

GJBK180015552017



Presented on : 10-07-2017  
Registered on : 10-07-2017  
Decided on : 21-04-2026  
Duration : 8 years, 9 months, 11 days

**IN THE COURT OF 6<sup>th</sup> ADDL DISTRICT JUDGE  
AT DEESA, BANASKANTHA  
(Presided Over by S.M.KANABAR)**

**SC/62/2017**

**Exhibit No.147**

**Complainant :**

Government of Gujarat Through Police Station Officer DEESA SOUTH  
POLICE STATION - BANASKANTHA DISTRICT 18, APP OFFICE,  
DEESA DIST BANASKANTHA DEESABANASKANTHA

**VERSUS**

**Accused:**

1:GANGABEN @ GEETABEN PITAMBARBHAI PATEL

Age: 52 Occupation :

HAWAI PILLAR GROUND, CHHAPRA MA,DEESA,PER ADD-NR  
RAILWAY FATAK,CHANDISAR, PALANPUR

2:HARESHKUMAR @ LALO GANGARAMBHAI PATEL

Age: 19 Occupation :

SEJALPURA SIM PALANPUR DIST BANASKANTHA

3:SHASHIBHAI @ SATISHBHAI KANAJIBHAI PRAJAPATI

Age: 32 Occupation :

PER ADD-VISHVAKARMA SOCIETY C-35 BHAVNAGAR CURRENT  
ADD-HARIPURA MANSAROVAR ROAD NR ANTIM DHAM

PALANPUR

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APP for State Complainant}: V B KANSARA  
Advocate for Accused : M P TRIVEDI and **K G PADHIYAR**  
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**Offence punishable under : 302, 114,  
201 of INDIAN PENAL CODE 135  
of GUJARAT (BOMBAY) POLICE  
ACT, 1951.**

**JUDGMENT**  
**(Delivered on 21-4-2026)**

**Factual Aspect**

(1) While preferring original complaint, it was filed by the original complainant stating that deceased Jasvantji Chamanji Chappiya (Thakor) and accused Gangaben @ Geetaben wife of Pitamberbhai Patel were residing together from five years and Jasvantji was having habit of drinking alcohol and he was beating the children of Gangaben caused through her first husband and he was also keeping immoral intention on the daughter of Gangaben caused through her first husband but Gangaben had no support and when her brother called her to live with them, Gangaben went to village Sejalpura Taluka Palanpur with her children. It was further stated that she informed to her nephew about the Jasvant and they decided to kill the Jashvant if he approach Gangaben at village Sejalpur. It was further stated that on Dtd.23/3/2017, Jasvant went at Sejalpur, hence, Gangaben and his son Rohitkumar @ Lalo Pitambarbhai Patel and Hareshbhai in collusion of each other took the Jasvant behind the house situated in their agricultural land Gangaben knocked down him on land and all three beat Jasvant by

wooden cudgel and when the Jasvant became unconscious, Harish called his frined Shashibhai @ Satishbhai Kanjibhai Prajapati, R/at. Haripura Palanpur with his rickshaw and when rickshaw came, Shashibhai drove the rickshaw on the Jasvant under instigation of Haris. It was further stated that when Jasvant died, the took Jasvant at his residence situated at Deesa Hawaii Pillar and Shashibha washed his rickshaw at this home and destructed the evidence, resultant, filling of complainant. The complaint was registered by the police for the offence punishable u/s. **302, 114, 201 of INDIAN PENAL CODE 135 of GUJARAT (BOMBAY) POLICE ACT, 1951 in DEESA CITY SOUTH POLICE STATION** vide Crime Register No. 18 OF 2017 on Dtd.24/3/2017 and after conclusion of the investigation, police filed charge-sheet before the magistrate court vide CC No.1199/2017 on Dtd.08/06/2017 and it was committed to the Sessions Court vide SC No. 62/2017 on Dtd.10/7/2017.

(2) **The Sessions Court verified the procedure of Section 207 of Cr.P.C and procedure of offer of legal aid to accused as per Para 125 and 128 of Criminal Manual and section 304 of Cr.P.C. As accused the advocate in legal aid was provided to them,** therefore, the then Sessions Court initiated the hearing under Section 226 of the Cr.P.C. and charge was framed as per Section 228 of Cr.P.C. vide under Ex.24. It was read over to the accused and they denied plead guilty under Ex.25 TO 27. Therefore, the procedure of recording of evidence of prosecution was initiated.

**Evidence :-**

**FORM C**

(3) **LIST OF PROSECUTION / DEFENCE / COURT WITNESSES**

RANK	EXHIBIT	NAME	NATURE OF EVIDENCE	STATUS
<b>A. Prosecution</b>				
<b>PW1</b>	31	Dipakbhai Chamanbhai Chhapiya	Complainant	Hearsay
<b>PW2</b>	36	Pravinbhai Ramswarup Lodha	Panch for Panchnama of crime spot	Hostile
<b>PW3</b>	39	Jasubhai Somaji Thakor	Panch for Panchnama of crime spot	Hostile
<b>PW4</b>	40	Ranjanben Parsottambhai Khatri	Panch for Panchnama of body situation of accused	Supportive
<b>PW5</b>	47	Rameshji Kapurji Thakor	Panch for Inquest Panchnama	Hostile
<b>PW6</b>	49	Rudabhai Hariram Thakor	Panch for Panchnama of cloths of deceased	Hostile
<b>PW7</b>	57	Vishnubhai Masaji Thakor	Panch for Panchnama of body situation of accused	Hostile
<b>PW8</b>	<b>59</b>	Kiranbhai Dineshbhai Raval	Panch for Panchnama of body situation of accused	Hostile
<b>PW9</b>	<b>61</b>	Dilavarbhai Ismailbhai Shekh	Panch for Discovery Recovery Panchnama	Hostile
<b>PW10</b>	<b>64</b>	Kirtibhai Kacharabhai Panchal	Panch for Discovery	Hostile

			Recovery Panchnama	
<b>PW11</b>	<b>67</b>	Karshanbhai Ganeshbhai Patel	Panch for Panchnama of crime spot shown by the accused	Hostile
<b>PW12</b>	<b>70</b>	Rajeshbhai Manchaji Parmar	Panch for Discovery Recovery Panchnama for rickshaw	Hostile
<b>PW13</b>	<b>72</b>	Satishbhai Hansaji Mali	Panch for Discovery Recovery Panchnama for rickshaw	Hostile
<b>PW14</b>	<b>75</b>	Dineshbhai Amichandbhai Karnavat	Panch for Panchnama of crime spot shown by the accused	Hostile
<b>PW15</b>	<b>82</b>	Ramanji Babuji Thakor	Witness covered u/s. 6 of Evidence Act	Hostile
<b>PW16</b>	<b>85</b>	Girdharbhai Naranbhai Lodha	Panch for Panchnama of cloths of deceased	Hostile
<b>PW17</b>	<b>86</b>	Dalpatbhai Pratapbhai Chhapiya	Witness	Hearsay
<b>PW18</b>	<b>99</b>	Dr. Bhikhubhai Ramabhai Akediwala	Medical Officer	Expert
<b>PW19</b>	<b>118</b>	Rasminkumar Khemchand Solanki	Investigating Officer	Police witness
<b>PW20</b>	<b>141</b>	Pmprakash Hingalajdanji Gadhvi	Officer prepared the Map	Official Witness

<b>B. Defence Witnesses, if any:</b>
<b>C. Court Witnesses, if any: Not examined</b>

**(4) LIST OF PROSECUTION / DEFENCE /COURT EXHIBITS**

SR. NO.	EXHIBIT	PRODUCED BY	DESCRIPTION
<b><u>A. Prosecution:</u></b>			
1	32	PW1	Complaint
2	33	PW1	Receipt of dead body
3	37	PW2	Panchnama of crime spot
4	38	PW2	Panch Slip
5	41	PW4	Panchnama of body situation of accused
6	42-46	PW4	Panch Slip
7	48	PW5	Inquest Panchnama
8	50	PW6	Panchnama of cloths of deceased
9	51-52	PW6	Panch Slip
10	58	PW7	Panchnama of body situation of accused
11	62	PW9	Discovery Recovery Panchnama
12	63-65	PW9	Panch Slip
13	68	PW11	Panchnama of crime spot shown by the accused
14	71	PW12	Discovery Recovery Panchnama for rickshaw
15	100	PW18	P.M.Note
16	101	PW18	Police Yadi
17	102	PW18	Letter for viscera of deceased
18	119	PW19	Suchi Patra
19	120	PW19	Discloser Information
20	121	PW19	Special Report

21	122	PW19	Message
22	123	PW19	Report of addition of offence
23	124-126	PW19	Yadi
24	127	PW19	Receipt
25	128	PW19	Yadi
26	129-130	PW19	Forwarding Letter
27	131	PW19	FSL Receipt
28	132-136	PW19	Reports and Letters
29	143	PW20	Map
<b><u>B. Defence : - No</u></b>			
1	103	PW18	FSL Report
C. Court Exhibits : No			
D. Material Objects : No			
Sr. No.	Mark	Identified by	Identification of Object

**Further Statement**

(5) Prosecution filed application for declaration of its evidence as closed on Dtd.24/2/2026. The further statement of the arraigned accused was recorded u/Sec. 313 of Cr.P.C on Dtd.9/3/2026 and Dtd.13/3/2026, to enable them to explain the incriminating circumstances arising against them.

(6) They admitted the recording of evidence in their presence. They stated evidence of prosecution as false and filing of false case against them.

(7) **They** denied to step in witness box as well as to file evidence and claimed himself as innocent and asked to acquit him from the offence charged.

**(8) Argument of Prosecution :-**

(i) The learned APP relied on the evidence of prosecution side and asked to pass appropriate order.

**(9) Argument of Defence :-**

(i) Learned advocate of defence argued orally. He argued that not a single evidence was incriminating against the accused for alleged offence of murder. He argued that prosecution has not able to established the charge against the accused and asked to acquit the accused.

**ISSUES :-**

(10) **Following issues are necessary to frame for the final conclusion of the matter.**

Sr. No.	Issues
1	Whether prosecution is able to prove beyond reasonable doubt that <b>accused have committed the offence punishable u/s. 302, 114, 201 of INDIAN PENAL CODE 135 of GUJARAT (BOMBAY) POLICE ACT, 1951?</b>
2	What is the Final Order?

**:- FINDINGS THERE ON :-**

(11) **Following are the findings on the issues.**

Sr. No.	Issues
1	In negative
2	As per final order.

**:- REASONING:-****Discussion on Issue No. 1 :-**

(12) A criminal trial mainly based either on direct evidence or on circumstantial evidence. In case on hand, as per the case of prosecution,

there was no direct evidence i.e. eye witness of crime but as per the case of prosecution, the death body of Javant was found out in his house / hut and complaint of Ex.31 was filed against unknown persons but it was declared that deceased was living with one lady named as Gangaben and there was quarrel between both of them in frequent, hence, suspicion was shown those quarrel as the reason of death.

(13) Prosecution has filed numerous evidence but the guilt of the accused has not established from any evidence.

(14) All panchas of discovery and recover were hostile. The contention of those panchnama were not proved as per the method stated in following decisions.

#### (I) PROOF OF PANCHNAMA

- \* Hon'ble Supreme Court in case of Rajesh v State of MP reported in 2023 INSC 839 decided on 21<sup>st</sup> September 2023 in Criminal Appeal No(s). 793-794 of 2022 held that 29. Recently, in [Ramanand @ Nandlal Bharti vs. State of Uttar Pradesh](#) AIR 2022 SC 5273, a 3-Judge Bench of this Court observed that the requirement of law that needs to be fulfilled before accepting the evidence of discovery is by proving the contents of the panchnama **and the Investigating Officer, in his deposition, is obliged in law to prove the contents of the panchnama.** It was further observed that it is only **if the Investigating Officer has successfully proved the contents of the discovery panchnama in accordance with law that the prosecution would be justified in relying upon such**

**evidence and the Trial Court may also accept the same.** It was held that, in order to enable the Court to safely rely upon the evidence of the Investigating Officer, it is necessary that the exact words attributed to the accused, as the statement made by him, be brought on record and, for this purpose, the Investigating Officer is obliged to depose in his evidence the exact statement and not merely say that the discovery panchnama of the weapon of the offence was drawn up as the accused was willing to take it out from a particular place.

\* Gujarat High Court in case of Kapilkumar Ramashish Chandeshwar ... vs State Of Gujarat on 5 September, 2023 NEUTRAL CITATION R/CR.A/931/2015 CAV JUDGMENT DATED: 05/09/2023 held that “29. The Apex Court has held that in case the panchas to the discovery panchanama do not support the case of the prosecution and are declared hostile, the contents of the panchanama can be proved and the panchnama can be accepted as a legal evidence through the evidence of the Investigating Officer. It is held that the Investigating officer is under an obligation to prove the contents of the panchanama, and only if he is successfully proves the contents the trial court may accept the evidence of the Investigating Officer. The Supreme Court has affirmatively stated that "In order to enable the Court to safely rely upon the evidence of the investigating officer,

it is necessary that the exact words attributed to an accused, as statement made by him, be brought on record and, for this purpose the investigating officer is obliged to depose in his evidence the exact statement and not by merely saying that a discovery panchnama of weapon of offence was drawn as the accused was willing to take it out from a particular place."

- \* Supreme Court of India in Ramanand @ Nandlal Bharti vs The State Of Uttar Pradesh on 13 October, 2022 reported in AIR 2022 SC 5273 held that 56. The requirement of law that needs to be fulfilled before accepting the evidence of discovery is that by proving the contents of the panchnama. The investigating officer in his deposition is obliged in law to prove the contents of the panchnama and it is only if the investigating officer has successfully proved the contents of the discovery panchnama in accordance with law, then [in that case](#) the prosecution may be justified in relying upon such evidence and the trial court may also accept the evidence." AND "62. In the aforesaid context, we may refer to and rely upon the decision of this Court in the case of [Murli v. State of Rajasthan](#) reported in (2009) 9 SCC 417, held as under: "34. The contents of the panchnama are not the substantive evidence. The law is settled on that issue. What is substantive evidence is what has been stated by the panchas or the person concerned in the witness box....."

\* Gujarat High Court Mahesh Parbatbhai Surela Koli vs State Of Gujarat on 30 July, 2025 NEUTRAL CITATION R/CR.A/2731/2008 JUDGMENT DATED: 30/07/2025 HELD THAT “We may refer the language of Section 27 which says that, when any fact is deposed to as discovered in consequences of information received from a person accused of any offence, in police custody and if the information relates distinctly to the fact discovered, the said confession may be presumed to be true. Thus, in the facts of present case, the evidence of discovery as relied by the prosecution is not reliable and trust worthy as the alleged weapon is found in an open and accessible place and direct link between the accused statement and his exclusive knowledge of the weapon's concealment is severed. The another infirmities we have found in the prosecution case on the admissibility of disclosure statement made during the discovery and recovery. The witnesses of discovery panchnama Exh.173 and the I.O. PW:38 failed to prove the contents of the panchnama as mandated by the Supreme Court in the case of Ramanand vs. State of U.P. (2022) Livelaw SC 843. The Supreme Court has emphasized that, the contents of discovery panchnama must be proved by the prosecution before accepting the evidence of discovery and there is an obligation on the part of I.O. to prove the contents of discovery panchnama. In the present case, upon careful

examination of the oral as well as documentary evidence, neither the panchas, nor the I.O. have deposed the exact statement and/or words uttered by the accused on the aspect of discovery of facts and recovery of weapon. In view of the settlement position of law and the evidence adduced by the prosecution in the present case, the evidence of discovery in the form of disclosure statement and recovery of weapon at the instance of accused-appellant is not proved and established and the same cannot be read in evidence against the accused.”

(15) In case on hand, if the court considers the evidence of investigating officer recorded under Ex.118, he has not taken care to prove the recovery discovery as per the law established in the decision cited above.

(16) Even prosecution has narrated in the deposition of the investigating officer that document of mark so and so is shown to me and it is following documents having his own signature but the investigating officer is not able to explained that what was the need for the preparation of those documents at the time of investigation and what evidence was received by him under those correspondence.

(17) In present station, it is the experience of this court learned prosecutor is indeed the narration of the voluminous documents from the investigating officer without the explanation of its need during the investigation as well as without the explanation that which kind of incriminating evidence was received by the investigating officer due to those evidences. This court has instructed for numerous times for the proper proof

of the documentary evidence but all the instructions are in vain. Neither investigating officer who appears before this court for recording of evidence is serious for the proof of crime nor the learned public prosecutor who is handling the case of serious crimes is serious for providing proper proof through the proper production of evidence. Both are believing that mere filling of dozens of documents are suffice to prove the guilt without the proper narration contention of documents.

(18) This court is aware of the duty of the court and powers to ask any question to any witness but this court is also aware that court is not in the roll of public prosecutor and the court can instruct for proper production of evidence but does not exaggerate its powers and does not work as the public prosecutor for opening the mouth of witness to brings wordings out of the mouth in the manner necessary for the proof of the evidence.

(19) Therefore, as there is not a single evidence against the present accused for their involvement in crime and therefore, this court is on clear view that the evidence filed by the prosecution is not enough to establish the version of death of victim as the culpable homicide made by the accused, Thus, the decision on issue No.1 is given in negative.

**Issue No. 2 :-**

(20) As the version of prosecution is not proved. The case was handled by the prosecution in worse manner, hence, the copy of the judgment should be sent to the all higher authorities of police as well as prosecution for their knowledge that in what careless manner trial of the heinous crime is handled by the prosecutors as well as by the police officials. The machinery has no seriousness for any kind of offence and to run the trial

is merely a mechanical method for the police officials as well as for the prosecution. Therefore, the court can not rely on such kind of evidence for passing any order of conviction against the accused resultant the court has no other option except to pass following final order.

**- : FINAL ORDER :-**

**[1] Accused Named as**

<b>1.</b>	<b>GANGABEN @ GEETABEN PITAMBARBHAI PATEL Age: 52 Occupation : HAWAI PILLAR GROUND, CHHAPRA MA, DEESA, PER ADD-NR RAILWAY FATAK, CHANDISAR, PALANPUR</b>
<b>2</b>	<b>HARESHKUMAR @ LALO GANGARAMBHAI PATEL Age: 19 Occupation : SEJALPURA SIM PALANPUR DIST BANASKANTHA</b>
<b>3</b>	<b>SHASHIBHAI @ SATISHBHAI KANA JIBHAI PRAJAPATI Age: 32 Occupation : PER ADD-VISHVAKARMA SOCIETY C-35 BHAVNAGAR CURRENT ADD-HARIPURA MANSAROVAR ROAD NR ANTIM DHAM PALANPUR</b>

is acquitted from the charged offence punishable under section u/s.302, 114, 201 of INDIAN PENAL CODE 135 of GUJARAT (BOMBAY) POLICE ACT, 1951.

**[2] Accused are ordered to file bail and bond worth of Rs.10,000/- with one surety for the appeal period as per the direction of section 437A of the Code of Criminal Procedure.**

**[3] The Muddamal articles are ordered to destroy after expiry of limitation period of appeal or the final outcome of appeal, which ever is earlier.**

- [4] Copy of this Judgment to be sent to the following dignitaries for the information and pass necessary action / direction if seemed fit for the observation of this court made in the judgment.
- A. To The Director General and Inspector General of Police, Gujarat State Police Bhavan, *Gandhinagar* Sector 18, *Gandhinagar-Gujarat* – through EMAIL on – **dig-rang-gnr@gujarat.gov.in** AND **dgp-gs@gujarat.gov.in** AND **Additional DGP (Admin): adgp-admin@gujarat.gov.in.**
- B. The Director of Prosecution, State of Gujarat – through EMAIL on – dop-legal-gnr@gujarat.gov.in
- C. To The DSP Palanpur – through EMAIL on – [cr-ban@gujarat.gov.in](mailto:cr-ban@gujarat.gov.in) AND **sp-ban@gujarat.gov.in**
- D. To the Home Department State of Gujarat – through EMAIL – on - **min-home@gujarat.gov.in** (Minister of Home) or **pshome@gujarat.gov.in** (Additional Chief Secretary) AND **Secretary (Home): [sechome@gujarat.gov.in](mailto:sechome@gujarat.gov.in)**

Pronounced in the open Court this 21<sup>st</sup> April 2026.

Place – Deesa

Date - 21-4-2026

(Shilpa Mansukhlal Kanabar)  
6<sup>th</sup> Additional Sessions Judge  
Bansakantha at Deesa  
Code-GJ00814

**PROCEEDINGS**

21/04/2026	Matter is listed for judgment
147	Judgment declared
	Bail Bond of Accused
	Disposed of accordingly

(Shilpa Mansukhlal Kanabar)  
6<sup>th</sup> Additional Sessions Judge  
Bansakantha at Deesa  
Code-GJ00814