed version emerges after prolonged hospitalization, during which accused family members were present for treatment (as admitted by PW-2 in cross-examination at Exh.15), raising doubts about potential influence or fabrication to shift blame. The medical evidence, including the treatment certificate (Exh.30) and post-mortem report (Exh.24), confirms extensive burns (1st, 2nd and 3rd degree) over almost the entire body leading to shock and death, but

does not distinguish between self-inflicted and homicidal burns, leaving the mechanism dependent on testimonial credibility, which is patently undermined by the evolving narratives.

8. The oral evidence of the family witnesses further exposes the infirmities in the prosecution case. PW-1, Madhuben Kantilal Parmar (mother of deceased, Exh.14), deposed that the deceased confided in her about dowry demands and harassment by the accused, culminating in the incident where accused Nos.2 and 5 held her and poured kerosene, with accused No.1 igniting it. However, in rigorous cross-examination, PW-1 admitted that upon regaining consciousness, the deceased initially attributed the burns to self-immolation due to unbearable in-laws' torture and only later implicated the accused specifically. This admission not only dilutes her testimony but also highlights the afterthought in implicating the accused, especially since no such details were volunteered in the initial hospital statements or the first dying declaration. Similarly, PW-3, Sanjaykumar Kantilal Purohit (brother of deceased, Exh.18), stated that villagers informed him of the deceased being set ablaze by in-laws, and later the deceased narrated the roles of accused Nos.2, 5 and 1. Yet, in cross-examination, he conceded that the villagers' information was that she had burned herself inside the house, and the specific allegation against the accused surfaced only after about ten days of treatment, with no effort to examine any such villager as an independent witness despite the incident occurring in a residential neighbourhood at dusk. PW-2, Kantilal Nathalal Parmar (complainant/father, Exh.15), the pivot of the FIR (Exh.16), lodged the complaint on 18.11.1997 alleging suicide due to dowry harassment without any whisper of the accused pouring kerosene or restraining the deceased. In his chief examination, he vaguely alluded to the deceased's later statements implicating the accused, but cross-examination elicited devastating admissions: he confirmed the deceased

poured kerosene herself out of frustration, no allegation of burning by accused was made in police statements or the initial complaint, and during investigation, it was recorded as self-inflicted. These categorical concessions by PW-2, an educated senior clerk, demolish the foundational allegation of murder, reducing the case to mere suspicion without forensic or circumstantial linkage. The investigating personnels —PW-5 (Exh.34), PW-6 (Exh.35), PW-7 (Exh.38) and PW-8 (Exh.40)— mechanically deposed about procedural steps like recording statements and inquest panchnama (Exh.23), but offered no insight into the veracity of the conflicting versions, underscoring the prosecution's failure to marshal neutral evidence from neighbours, medical attendants or the cousin allegedly involved in the pre-marital affair.

9. The alleged dowry harassment under Section 498A IPC fares no better, as it remains unsubstantiated beyond interested oral assertions. PW-1 and PW-2 admitted in cross-examination that there was no family custom of giving dowry at the time of marriage, with gifts like jewellery being voluntary and of modest value (copper or brass items). The deceased made no mention of dowry demands in her first dying declaration (Exh.22), attributing discord only to domestic chores and late returns from errands, as echoed in the second dying declaration (Exh.29). No receipts, independent witnesses from matrimonial negotiations, or prior complaints under Section 498A were produced, rendering the claim a bald afterthought. The defence plea—that the deceased had a pre-marital relationship with her cousin Manish, who frequently visited Mane kpur post-marriage, leading to forced union with accused No.1 despite her reluctance—gains traction from unchallenged facts, immediate relocation to in-laws' home post-marriage, the cousin's regular up-down from Chandkheda to Ahmedabad, and the deceased's visits to parental home which backdrop of marital discord, rather than dowry, plausibly

explains the suicide, as borne out by the locked inner door and self-inflicted mechanism inferred from the scene panchnama (Exh.21) and consistent initial accounts. In a criminal trial, the prosecution bears the burden to exclude all hypotheses of innocence; here, the multiplicity of versions—from accident to suicide to murder—coupled with family witnesses' self-contradictions and absence of contemporaneous accusation against the accused in the FIR (Exh.16) or police papers (Exhs.37, 39), generates reasonable doubt that the learned Sessions Court rightly resolved in favour of acquittal.

10. The post-mortem note (Exh.33) and report (Exh.24) attribute death to burn shock, but the cause—suicidal or homicidal—hinges on unreliable testimony, not medical differentiation. No recovery of kerosene container or matchsticks tied to the accused was effected, and the yadi for adding Section 302 (Exh.25) was perfunctory without fresh evidence. The prosecution's case thus crumbles under its internal inconsistencies: the first dying declaration's accidental narrative aligns with the scene evidence and initial family statements, while the delayed implicatory version smacks of tutoring amid family presence during treatment. Independent corroboration, essential in dowry death cases, is conspicuous by absence—no neighbour deposed of hearing cries or seeing restraint, no medical staff confirmed the deceased's fit state for the third declaration without influence, and the complainant's own cross-examination repudiates murder. To convict on such shaky edifice would invert the presumption of innocence under Section 114 Illustration (b) of the Evidence Act, 1872. The learned Sessions Court, therefore, correctly appreciated the evidence, holding that the deceased committed suicide by self-immolation due to marital discord, without proof of abetment or cause attributing the accused beyond reasonable doubt.

11. The cumulative effect of the above analysis—contradictory dying declarations, admissions in cross-examination by key family witnesses (PW-1 at Exh.14, PW-2 at Exh.15, PW-3 at Exh.18) favouring suicide, the scene panchnama (Exh.21) indicating solitary act, and total dearth of independent evidence on harassment or burning—irrevocably tilts the balance against the prosecution. Any interference with the acquittal, which is a finality in fact-finding unless perverse, would be unwarranted. The respondent-accused deserve the benefit of doubt, as the case rests on conjecture rather than cogent proof.

12. In addition to the above, we independently observe that the timeline of events reveals a pattern of narrative evolution tailored to implicate the accused post-death. The report adding Section 302 (Exh.25) followed the second dying declaration, but ignored the inconsistencies flagged by the investigation officers (PW-7 at Exh.38), who noted no external injuries suggestive of restraint in the inquest (Exh.23). The treatment trajectory—from public hospitals to private care funded partially by accused (as per PW-2's admission)—provided ample opportunity for influenced recitals, undermining the voluntariness of Exh.29. Furthermore, the unexamined cousin's visits, admitted by PW-1, introduce a plausible motive for discord unrelated to dowry, aligning with the defence under Section 313 statements where accused No.1 denied harassment and attributed the act to the deceased's reluctance in marriage. This mosaic of improbabilities reinforces the Sessions Court's view that the prosecution failed to establish common intention under Section 34 IPC for murder or abetment to suicide, as the deceased's act appears self-willed amid personal frustrations.

13. In assessing the evidentiary value of dying declarations under Section 32(1) of the Indian Evidence Act, 1872, the settled legal position

mandates that primacy be accorded to the earliest declaration recorded contemporaneously with the incident. Such a declaration, made immediately after the occurrence and certified by a competent Executive Magistrate as having been given voluntarily and in a fit physical and mental condition, carries a high degree of probative force, as it is least likely to be tainted by external influence, deliberation, or fabrication. Conversely, subsequent dying declarations recorded after prolonged hospitalization, multiple interactions with family members, and lapse of significant time, particularly when they introduce new allegations or embellishments absent in the initial version, are inherently suspect. Where such later declarations are inconsistent with the first account and are contradicted by objective physical evidence, including the scene panchnama, the possibility of tutoring or afterthought cannot be ruled out, thereby warranting their rejection as unsafe for reliance.

14. The prosecution's failure to establish an offence of murder by homicidal burns under Section 302 IPC is manifest from the totality of the medical and circumstantial evidence on record. The post-mortem report unequivocally discloses death due to shock as a result of extensive burns, without recording any external injuries indicative of restraint, struggle, or physical violence preceding the burn injuries. The absence of such ancillary injuries materially weakens the prosecution theory of forcible assault. Further, the scene panchnama records that the inner room door was found locked from inside, a circumstance strongly consistent with suicide rather than homicidal violence. In the absence of any direct evidence or cogent circumstantial material demonstrating the active participation of the accused, the invocation of Section 34 IPC to attribute common intention is legally unsustainable, as common intention cannot be presumed in a vacuum and must be established beyond reasonable doubt through reliable evidence.

15. The credibility of the prosecution case is further eroded by material admissions elicited during the cross-examination of interested witnesses, namely family members of the deceased, examined under Section 154 of the Evidence Act. These witnesses admitted that in their initial statements they had attributed the incident to self-immolation allegedly arising from harassment, without accusing the present accused of having actively set the deceased on fire. Such subsequent improvements and volte-face, in the absence of independent corroboration, render their testimonies unreliable. This inconsistency offends the mandate of Section 60 of the Evidence Act, which requires oral evidence to be direct, cogent, and consistent. Testimony that oscillates without satisfactory explanation cannot form the basis of a conviction in a criminal trial.

16. The charge of cruelty under Section 498A IPC remains wholly unproven, resting merely on bald and omnibus allegations unsupported by any independent or contemporaneous material. The prosecution has failed to produce any prior complaint, mediation record, or testimony from independent witnesses connected with matrimonial proceedings to substantiate the alleged cruelty or dowry demands. On the contrary, admissions on record that no customary dowry practice prevailed in the complainant’s community effectively rebut the presumption contemplated under Section 113A of the Evidence Act. In the absence of proof of wilful conduct of such a nature as was likely to drive the deceased to commit suicide within 7 years of marriage, the statutory ingredients of Section 498A IPC remain unmet.

17. It is a well-settled principle that the appellate court, while exercising jurisdiction under Section 378 CrPC against an acquittal, may

interfere only when the findings of the trial court are shown to be manifestly erroneous, perverse, or wholly unsustainable on the evidence. In the present case, the trial court's acquittal is founded on a careful and plausible appreciation of evidence. The prosecution's case gives rise to multiple competing hypotheses, including accident, suicide, and homicide, none of which has been conclusively established to the exclusion of the others.

18. The delayed introduction of specific allegations implicating the accused in the act of pouring kerosene, which finds no mention in the FIR lodged under Section 154 CrPC or in the initial statements of witnesses, constitutes a clear case of material improvement. Such belated accusations materially impair the credibility of the prosecution version. The failure to examine neutral neighbours from the residential vicinity, who could have independently corroborated any cries for help or sounds of altercation, further weakens the prosecution case. This omission violates the duty to present the best available evidence and justifies the drawing of an adverse inference under Section 114(g) of the Evidence Act.

19. The defence plea of a pre-marital affair and continuing marital discord, supported by unchallenged facts regarding frequent visits by the deceased's cousin, introduces a credible and plausible alternative motive for suicide independent of any allegation of dowry or cruelty. This defence version, having remained substantially unrebutted, shifts the onus back onto the prosecution to decisively exclude such hypothesis. The failure to do so results in a break in the chain of circumstances, which is fatal to the prosecution case in a matter resting predominantly on circumstantial evidence, thereby rendering conviction legally impermissible.

20. In consonance with the principles enunciated by the Hon'ble Supreme Court in **Abhishek Sharma v. State (Govt. of NCT of Delhi) [Criminal Appeal No. 1473 of 2011, decided on 18.10.2023**, wherein it was held that multiple dying declarations must be scrutinized independently for voluntariness, reliability, and consistency, with material inconsistencies rendering them unworthy of credence unless reconciled by corroborative evidence, and emphasizing that procedural lapses, risks of tutoring during prolonged hospitalization, and absence of magisterial oversight necessitate rejection of such statements as the sole basis for conviction, we find that the contradictory dying declarations in the instant case—ranging from an accidental burn in the first declaration (Exh.22) recorded contemporaneously by the Executive Magistrate, to suicide due to harassment in the initial complaint (Exh.16) without implicating the accused in the act, and only later evolving to allegations of homicidal burning in the delayed third declaration (Exh.29) after nearly three months amid family influence—suffer from similar infirmities, including hearsay elements, suspicions of embellishment, lack of medical attestation on mental fitness during recording, and no independent corroboration from neutral witnesses or forensic linkage, thereby failing to meet the threshold of proof beyond reasonable doubt; consequently, the learned Sessions Court's acquittal, predicated on these unresolved doubts and the plausible hypothesis of self-immolation as inferred from the locked scene of occurrence (Exh.21), warrants no interference, as any reliance on such unreliable declarations would invert the presumption of innocence and perpetuate a miscarriage of justice.

21. At this stage, this Court may refer to the decision of the Hon’ble Apex Court in the case of ***Rajesh Prasad v. State of Bihar and Another [(2022) 3 SCC 471]*** encapsulated the legal position covering the field

after considering various earlier judgments and held as below: -

> *"29. After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate court while dealing with an appeal against an order acquittal in the following words: (Chandrappa case [Chandrappa v. State of Karnataka, (2007) 4 SCC 415]*
> *"42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:*
>
> *(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.*
> *(2) The Criminal Procedure Code, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.*
> *(3) Various expressions, such as, "substantial and compelling reasons", "good and sufficient grounds", "very strong circumstances", "distorted conclusions", "glaring mistakes", etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of "flourishes of language" to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.*
> *(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.*
> *(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.*"

22. In the case of ***H.D. Sundara & Ors. v. State of Karnataka [(2023) 9 SCC 581]*** the Hon'ble Apex Court has summarized the principles governing the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378 of CrPC as follows: -

> "*8.1. The acquittal of the accused further strengthens the presumption of*

innocence;

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to reappreciate the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible."

23. In light of the above legal position and for the reasons recorded in the foregoing paragraphs, coupled with the fact that the case of the prosecution does not get support from the evidence recorded by the learned Sessions Court, the present appeal fails and is accordingly dismissed. The captioned Criminal Revision Application alongwith the connected IA are also dismissed accordingly. Records and Proceedings, if any, be remitted to the Court concerned forthwith.

(ILESH J. VORA,J)

(R. T. VACHHANI, J)

MVP