

GJJM010030962025	 सत्यमेव जयते	Filed on	:	05/08/2025		
 11202045250271 SC/66/2025		Registered on	:	05/08/2025		
		Decided on	:	23/04/2026		
		Duration	:	Years	Months	Days
				00	08	18

BEFORE THE HON'BLE 3rd ADDL. SESSIONS JUDGE
JAMNAGAR

SESSIONS CASE No. : 66/2025

Exh. :- 156

Complainant	STATE OF GUJARAT
Versus	
Accused	1. AKSHAYBHAI CHHAGANBHAI DANGARIA AGE : 30 YEARS, OCCUPATION : ACCOUNTANT RESI. AT : BLOCK NO. 130/1, KHODIYAR PARK, STREET NO.04, RANJITSAGAR ROAD, JAMNAGAR. PERMANENT R/O.:- PITHADIYA, TAL- KALAVAD, DIST.- JAMNAGAR 2. RINKALBEN W/O. RAVIBHAI MARKANA AGE : 30 YEARS, OCCUPATION : HOUSEHOLD RESI. AT : BAHUCHAR KRUPA, BLOCK NO. 28/0, ASHIRWAD AVENUE-01, STREET NO. 1, RANJITNAGAR ROAD, JAMANGAR.

Police Station	Panchkoshi 'A' Division Police Station, Jamnagar
F.I.R. No. : CR	11202045250271/2025
Offence	Under Section 103 & 61(2)(a) of B.N.S.
Charges as per Charge-framed	Under Section 103 & 61(2)(a) of B.N.S.
Date of Offence	Dated 06/04/2025
Date of F.I.R.	Dated 07/04/2025
Date of Charge-Sheet	Dated 27/06/2025
Date of framing of Charges	Dated 23/02/2026
Date of commencement of evidence.	Dated 02/03/2026

APPEARANCE :-

Ld. A.P.P. for the State	<i>Mr. D. A. Jivrajani</i>
Ld. Advocate for Orig. Complainant	<i>Mr. V. H. Kanara</i> <i>Mr. P. M. Buch</i>
Ld. Advocate for Accused No. 1	<i>Mr. H. M. Bhatt</i>
Ld. Advocate for the Accused No. 2	<i>Mr. R. D. Gosai</i>

**THE OFFENCES PUNISHABLE UNDER
SECTION 103 & 61(2)(a) OF B.N.S.****-:: J U D G M E N T ::-**

- [1]. It is the case of the prosecution that the Accused No.2 - Rinkalben (i.e. wife of the deceased), was having love affair with the Accused No.1 – Akshaybhai, due to which time and again there was some quarrel between the deceased - Ravibhai (Son of the complainant) and Accused No. 2 - Rinkalben and in conspiracy with each other, the Accused have created a conspiracy to kill complainant's son and the deceased - Ravibhai had went to meet their parents at Kalavad on dtd. 06/04/2025 and while the deceased - Ravibhai was returning from Kalavad & coming to Jamnagar on his Bullet Motorcycle No. GJ-27-DJ-9310 and in the meantime, the Accused No. 1 had came on his Jeep Campus four wheeler Car No. GJ-20-AQ-8262 from the back side and hit the Motorcycle of Ravibhai, at Kalavad- Jamnagar road, near Vijarkhi Dam, near Mongal Mata Temple, with an intention to Kill him and thereby the deceased had suffered severe head injuries, which lead to death of deceased - Ravibhai and the Accused aided and abetted in commission of the offence and thereby they have

committed the offence.

- [2]. The Original Complainant / Informant had given the complaint with the Panchkoshi 'A' Division Police Station and F.I.R. : 11202045250271/2025 dated 07/04/2025 was registered for the offence punishable under Section 103 & 61(2)(a) of B.N.S. (U/s. 302 & 120B of I.P.C.). Thereafter, the Investigating Officer had recorded the statement of witnesses under Section 180 of B.N.S.S. (i.e. Section 161 of Cr.P.C.) and drawn relevant Panchnama, sent the sample for testing and after investigating the offence, found sufficient evidence against the Accused and therefore, he had filed Charge-Sheet No. 518/2025 dated 27/06/2025, under Section 193 of B.N.S.S. (i.e. Section 173 of Cr.P.C.), before the Hon'ble Magistrate Court and the same was registered as Criminal Case No. 6134/2025. Thereafter, the Ld. Magistrate had complied the provision of Section 230 of B.N.S.S. (i.e. Section 207 of Cr.P.C.) and supplied the copy of charge-sheet, F.I.R., Statement recorded under Section 180 of B.N.S.S. (i.e. Section 161(3) of Cr.P.C.) and all other relevant papers relied on by the Prosecution to the Accused and recorded their statement, wherein they had informed to have private advocate. Thereafter, the Ld. Magistrate had committed the Accused under Section 232 of B.N.S.S. (i.e. Section 209 of Cr.P.C.) and the same was registered as Sessions Case No. 66/2025 on dated 05/08/2025. On service of the process, the Accused had appeared along with their Ld. Advocate and after

hearing for the charge, the charge was framed at Exh.-15 under Section 251 of B.N.S.S. (i.e. Section 228 of Cr.P.C.), on dtd. 23/02/2026 and plea were recorded vide Exh.-16 and Exh.-17 on dated 23/02/2026, wherein, the Accused had pleaded not guilty and therefore, the case was proceeded further for conducting trial in accordance with law.

[3]. For adjudication of this case, the following charge is framed :-

:: <u>CHARGE</u> ::	
1	Whether the prosecution proves beyond reasonable doubt that the Accused No.2 - Rinkalben (i.e. wife of the deceased), was having love affair with the Accused No.1 – Akshaybhai, due to which time and again there was some quarrel between the deceased - Ravibhai (Son of the complainant) and Accused No. 2 - Rinkalben and in conspiracy with each other, the Accused have created a conspiracy to kill complainant's son and the deceased - Ravibhai had went to meet their parents at Kalavad on dtd. 06/04/2025 and while the deceased - Ravibhai was returning from Kalavad & coming to Jamnagar on his Bullet Motorcycle No. GJ-27-DJ-9310 and the Accused No. 1 had came on his Jeep Campus four wheeler Car No. GJ-20-AQ-8262 from the back side and hit the Motorcycle of Ravibhai, at Kalavad- Jamangar road, near Vijarkhi Dam, near Mongal Mata Temple, at about 16:45 hours on dated 06/04/2025, with an intention to Kill him and thereby the deceased had suffered severe head injuries, which lead to death of deceased - Ravibhai and the Accused aided and abetted in commission of the offence and thereby they have committed the alleged offence punishable under Section 103 & 61(2)(a) of

	B.N.S.?
2	What's Order ?

[4]. My findings to the above stated points are as under :

:- FINDINGS :-

1	In NEGATIVE
2	As per FINAL ORDER

[5A]. In order to prove the alleged offence, the prosecution has leaded following oral and documentary evidences :

: ORAL EVIDENCE :				
Sr. No.	P.W. No.	Witness	Witness Name	Exhibit Number
1.	1	Panch (Inquest)	Pareshbhai Ramjibhai Markana	Exh.-19
2.	2	Panch (Place)	Vasantbhai Nathubhai Rathod	Exh.-21
3.	3	Doctor (Post-mortem)	Jitendra Samatbhai Rathod	Exh.-29
4.	4	Panch (Reconstruction) Hostile	Karanbhai Devshibhai Suraniya	Exh.-34
5.	5	Panch (Reconstruction)	Kishanbhai Naranbhai Ranoliya	Exh.-36
6.	6	Panch (Arrest) Hostile	Vrujlal Harjibhai Vasoya	Exh.-37
7.	7	Panch (Arrest) Hostile	Kalpeshbhai Amrutbhai Chovatiya	Exh.-42
8.	8	Panch (Reconstruction)	Ashokbhai Dhirajbhai Savaliya	Exh.-43
9.	9	Panch (CCTV Footage) Hostile	Vipulbhai Chanabhai Parajiya	Exh.-45
10.	10	Panch (CCTV Footage) Hostile	Mansukh Babubhai Chauhan	Exh.-48
11.	11	Panch (CCTV Footage) Hostile	Bhavinbhai Amarshibhai Gadhiya	Exh.-49
12.	12	Panch (CCTV Footage)	Hemalbhai Dharmendrabhai Chauhan	Exh.-52

13.	13	Panch (CCTV Footage) Hostile	Dipakbhai Ramanikbhai Vasoya	Exh.-53
14.	14	Panch (CCTV Footage) Hostile	Shaileshbhai Maganbhai Virani	Exh.-56
15.	15	Panch (CCTV Footage) Hostile	Hitesh Mansukhbhai Bhanderi	Exh.-57
16.	16	Panch (CCTV Footage) Hostile	Mehulbhai Ashwinbhai	Exh.-60
17.	17	Panch (CCTV Footage) Hostile	Mit Rajeshbhai Sarpadiya	Exh.-61
18.	18	Panch (CCTV Footage) Hostile	Nitin Babulal Nakum	Exh.-64
19.	19	Panch (CCTV Footage) Hostile	Ashwinbhai Rameshbhai Nagariya	Exh.-65
20.	20	Panch (CCTV Footage) Hostile	Sachinbhai Arvindbhai Maru	Exh.-68
21.	21	Witness (Hostile)	Vijaybhai Kanjibhai Markana	Exh.-69
22.	22	Eye-Witness (Hostile)	Ushaben Balabhai Dabhi	Exh.-73
23.	23	Witness(Hotel) (Hostile)	Jemin Hasmukhbhai Dangariya	Exh.-75
24.	24	Witness (towing)	Sagarbhai Savjibhai Sabhaya	Exh.-76
25.	25	Witness(Hotel) (Hostile)	Dipak Parsottambhai Dangariya	Exh.-77
26.	26	Witness (towing)	Darshitbhai Jaisukhbhai Pagdar	Exh.-78
27.	27	Witness (Car Vendor)	Vivekbhai Mansukhbhai Kayada	Exh.-79
28.	28	Witness (Client of Acc.1)	Jaidipbhai Dineshbhai Dangariya	Exh.-81
29.	29	Witness (Skin Therapist) (Hostile)	Divyeshbhai Mukeshbhai Makwana	Exh.-82
30.	30	Witness (Father of Decd.)	Dhirajlal Mohanbhai Markana	Exh.-84
31.	31	FSL (Place)	Vijaybhai Dhanjibhai Dabhi	Exh.-86
32.	32	Witness (Hotel)	Sanjaybhai Kishorbhai Asvaar	Exh.-88

33.	33	Witness (Hotel)	Ajaysinh Nirubha Vada	Exh.-90
34.	34	Witness (Tea Stall)	Babubhai Bhalabhai Bambhava	Exh.-92
35.	35	Witness (Petrol Pump)	Anilbhai Kantibhai Makwana	Exh.-94
36.	36	Witness (Hotel)	Jitendrabhai Lalaram Mandoliya	Exh.-96
37.	37	Witness (Ved-Panchkarma)	Snehlata Sathishkumar Yadav	Exh.-99
38.	38	Witness (Hotel)	Nileshbhai Bhikhabhai Vekariya	Exh.-100
39.	39	Witness (Brother-in-Law of Decd.)	Dhavalbhai Amrutbhai Akbari	Exh.-107
40.	40	Witness (Loan Facilitator) (Hostile)	Bhavesh Kantilal Dangariya	Exh.-108
41.	41	Witness (H.C.-Cyber Crime)	Dharshitbhai Jagdishbhai Sisodiya	Exh.-109
42.	42	FSL-Rajkot	Rakesh Rahimali Hajiya	Exh.-110
43.	43	Witness (Mother of Decd.)	Hansaben Dhirajlal Markana	Exh.-113
44.	44	Nodal Officer - Jio	Bharatbhai Ramabhai Patel	Exh.-115
45.	45	Investigating officer	MahamadJuber Noormamad Shaikh	Exh.-132

: DOCUMENTARY EVIDENCE :

S/N.	PARTICULARS	EXHIBIT
1.	Complaint	Exh.-85
2.	Yadi to Register Offence	Exh.-133
3.	Yadi to file Inquest	Exh.-134
4.	Inquest Panchnama	Exh.-20
5.	Inquest Form	Exh.-30
6.	Yadi for P.M. Note	Exh.-31
7.	Yadi for obtaining Post-mortem Note	Exh.-32
8.	Post-mortem Report	Exh.-33
9.	Panchnama of Place of Incident	Exh.-22
10.	Panch Slips	Exh.-23 to Exh.-28
11.	Spot Inspection Report of FSL	Exh.-87
12.	Yadi for obtaining CDR / SDR Report	Exh.-135
13.	Call Detail Proforma	Exh.-148

14.	Call Details and Application Form of Jio of Applicant No. 2	Exh.-123
15.	Call Details and Application Form of Jio of Applicant No. 1	Exh.-124
16.	Call Details and Application Form of Jio of Applicant No. 1	Exh.-125
17.	Call Details and Application Form of Jio of Deceased	Exh.-126
18.	Reconstruction Panchnama (Exhibited only for Sign)	Exh.-35
19.	Arrest Panchnama	Exh.-38
20.	Panch Slips	Exh.-39 to Exh.-41
21.	Panchnama of Place of conspiracy conspired by the Accused	Exh.-44
22.	Yadi for registering deposition of witness under Section 183 of BNNS	Exh.-136
23.	Yadi for presence of witness to register the deposition	Exh.-137
24.	Yadi for preparing Map of place of incident	Exh.-127
25.	Map of place of incident	Exh.-128
26.	Panchnama of Viscera of Deceased	Exh.-129
27.	Panchnama (C.C. TV footage of Shiv Palace Hotel)	Exh.-50
28.	Panch Slip	Exh.-51
29.	Certificate under Section 63 of B.S.A.	Exh.-91
30.	Panchnama (C.C. TV footage of Krishna Hotel)	Exh.-54
31.	Panch Slip	Exh.-55
32.	Certificate under Section 63 of B.S.A.	Exh.-101
33.	Panchnama of taking possession of C.C. TV footage of Meladi Hotel	Exh.-66
34.	Certificate under Section 63 of B.S.A.	Exh.-93
35.	Panchnama (C.C. TV footage of Dwarkadhish Hotel)	Exh.-58
36.	Panch Slip	Exh.-59
37.	Certificate under Section 63 of B.S.A.	Exh.-89
38.	Recovery Panchnama (C.C.T.V. footage of Highway Hari Hotel)	Exh.-46
39.	Panch Slip	Exh.-47
40.	Certificate under Section 63 of B.S.A.	Exh.-98
41.	Panchnama (C.C. TV footage of Punam Petrol Pump)	Exh.-62
42.	Panch Slip	Exh.-63
43.	Certificate under Section 63 of B.S.A.	Exh.-95
44.	Certificate under Section 63 of B.S.A.	Exh.-98
45.	Panchnama (C.C. TV footage of Meldi Hotel)	Exh.-66
46.	Panch Slip	Exh.-67

47.	Statement U/Sec. 183 of B.N.S.S. (U/Sec. 164 of Cr.P.C.)	Exh.-74
48.	Yadi for obtaining Medical Certificate of witness - Ushaben	Exh.-130
49.	Original Medical Certificate of witness – Ushaben Balabhai Dabhi	Exh.-131
50.	Copy from Original Register of Hotel Highway Hari	Exh.-97
51.	Yadi of examination of muddamal	Exh.-111
52.	Muddamal Examination Report	Exh.-112
53.	Information Report of Vehicle No. GJ-27-DJ-9310	Exh.-138
54.	Copy of R.C. book of Vehicle No. GJ –27-DJ-9310	Exh.-139
55.	Information Report of Vehicle No. GJ-20-AQ-8262	Exh.-140
56.	Copy of R.C. Book of Vehicle No. GJ-20-AQ-8262	Exh.-141
57.	Copy of Sell Agreement with Aadhar Card of Seller – Buyer of Vehicle No. GJ-20-AQ-8362	Exh.-80
58.	Entry of Muddamal Ravangi and Authority Letter	Exh.-142
59.	Muddamal Receiving Receipt	Exh.-143
60.	Entry of Muddamal Ravangi and Authority Letter	Exh.-144
61.	Muddamal Receiving Letter	Exh.-145
62.	Muddamal Receiving Receipt	Exh.-146
63.	Muddamal Receiving Receipt	Exh.-147
64.	Yadi	Exh.-148

[5B]. In order to prove themselves innocent in the alleged offence, the Accused have leaded following oral and documentary evidences :

: <u>ORAL EVIDENCE</u> :				
Sr. No.	A.W. No.	Witness	Witness Name	Exhibit Number
NIL				

: <u>DOCUMENTARY EVIDENCE</u> :		
S/N.	PARTICULARS	EXHIBIT
NIL		

[6]. Thereafter, the prosecution has given the closing pursis Exh.-151. With a view to give full opportunity to the

Accused, their further statement were recorded under Section 313 of the Criminal Procedure Code, 1973, wherein they have taken the defense that false case is being registered against them and they are innocents. I have heard the Ld. A.P.P. - Mr. J. K. Bhanderi for the State, alongwith Ld. Advocate Mr. V. H. Kanara & Ld. Advocate Mr. P. M. Buch for the Original Complainant, Ld. Advocate Mr. H. M. Bhatt for the Accused No. 1 and the Ld. Advocate – Mr. R. D. Gosai for the Accused No. 2 at great length. The Ld. P.P. has produced copy of order dated 21/04/2026 passed in Cr.M.A. No. 7515/2026, but no stay is granted and as matter is UTP and on stage of Judgment, Judgment is required to be declared. I have also considered the oral and documentary evidences on record as well as record of the case. I have also gone through the written argument at Exh.-154 of the prosecution.

[7]. The reasons, for the findings arrived at, for the adjudication of the above charge, are as under :

: R E A S O N S :

ISSUE No. 1 & 2 :

(7.1). The Ld. A.P.P. Mr. D. A. Jivrajani has humbly submitted that they have proved their case beyond reasonable time and has strongly argued that the Accused may kindly be

convicted for the alleged offence. Whereas, the Ld. Advocates for the Accused has vehemently argued that the prosecution has miserably failed to prove their case beyond reasonable doubt and humbly prayed to kindly acquit the Accused by giving benefit of doubt.

- (7.2). The case of the prosecution is that the Accused No.2 - Rinkalben (i.e. wife of the deceased), was having love affair with the Accused No.1 – Akshaybhai, due to which time and again there was some quarrel between the deceased - Ravibhai (Son of the complainant) and Accused No. 2 - Rinkalben and in conspiracy with each other, the Accused have created a conspiracy to kill complainant's deceased son and while the deceased - Ravibhai was returning from Kalavad & coming to Jamnagar on his Bullet Motorcycle No. GJ-27-DJ-9310 and the Accused No. 1 had came on his Jeep Campus four wheeler Car No. GJ-20-AQ-8262 from the back side and hit the Motorcycle of Ravibhai, at Kalavad- Jamangar road, near Vijarkhi Dam, near Mongal Mata Temple, at

about 16:45 hours on dated 06/04/2025, with an intention to Kill him and thereby the deceased had suffered severe head injuries, which lead to death of deceased - Ravibhai and the Accused aided and abetted in commission of the offence. The Ld. A.P.P. Mr. D. A. Jivrajani has humbly submitted that the Accused may kindly be convicted for the alleged offence punishable under Section 103 & 61(2)(a) of B.N.S.

(7.3). The whole case of prosecution is based on deposition of sole eye-witness : P.W. No. 22 – Ushaben Balabhai Dabhi at Exh.-73 and 2 witness being father and mother of deceased i.e. P.W. No. 30 – Dhirajlal Mohanbhai Markana at Exh.-84 and P.W. No. 43 – Hansaben Dhirajlal Markana at Exh.-113, before whom their daughter-in-law / wife of deceased / Accused No. 2 – Rinkal has made extra-judicial confession, as per case of prosecution. No other witness to offence is there to prove the case by any direct evidence. If the deposition of above 3 witnesses are discarded from appreciating in evidence, the

remaining evidence of other witness will lead the case of prosecution based on circumstantial evidences.

(7.4). The Ld. Advocates for the Accused has vehemently argued that the said sole eye-witness : P.W. No. 22 – Ushaben Balabhai Dabhi at Exh.-73 has not supported even minutely and she has neither seen nor remember the number of bullet motor cycle or Jeep Compass Car nor has seen the person driving Jeep Compass Car nor sole eye-witness : P.W. No. 22 – Ushaben Balabhai Dabhi at Exh.-73 has identified the Accused No. 1 as person driving Jeep Compass Car, which is alleged to have caused accident. The Ld. Advocates for the Accused has vehemently argued that sole eye-witness : P.W. No. 22 – Ushaben Balabhai Dabhi at Exh.-73, has even not supported about her statement recorded before the Ld. Magistrate under Section 183 of B.N.S.S. (i.e. Section 164 of Cr.P.C.). The Ld. Advocates for the Accused has vehemently argued that P.W. No. 30 – Dhirajlal Mohanbhai Markana at Exh.-84

and P.W. No. 43 – Hansaben Dhirajlal Markana at Exh.-113 are parents of deceased and Parents-In-Laws of Accused No. 2 and due to wrong beliefs / doubt about love affair of Accused No. 2 with Accused No. 1, falsely trapped the Accused, with aid of investigating officer and though there is no evidence to show that they had not gone to house his son in Jamnagar and met Accused No. 2 – Rinkal, due to ill-thought and malafide intention, created story of giving extra-judicial confession made by Accused No. 2 – Rinkal before both of them and even otherwise, extra-judicial confession is a weak piece of evidence. The Ld. Advocates for the Accused has vehemently argued that from the deposition of P.W. No. 30 – Dhirajlal Mohanbhai Markana at Exh.-84 and P.W. No. 43 – Hansaben Dhirajlal Markana at Exh.-113, it is crystal clear that both the said witnesses had given threat of calling police and pressurized the Accused No. 2 for extra-judicial confession and therefore, the so-called extra-judicial confession is not made voluntarily & willingly, but is taken under

threat & pressure and therefore, it losses it's evidential value and it can't be read in evidence. The Ld. Advocates for the Accused has vehemently argued that if evidences of above 3 witnesses are discarded, then remaining evidences does prove the complete link of chain of circumstantial evidences to prove the guilt of the Accused.

(7.5). The Ld. Advocate for the Accused has vehemently argued that witness can be of three types : (1). Wholly reliable, (2). Wholly unreliable and, (3). Neither wholly reliable nor wholly unreliable. The Court has to be circumspect and has to look for corroboration in material particulars by reliable evidence, direct or circumstantial, before acting upon the testimony of single witness [2003 S.C.C (Cri.) 544].

(7.6). Thus, the oral evidence of sole eye-witness : P.W. No. 22 – Ushaben Balabhai Dabhi at Exh.-73 and 2 other witness (Not eye-witnesses) i.e. P.W. No. 30 – Dhirajlal Mohanbhai Markana at Exh.-84 and P.W. No.

43 – Hansaben Dhirajlal Markana at Exh.-113, are required to be appreciated with utmost care and to record conviction based on their sole evidence, it should rule out all other probability and should lead us to conclude without any sort of doubt that the Accused have committed the alleged offence. Let us appreciate the evidence on record.

(7.7). The Ld. Advocate for the Accused has vehemently argued that there is only one eye-witness as per the case of prosecution and the same has not supported minutely to prosecution and it's benefit be given in favour of the Accused. Let us appreciate the evidence on record in that regards.

(7.8). It is deposed by P.W. No. 22 - Sole Eye-Witness - Ushaben Balabhai Dabhi in her examination-in-chief in Para-2 on Page-1 at Exh.-73 that about six or eight months ago, on the day of Ram Navami, she was sitting in her shop doing business and in the mean-time she heard the sound of collusion / accident of black car. It is further deposed by P.W. No. 22

- Sole Eye-Witness - Ushaben Balabhai Dabhi in her examination-in-chief in Para-5 on Page-3 at Exh.-73 that the place from where she heard the sound of the accident is very far from her shop. It is further deposed by P.W. No. 22 - Sole Eye-Witness - Ushaben Balabhai Dabhi in her examination-in-chief in Para-5 on Page-3 at Exh.-73 that she only heard the sound of the accident and did not go to the place of accident.

(7.9). It is further deposed by P.W. No. 22 - Sole Eye-Witness - Ushaben Balabhai Dabhi in her examination-in-chief in Para-2 on Page-1 at Exh.-73 that as she was not feeling good, she slept in her cabin and she did not went there (place of offence) and further deposed that since, she was not able to walk, she didn't went there.

(7.10). It is deposed by P.W. No. 22 - Sole Eye-Witness - Ushaben Balabhai Dabhi in her examination-in-chief in Para-2 on Page-2 at Exh.-73 that she do not remember whether the police took her anywhere or not after the

incident. It is further deposed by P.W. No. 22 - Sole Eye-Witness - Ushaben Balabhai Dabhi in her examination-in-chief in Para-5 on Page-3 at Exh.-73 that **the police never took her to any place for any action.**

(7.11). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-47 on Page-18 at Exh.-132 that **he can say after looking at the map at Exh.-128 that road is a straight road from Jamnagar to Kalavad and further admitted that the temple of Moghal Mata is located in front of the place of incident and further admitted that while making the map of the place of incident, if there were any buildings, shops or electricity poles around that place, then it would have been noted in the said map and further admitted that no cabin has been shown in this map.**

(7.12). Thus, on appreciation of evidences on record and settled principle of law, the Ld. Advocate for the Accused have created a reasonable doubt about. There is only one eye-witness as

per the case of prosecution and the same has not supported minutely to prosecution and it's benefit be given in favour of the Accused. In light of such proved facts, the Accused would be entitled to get benefit of doubt and consequentially acquittal from the alleged charges.

(7.13). The Ld. Advocate for the Accused has vehemently argued that though as per prosecution evidence, place of offence was public place having movement of public, no other independent eye-witness is examined and is fatal to the case of prosecution. Let us appreciate the evidence on record in that regards.

(7.14). It is deposed by P.W. No. 22 - Sole Eye-Witness - Ushaben Balabhai Dabhi in her examination-in-chief in Para-2 on Page-1 at Exh.-73 that the **people had gathered there** (place of offence) and **started talking**.

(7.15). It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination

in Para-19 on Page-11 at Exh.-84 that the Kalavad-Jamnagar highway is a road with constant traffic and heavy traffic of vehicles.

(7.16). It is admitted by P.W. No. 31 - Vijaybhai Dhanjibhai Dabhi in his cross-examination in Para-4 on Page-3 & 4 at Exh.-86 that since the place of incident is a state highway, numerous vehicles uses to pass from the said road.

(7.17). It is admitted by P.W. No. 39 - Dhavalbhai Amrutbhai Akbari in his cross-examination in Para-5 on Page-3 at Exh.-107 that when Prashantbhai called him, he was in his house and he neither asked nor Prashantbhai told him as to when, where and how Ravibhai's accident happened and further admitted that he had not seen the accident.

(7.18). It is admitted by P.W. No. 39 - Dhavalbhai Amrutbhai Akbari in his cross-examination in Para-5 on Page-3 at Exh.-107 that he had not seen the dead body of the deceased Ravibhai and further admitted that when he reached the

hospital, he came to know that the doctor had declared Ravi dead. It is admitted by P.W. No. 39 - Dhavalbhai Amrutbhai Akbari in his cross-examination in Para-9 on Page-4 at Exh.-107 that he did not have a chance to talk to the deceased Ravibhai on dated 06/04/2025 and even one or two days before the incident, he did not have a chance to talk to Ravibhai on his mobile.

(7.19). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-27 on Page-10 at Exh.-132 that the complainant Dhirajlal is not an eye-witness to the incident.

(7.20). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-40 on Page-16 at Exh.-132 that no investigation has been conducted with regards to, going of the complainant and his wife to the house of deceased Ravi Bhai on the evening of the incident and further admitted that their neighbours' statements have not been recorded.

(7.21). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-46 on Page-18 at Exh.-132 that the road from Kalavad to Jamnagar is a highway and the vehicles constantly passes from this road and further admitted that there is a temple of Mughal Mataji near the place of incident and there is a constant gathering of devotees.

(7.22). Thus, on appreciation of evidences on record and settled principle of law, the Ld. Advocate for the Accused have created a reasonable doubt about as no other available witness at place of offence or who brought to hospital are examined. In light of such proved facts, the Accused would be entitled to get benefit of doubt and consequentially acquittal from the alleged charges.

(7.23). The Ld. Advocate for the Accused has vehemently argued that statement of eye-witness recorded before the Ld. Magistrate under Section 183 of B.N.S.S. (Section 164 of

Cr.P.C.) at Exh.-74 is not proved and therefore the same can't be relied upon. Let us appreciate the evidence on record in that regards.

(7.24). It is deposed by P.W. No. 22 - Sole Eye-Witness - Ushaben Balabhai Dabhi in her examination-in-chief in Para-2 on Page-2 at Exh.-73 that she had neither seen any Hon'ble Judge nor any Hon'ble Judge has questioned her and further deposed that she do not remember that she has made any thumb impression or given deposition in front of any Hon'ble Judge.

(7.25). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-39 on Page-15 at Exh.-132 that they had not done any effort or taken any action to take both the accused to the nearest Magistrate and get any confessional statement from them.

(7.26). Thus, on appreciation of evidences on record and settled principle of law, the Ld. Advocate for the Accused have created a reasonable

doubt as statement of eye-witness recorded before the Ld. Magistrate under Section 183 of B.N.S.S. (Section 164 of Cr.P.C.) at Exh.-74 is not proved. In light of such proved facts, the Accused would be entitled to get benefit of doubt and consequentially acquittal from the alleged charges.

(7.27). The Ld. Advocate for the Accused has vehemently argued that there is no relation between Accused and P.W. No. 22 - Sole Eye-Witness - Ushaben Balabhai Dabhi at Exh.-73 and therefore, no reason for her to speak lie, to favour anyone, but has deposed what is true. Let us appreciate the evidence on record in that regards.

(7.28). The P.W. No. 22 - Sole Eye-Witness - Ushaben Balabhai Dabhi at Exh.-73 has **not supported minutely even to the case of the prosecution** and therefore on the request of the Ld. A.P.P., she was declared as **hostile**.

(7.29). It is deposed by P.W. No. 22 - Sole Eye-Witness - Ushaben Balabhai Dabhi in her

examination-in-chief in Para-5 on Page-3 at Exh.-73 that she has no relation or acquaintance with the accused party in the present case.

(7.30). Thus, on appreciation of evidences on record, there is no relation between Accused and P.W. No. 22 - Sole Eye-Witness - Ushaben Balabhai Dabhi at Exh.-73 and therefore, no reason for her to speak lie, to favour Accused. In light of such proved facts of not supporting case of sole eye-witness, the Accused would be entitled to get benefit of doubt and consequentially acquittal from the alleged charges.

(7.31). The Ld. Advocate for the Accused has vehemently argued that the eye-witness has even not seen as to who was injured, whether present deceased or someone else. Let us appreciate the evidence on record in that regards.

(7.32). It is deposed by P.W. No. 22 - Sole Eye-Witness - Ushaben Balabhai Dabhi in her

examination-in-chief in Para-2 on Page-1 at Exh.-73 that she did not go to see the person, who had met with the accident and further deposed that she do not know whether the person who had met with an accident was dead or injured.

(7.33). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-31 on Page-11 at Exh.-132 that no one has questioned to Babubhai Bhalabhai Bambhwa, Sanjaybhai Kishorebhai Aswar and Anil Kantibhai Makwana, **by showing the photographs** taken before the death of the deceased that the man in the black shirt who was riding the bullet was this same person.

(7.34). Thus, on appreciation of evidences on record, injured / deceased identity by sole eye-witness is not proved. In light of such proved facts, the Accused would be entitled to get benefit of doubt and consequentially acquittal from the alleged charges.

(7.35). The Ld. Advocate for the Accused has

vehemently argued that unless driver of vehicle – car is identified, the Accused can't be convicted even if vehicle number is proved and further argued that in present case, the Accused No.1 is not identified as driver of car causing accident and he is not identified by eye-witness and even no T.I. Parade is conducted. Unless it is proved, the Accused can't be convicted even if other factors like motive is proved. Let us appreciate the evidence on record in that regards.

- (7.36). It is deposed by P.W. No. 22 - Sole Eye-Witness - Ushaben Balabhai Dabhi in her examination-in-chief in Para-2 on Page-1 & 2 at Exh.-73 that the person, who caused the accident, did not stopped his car and left away from there after the accident and further deposed that the person, who caused the accident, had not come near or towards her cabin and further admitted that she had not seen the person who caused the accident and further deposed that she has no information about who caused the accident and who died in the accident nor she got any information till

date. It is further deposed by P.W. No. 22 - Sole Eye-Witness - Ushaben Balabhai Dabhi in her examination-in-chief in Para-5 on Page-3 at Exh.-73 that **she had not seen either the person who caused the accident or the person who suffered injuries**. It is further deposed by P.W. No. 22 - Sole Eye-Witness - Ushaben Balabhai Dabhi in her examination-in-chief in Para-2 on Page-2 at Exh.-73 that **she cannot identity Accused even on seeing him**.

(7.37). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-27 on Page-10 at Exh.-132 that **he has not conducted the identify parade of Accused before the eye-witness Ushaben**.

(7.38). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-32 on Page-11 at Exh.-132 that **no T.I. Parade of both the accused is done to identify them by Jitendra Lalaram Mandolia, who runs the Hotel Highway Hari**.

(7.39). It is admitted by P.W. No. 45 - Mahamadjuber

Noormamad Shaikh in his cross-examination in Para-33 on Page-12 at Exh.-132 that **no T.I. Parade of both the accused is done to identify them by Ajaysinh Nirubha Wala, who runs the Hotel Shiv Palace.**

(7.40). It is deposed by P.W. No. 22 - Sole Eye-Witness - Ushaben Balabhai Dabhi in her examination-in-chief in Para-5 on Page-3 at Exh.-73 that the **police never took her before the Mamlatdar identity parade of any person.**

(7.41). Thus, unless driver of vehicle – car is identified, the Accused can't be convicted even if vehicle number is proved and on appreciation of evidences on record in present case, the Accused No.1 is not identified as driver of car causing accident and he is not identified by eye-witness and even no T.I. Parade is conducted. In light of such proved facts, the Accused would be entitled to get benefit of doubt and consequentially acquittal from the alleged charges.

(7.42). The Ld. Advocate for the Accused has

vehemently argued that the four wheeler / car which is alleged to have caused accident is not proved as to which car it was and what was it's registration number. Let us appreciate the evidence on record in that regards.

(7.43). It is deposed by P.W. No. 22 - Sole Eye-Witness - Ushaben Balabhai Dabhi in her examination-in-chief in Para-2 on Page-1 at Exh.-73 that the vehicle, which caused the accident, had left from there. It is further deposed by P.W. No. 22 - Sole Eye-Witness - Ushaben Balabhai Dabhi in her examination-in-chief in Para-5 on Page-3 at Exh.-73 that she do not know the number of the vehicle that caused the accident and she is an illiterate.

(7.44). Thus, on appreciation of evidences on record, the four wheeler / car which is alleged to have caused accident is not proved as to which car it was and what was it's registration number. In light of such proved facts, the Accused would be entitled to get benefit of doubt and consequentially acquittal from the alleged

charges.

(7.45). The Ld. Advocate for the Accused has vehemently argued that extra-judicial confession is not voluntarily made but under threat and pressure and conviction can't be recorded based on such weak piece of evidence. Let us appreciate the evidence on record in that regards.

(7.46). It is deposed by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his examination-in-chief in Para-3 on Page-2 at Exh.-84 that **Rinkalben had not answered anything** and so they said that Ravi had not reached home, so **they would have to inform the police** and further deposed that **Rinkalben therefore told** that she and co-Accused Akshay were in a relationship and they both wanted to get married and Ravi and she used to have fights over this issue and further deposed that **Rinkalben didn't say anything else.**

(7.47). It is deposed by P.W. No. 43 - Hansaben Dhirajlal Markana in her examination-in-chief

in Para-4 on Page-2 at Exh.-113 that **Rinkalben had not answered anything** and so the father of Ravibhai said that **they will call the police** and further deposed that **Rinkalben therefore told** that she and co-Accused Akshay were **in a relationship** and they both **wanted to get married** and they are planning to kill Ravi since 1 month and that in conspiracy, the Accused No. 1 dashed his car to bullet of Ravi and Ravi had fallen down and bleeding.

(7.48). It is admitted by P.W. No. 43 - Hansaben Dhirajlal Markana in her cross-examination in Para-14 on Page-7 at Exh.-113 that **her husband has no ear problems and he can hear very well** and further admitted that as she has stated in his chief examination that **they went to Ravibhai's house and talked to Rinkal and her husband was also with her at that time.**

(7.49). It is admitted by P.W. No. 43 - Hansaben Dhirajlal Markana in her cross-examination in Para-17 on Page-8 & 9 at Exh.-113 that **she was dropped at Kalavad from G.G. hospital on the day of incident at about 10:00 p.m.** and

further admitted that after the incident, she never went to the police station nor did the police come to her house to meet her and further admitted that since she was dropped off at Kalavad at 10:00 p.m. in the night after the incident, the police had never called her to the police station and questioned her anything and even the police never went to her house and questioned her about the incident and further deposed that the police may have questioned to her husband and Prashantbhai.

(7.50). It is admitted by P.W. No. 43 - Hansaben Dhirajlal Markana in her cross-examination in Para-21 on Page-10 at Exh.-113 that her husband has hired a private lawyer for this case and his office has explained the testimony to her and she has given the details of her examination-in-chief today as explained to her by the lawyer.

(7.51). It is admitted by P.W. No. 39 - Dhavalbhai Amrutbhai Akbari in his cross-examination in Para-5 on Page-3 at Exh.-107 that he was not present with his father-in-law or Rinkalben,

during any such conversation about which he has stated.

(7.52). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble Gujarat High Court (Coram : Hon'ble Justice Mr. A.Y. Kogje and Hon'ble Justice Mr. Samir J. Dave, JJ) in case of ¹STATE OF GUJARAT Vs. MAMTABEN PRABHUBHAI KHANGARRAM BHIL, wherein held that when the Confession not corroborated by other credible evidence and Confession inconsistent with other facts and testimonies, extra-judicial confession is a weak type of evidence and such confession cannot be relied upon in absence of reliable corroboration.

(7.53). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble Supreme Court (Coram : Hon'ble Justice Mr. Abhay S. Oka and Hon'ble Justice Mr. Ujjal Bhuyan, JJ) in case of ²LAL MOHAMMAD MANJUR ANSARI Vs. STATE OF GUJARAT, wherein held that it is unnatural

1 STATE OF GUJARAT Vs. MAMTABEN PRABHUBHAI KHANGARRAM BHIL
: 2025(2) G.L.R. 1529 = CrA 2848/24, D/-16/01/25

2 LAL MOHAMMAD MANJUR ANSARI Vs. STATE OF GUJARAT
: 2025 (1) G.L.R. 782 (S.C) = CrA 3524/23, D/-8/7/24

that, accused would call his employer and confess his crime and when witness did not disclose to Police, the phone number from which accused called him and no investigation made to ascertain phone number, evidence of extra-judicial confession cannot be believed.

(7.54). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble High Court of Gujarat (Coram : Hon'ble Justice Mr. S.R. Brahmbhatt & Hon'ble Justice Mr. A.P. Thaker, JJ) in case of ³STATE OF GUJARAT Vs. ARAVINDBHAI BHAILALBHAI KHANT, wherein held that fact which was already known to police, discovery of same not admissible as discovery under Sec. 27 of Evidence Act and further, since extra-judicial confession by accused not proved, conviction cannot be based solely on demonstration panchnama and the Acquittal was confirmed.

(7.55). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble Supreme Court (Coram : Hon'ble Justice Mr.

³ *STATE OF GUJARAT Vs. ARAVINDBHAI BHAILALBHAI KHANT*
: 2020 (1) G.L.R. 159 = CrA 669/11, D/-21/6/19

A.M. Ahmadi and Hon'ble Justice Mr. V. Ramaswami and Hon'ble Justice Ms M. Fathima Beevi, JJ) in case of ⁴CHANDRAKANT CHIMANLAL DESAI Vs. STATE OF GUJARAT, wherein held that confession cannot be used to weave a story around it and the Court must first look for cogent evidence and then should rely upon it for lending assurance to its finding. It is further held conviction cannot be based on the evidence of an expert, unless there is corroboration to that inference.

(7.56). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble High Court of Gujarat (Coram : Hon'ble Justice Mr. K. J. Vaidya and Hon'ble Justice Mr. M.H. Kadri, JJ) in case of ⁵VASANTBEN LABHUBHAI Vs. STATE OF GUJARAT, wherein held that extra-judicial confession, in the absence of any other dependable substantive evidence, is a weak type of evidence too risky and hazardous to act upon and conviction solely based on extra-judicial

4 CHANDRAKANT CHIMANLAL DESAI Vs. STATE OF GUJARAT
: 1992 (1) G.L.R. 554 SC = CrA 327 & 495/79, D/-12/12/91

5 VASANTBEN LABHUBHAI Vs. STATE OF GUJARAT
: 1996 (1) G.L.R. 618 = CrA 963/94, D/-17/11/95

confession was set aside.

(7.57). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble Gujarat High Court (Coram : Hon'ble Justice Mr. K.J, Vaidya & Hon'ble Justice Mr. K.R. Vyas, JJ) in case of ⁶SHANTUBEN WD/O DINESH HARIBHAI DAMOR Vs. STATE OF GUJARAT : 1996 (1) G.L.R. 263 = CrA 379/95, D/-11/9/95, wherein held that extra-judicial confession by accused, standing by itself is the weakest type of evidence and in the absence of independent corroboration by way of substantial evidence it would be risky and hazardous to record an order of conviction. Conviction based only on two extra-judicial confessions was set aside.

(7.58). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble High Court of Gujarat (Coram : Hon'ble Justice Mr. J.M. Panchal & Mr. M.H. Kadri, JJ) in case of ⁷KOLI RAMSING GANDABHAI Vs. STATE OF GUJARAT, wherein held that weak and

⁶ SHANTUBEN WD/O DINESH HARIBHAI DAMOR Vs. STATE OF GUJARAT : 1996 (1) G.L.R. 263 = CrA 379/95, D/-11/9/95

⁷ KOLI RAMSING GANDABHAI Vs. STATE OF GUJARAT : 1998 (1) G.L.R. 116 = CrA 159/95, D/-2/9/97

feeble evidence led by the prosecution regarding confession in absence of material particulars cannot be accepted and the conviction of appellant was set aside.

(7.59). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble Gujarat High Court (Coram : Hon'ble Justice Mr. J.N. Bhatt and Hon'ble Justice Mr. A.L. Dave, JJ) in case of ⁸STATE OF GUJARAT Vs. BAWALA SUMAR KOLI, wherein held that the evidence in the form of extra-judicial confession is not as strong as direct evidence of an eye-witness. It is further held that the Court is required to take extra care and caution while scrutinizing and appreciating the evidence of prosecution with regard to extra-judicial confession falling within the ambit of Sec. 24 of the Evidence Act.

(7.60). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble Supreme Court (Coram : Hon'ble Justice Uday Umesh Lalit and Hon'ble Justice J.B.

⁸ STATE OF GUJARAT Vs. BAWALA SUMAR KOLI AND ANR.
: 2000(1) G.L.R.C.D. 796 = D/-1/1/1900

Pardiwala, JJ) in case of ⁹SUBRAMANYA Vs. STATE OF KARNATAKA, wherein held in Para-54 that extra judicial confession is a weak piece of evidence and the court must ensure that the same inspires confidence and is corroborated by other prosecution evidence and it is considered to be a weak piece of evidence as it can be easily procured whenever direct evidence is not available. In order to accept extra judicial confession, it must be voluntary and must inspire confidence. It is further held in Para-57 that the sum and substance of the aforesaid is that an extra judicial confession by its very nature is rather a weak type of evidence and requires appreciation with great deal of care and caution. Where an extra judicial confession is surrounded by suspicious circumstances, its credibility becomes doubtful and it loses its importance like the case in hand. The Courts generally look for an independent reliable corroboration before placing any reliance upon an extra judicial confession.

⁹ SUBRAMANYA Vs. STATE OF KARNATAKA
: 2022 (0) AIJEL-SC-69954 = CA 242/22, D/-13/10/22

(7.61). Thus, on appreciation of evidences on record and settled principle of law, extra-judicial confession is not voluntarily made but under threat and pressure and therefore it can be relied on and conviction can't be recorded based on such weak piece of evidence, without corroboration of substantial evidence. In light of such proved facts, the Accused would be entitled to get benefit of doubt and consequentially acquittal from the alleged charges.

(7.62). The Ld. Advocate for the Accused has vehemently argued that MLC No. 2878/2025 of G.G. Hospital was registered on dated 06/04/2025 and the same is suppressed by I.O. and has not produced to fabricate this complaint. Let us appreciate the evidence on record in that regards.

(7.63). It is admitted by P.W. No. 3 - Dr. Jitendra Samatbhai Rathod in his cross-examination in Para-11 on Page-7 at Exh.-29 that when the dead body came for the postmortem examination, he had read all the papers, which

were based on the M.L.C. details and there was no written record of any crime being registered until the postmortem examination was completed.

(7.64). It is admitted by P.W. No. 31 - Vijaybhai Dhanjibhai Dabhi in his cross-examination in Para-4 on Page-4 at Exh.-86 that the details of the incident that he has mentioned in his report, were written in it, was as per the information given by police.

(7.65). It is deposed by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his examination-in-chief in Para-1 on Page-1 at Exh.-132 that he was serving as P.I. at Panch 'A' Division Police Station since 2025. He has further deposed that he had investigated the offence and on finding sufficient evidence, they had filed charge-sheet qua both the Accused.

(7.66). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-26 on Page-9 at Exh.-132 that he has taken the complaint in the present case and he

has also conducted the investigation and charge-sheet is also filed by him.

(7.67). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-26 on Page-9 at Exh.-132 that he was informed about the incident on dated 06/04/2025 at around 10:00 p.m., which was in reference of M.L.C. from the hospital and further admitted that he has not obtained any extract from the M.L.C. for the purpose of investigation.

(7.68). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-26 on Page-9 at Exh.-132 that the Inquest Panchnama of the deceased was done on dated 07/04/2025 in the morning between 10:15 a.m. to 11:00 a.m. and further admitted that the Yadi of P.M. (postmortem) of the body was done on dated 07/04/2025 and handed over to the doctor at 11:40 a.m. on the same day and further admitted that the inquest panchnama was done with reference to M.L.C. and any crime when registered then the crime

number is to be entered in the inquest panchnama and further admitted that the Yadi for P.M. given to the doctor at 11:40 on dtd. 07/04/2025 and the Yadi at Exh.-31 was also done with reference to M.L.C. number and the details of any crime registered or the crime register number were not mentioned in that Yadi and further admitted that the details of the time of the crime being reported or how many kilometer the place of incident, are not being mentioned in the Yadi at Exh.-133 for the registration of crime and further admitted that the Yadi dated 07/04/2025 at 11:40 a.m. given to the doctor for conducting P.M. and all the documents before it, the M.L.C. number has been mentioned, but none of the documents were having the details of the crime or crime registration number and further admitted that the incident was reported in our Police Station on dated 07/04/2025 at 20:30 hours is written in Yadi at Exh.-135.

(7.69). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-45 on Page-18 at Exh.-132 that the

incident took place on 06/04/2025 and further admitted that the deceased Ravi Markana reached G.G. Hospital on 06/04/2025 and further admitted that neither he nor any police personnel of his police station went to the G.G. Hospital on dated 06/04/2025 and further admitted that the MLC No. 2878/2025 of G.G. Hospital was registered on dated 06/04/2025.

- (7.70). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-44 on Page-17 at Exh.-132 that Yadi of MLCs should be given by the G.G. Hospital to the G.G. Hospital Chowki in any MLC case and should be forwarded in writing to the concerned police station by the police post of G.G. Hospital Chowki and further admitted that all the history should be written in this MLC Yadi and the details of the MLC case and how the incident took place and who brought the patient should also be written and further admitted that MLC was registered as MLC Case No. 2878/2025 of the G.G. Hospital and further admitted that Yadi of MLC Case No. 2878/2025 of the G.G.

Hospital was sent in their police station, which was received in their police station and after reaching Yadi at the station, it should be recorded in the station diary and the police personnel should be sent to the G.G Hospital in the case of MLC and he should be ordered to take a complaint and take further action and further admitted that during his entire investigation, he has neither submitted any Yadi or abstract of MLC register of MLC No. 2878/2025 with the charge sheet nor he had obtained or seized any such Yadi and further admitted that even he had not seen what was written in MLC No. 2878/2025 and further admitted that in case of accident, MLC is to be done and further admitted that if any person is riding a motorcycle and slipped and falls down, then his MLC is to be registered.

- (7.71). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-48 on Page-18 at Exh.-132 that he has been shown the Yadi at Exh.-130 sent to the Medical Officer and further admitted that it is mentioned in the Yadi at Exh.-130 that the

Yadi has been done related to MLC Case No. 5291/2025 for obtaining the Medical Examination Certificate and further admitted that this Yadi bears his signature and this Yadi has been sent through him and further admitted that the MLC Case No. 5291/2025 is mentioned in the Yadi at Exh.-130, but the extract of the register of that MLC or any Yadi of that MLC or any papers of that MLC have not been obtained or seized and further admitted that he has not verified what is MLC Case No. 5291/2025 during his entire investigation and that what details are written in it nor he has seized any such papers.

(7.72). Thus, on appreciation of evidences on record, it reveals that MLC No. 2878/2025 of G.G. Hospital was registered on dated 06/04/2025 and the same is not produced by prosecution / I.O. and therefore there are reason to believe that attempts are made to fabricate facts of the complaint. In light of such proved facts, the Accused would be entitled to get benefit of doubt and consequentially acquittal from the alleged charges.

(7.73). The Ld. Advocate for the Accused has vehemently argued that the F.I.R. is registered late in back date. Let us appreciate the evidence on record in that regards.

(7.74). It is deposed by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his examination-in-chief in Para-3 on Page-3 at Exh.-84 that he went to Panchkoshi 'A' Division Police Station to file a complaint around 02:00 a.m. in the night.

(7.75). It is admitted by P.W. No. 39 - Dhavalbhai Amrutbhai Akbari in his cross-examination in Para-5 on Page-3 at Exh.-107 that when he reached the hospital, his mother-in-law and father-in-law had already arrived there. It is admitted by P.W. No. 39 - Dhavalbhai Amrutbhai Akbari in his cross-examination in Para-9 on Page-4 at Exh.-107 that on the night of the incident, after reaching G.G. Hospital, he, his wife, Prashantbhai and his wife and his mother-in-law and father-in-law, stayed at the hospital until around 10:00 p.m. to 10:30 p.m.

It is admitted by P.W. No. 39 - Dhavalbhai Amrutbhai Akbari in his cross-examination in Para-3 on Page-2 & 3 at Exh.-107 that when he was at G.G. Hospital, the police was there and he saw the police. It is admitted by P.W. No. 39 - Dhavalbhai Amrutbhai Akbari in his cross-examination in Para-21 on Page-7 at Exh.-107 that the police neither questioned him at G.G Hospital nor did he tell anything to the police.

(7.76). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-50 on Page-19 at Exh.-132 that the document at Exh.-148 is Yadi for call details record and further admitted in Para-51 on Page-19 at Exh.-132 that the outward number and date are not written in the Yadi at Exh.-148 and further admitted that in this proforma instead of the date, /04/2025 is written, the date is not written.

(7.77). Thus, on appreciation of evidences on record and settled principle of law, the Ld. Advocate for the Accused have created a reasonable

doubt about why complaint not taken at G.G. Hospital and why inquest panchnama and p.m. are done in reference to MLC case Number and why F.I.R. number is not stated in it, if it was registered earlier. This create a reasonable doubt whether late F.I.R. is registered in back date or not ? In light of such proved facts, the Accused would be entitled to get benefit of doubt and consequentially acquittal from the alleged charges.

(7.78). The Ld. Advocate for the Accused has vehemently argued that the case of prosecution is that the deceased went to show bullet to his parents, but such it does not get corroboration for evidence on record. Let us appreciate the evidence on record in that regards.

(7.79). It is deposed by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his examination-in-chief in Para-3 on Page-2 at Exh.-84 that he received a call from his son – Ravi, 11 months before the incident that **he had taken Bullet 6 months ago** and therefore he had to go to

Baman village to have darshan of Kuldevi Mataji and further deposed that his son Ravi had come from Jamnagar to his house in Kalavad with his Bullet motorcycle, whose number was 9310 and further deposed that his son Ravi went from his house to Baman village to have darshan of their Kuldevi on his Bullet motorcycle.

(7.80). It is admitted by P.W. No. 43 - Hansaben Dhirajlal Markana in her cross-examination in Para-8 on Page-4 at Exh.-113 that they had gone to Ravibhai's house about five months before Ravibhai passed away and when they went to Ravibhai's house, he had bought the bullet and shown them that he had bought this bullet and further admitted that on the day of the incident, Ravibhai had not come to show the bullet to her and her husband.

(7.81). It is admitted by P.W. No. 43 - Hansaben Dhirajlal Markana in her cross-examination in Para-11 on Page-7 at Exh.-113 that Ravibhai did not come to Kalavad to show the bullet on the day of the incident, as we had already seen

the bullet.

(7.82). Thus, on appreciation of evidences on record, it reveals that deceased was not gone to show bullet as narrated in prosecution case.

(7.83). The Ld. Advocate for the Accused has vehemently argued that the deceased has moved at 15:45 hours and accident has not taken place at 16:45 hours but after 18:33 hours. Let us appreciate the evidence on record in that regards.

(7.84). It is deposed by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his examination-in-chief in Para-3 on Page-2 at Exh.-84 that the **Ravi left their house after having lunch, at about 15:45 hours in the afternoon (06/04/2025), to go to Jamnagar, on the day of the incident.**

(7.85). It is admitted by P.W. No. 3 - Dr. Jitendra Samatbhai Rathod in his cross-examination in Para-11 on Page-7 at Exh.-29 that normally, after eating a vegetarian food in the afternoon,

the semi-liquid liquid that was found in the intestines of the deceased, will takes 6 to 8 hours to form after eating.

(7.86). It is deposed by P.W. No. 43 - Hansaben Dhirajlal Markana in her examination-in-chief in Para-4 on Page-2 at Exh.-113 that the deceased – Ravibhai had moved from their house at Kalavad for going to Jamnagar, at about 15:45 hours.

(7.87). The Ld. Advocate for the Accused has vehemently argued that though father and mother of deceased moved from place of offence at about 18:15 hours, they have not seen accident on road at place of offence which create doubt that accident would have be done after 18:33 hours. Let us appreciate the evidence on record in that regards.

(7.88). It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-19 on Page-11 at Exh.-84 that due to not receiving the call of the deceased Ravibhai regarding reaching Jamnagar, they left

Kalavad for Jamnagar in the evening of the day of incident and he was driving the motorcar himself and when he passed near the temple of Momai Mata, he had not seen muddamal on road, which he has identified in the court and further admitted that even bullet was not seen at that time by them.

(7.89). It is admitted by P.W. No. 43 - Hansaben Dhirajlal Markana in her cross-examination in Para-9 on Page-4 at Exh.-113 that her husband and she left Kalavad at 5:30 - 5:45 p.m. to reach Jamnagar and her husband was driving the car and she was sitting in the front next to him and further admitted that when they leave their house for Jamnagar, it takes 30 to 35 minutes to reach Vijrakhi village area and then Jamnagar and further admitted that neither her husband nor she having any eye problems and they can see clearly and further admitted that when they were coming from Kalavad to Jamnagar, they had not seen her son's bullet, her son Ravi, pieces of parts of the vehicle or blood on the road or people gathered, near the temple of Mughal Mataji

near Vijarkhi.

(7.90). It is admitted by P.W. No. 31 - Vijaybhai Dhanjibhai Dabhi in his cross-examination in Para-4 on Page-3 at Exh.-86 that the place of incident was the Jamnagar-Kalawad State Highway and further admitted that the motorcycle which he has mentioned & which was lying at the place of incident, was visible on the road and further admitted that the muddamal which he has mentioned & which were seen at the place of the incident and recovered by the police, were lying on that road and was in a condition that could be seen on passing from that road.

(7.91). The Ld. Advocate for the Accused has vehemently argued that if deceased had not received calls of his father, then deceased's father ought to have called his 2 daughter & sons-in-law and other relative in Jamnagar to inquire about deceased Ravi. Let us appreciate the evidence on record in that regards.

(7.92). It is deposed by P.W. No. 30 - Dhirajlal

Mohanbhai Markana in his examination-in-chief in Para-3 on Page-2 at Exh.-84 that time about one and a half hours had passed, but Ravi's call had not received and therefore they had called, but their call was not received and therefore he felt something strange and suspicious, so he along with his wife went from their house (at Kalavad) to deceased - Ravibhai's house in Jamnagar.

(7.93). It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-9 on Page-5 at Exh.-84 that he is passed 12th standard and **his mobile number is 9879664536** and further admitted that the mobile number of his deceased son Ravibhai was 722068400 (seems some error as it is 9 digit only) which was used by Ravibhai.

(7.94). It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-9 on Page-5 at Exh.-84 that Ravi used to come to Kalavad frequently and it had never happened before that his phone call had not come after Ravi left and we had to go out

to look for him.

(7.95). It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-9 on Page-5 at Exh.-84 that his son Ravi had two mobile numbers and the **second mobile number** was **9712211127** and he had both the above numbers of his son Ravi saved with him and further admitted that before leaving Kalavad, **he had not called on both the above numbers of his son Ravi**, but had called only on one number and further admitted in Para-9 on Page-6 at Exh.-84 that **it didn't felt to him** that **he could even try to call his son Ravi's second mobile number**.

(7.96). It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-9 on Page-6 at Exh.-84 that **his two daughters are at their in-laws' place in Jamnagar** and further admitted that as Ravibhai did not receive the call which he made, **he had not called his two daughters or sons-in-law, who live in Jamnagar, to ask them to check whether Ravibhai had reached**

Jamnagar or not and further admitted that even after leaving Kalavad, he did not call his two daughters or sons-in-law to ask whether Ravibhai had reached Jamnagar or not? and that he is coming to Jamnagar to find him out.

(7.97). It is admitted by P.W. No. 43 - Hansaben Dhirajlal Markana in her cross-examination in Para-7 on Page-3 at Exh.-113 that Ravibhai used to live separately from them in Jamnagar, from the beginning after Ravi got married.

(7.98). It is admitted by P.W. No. 43 - Hansaben Dhirajlal Markana in her cross-examination in Para-7 on Page-3 at Exh.-113 that both her daughters and sons-in-law lives in Jamnagar and further admitted that many of their relatives are also living in Jamnagar.

(7.99). It is admitted by P.W. No. 43 - Hansaben Dhirajlal Markana in her cross-examination in Para-9 on Page-4 at Exh.-113 that after Ravibhai's call was not received for one and a half hours, neither her husband nor she called their two daughters or sons-in-law living in

Jamnagar or other relatives living in Jamnagar to inform them whether Ravibhai had reached his house or not? and to inquired about it.

(7.100). It is admitted by P.W. No. 43 - Hansaben Dhirajlal Markana in her cross-examination in Para-18 on Page-9 at Exh.-113 that she use a mobile phone and further admitted that **she did not asked to her husband at that time that instead of going directly to Jamnagar, they should first ask their daughters, sons-in-law or relatives to check about Ravibhai.**

(7.101). The Ld. Advocate for the Accused has vehemently argued that the father and mother of deceased went to Hospital as their son-in-law Prasantbhai made call to them. In spite of it son-in-law Prasantbhai is not examined. Let us appreciate the evidence on record in that regards.

(7.102). It is deposed by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his examination-in-chief in Para-3 on Page-2 & 3 at Exh.-84 that **his son-in-law Prashantbhai called him and**

informed that Ravi had met with an accident and he has been brought to Jamnagar G.G. Hospital and further deposed that he went to G.G. Hospital at around 10:00 p.m. and further deposed that his son Ravi was bleeding from his ears and head and had minor and major injuries.

(7.103). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-26 on Page-9 at Exh.-132 that he went to the hospital when he was informed about the incident and further admitted that he had not met with any of the relatives of the deceased when he came to know about the incident and went to the hospital on dated 06/04/2025.

(7.104). Thus, on appreciation of evidences on record, the father and mother of deceased went to Hospital as their son-in-law Prasantbhai made call to them, but inspite of it, son-in-law Prasantbhai is not examined as witness by prosecution and reason best may be known to them. In light of such proved facts, the

Accused would be entitled to get benefit of doubt and consequentially acquittal from the alleged charges.

(7.105). The Ld. Advocate for the Accused has vehemently argued that as parents of deceased may not have to give any amount of L.I.C., bank and property of deceased to Accused No. 2, they have falsely filed complaint qua the Accused. Let us appreciate the evidence on record in that regards.

(7.106). The Ld. Advocate for the Accused has vehemently argued that the complainant had raised all the allegations and complaints made together with his son-in-law Dhavalbhai and Prashantbhai, so that his daughter-in-law Rinkalben (Accused No. 2) cannot demand her share from the deceased Ravibhai's bank, LIC etc. money and agricultural land and houses and he do not have to pay her any amount. It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-17 on Page-9 at Exh.-84 that he had applied to the police to get a copy of the P.M.

note of the deceased Ravi and he had also received a copy of the P.M note and further admitted that as his deceased son Ravibhai had an insurance, he needed to give it (P.M. Note) to the Insurance Company and also to give it to deceased Ravibhai's two bank accounts and therefore, he had asked for a true copy of the P.M. note and further admitted that he had received the money for the death of the deceased Ravibhai from L.I.C and have also applied to get money from the banks and further admitted that he has 10 Vighas of agricultural land in Kalavad itself and there are also residential houses at Kalavad and Jamnagar.

(7.107). It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-20 on Page-11 at Exh.-84 that he has not mentioned any fact that the wife of the deceased - Rinkalben, is alive and is in the status of the wife and heir of the deceased, in any of the proceedings for getting money from the L.I.C. Insurance Company or from the bank account of the deceased Ravibhai.

(7.108). It is admitted by P.W. No. 43 - Hansaben Dhirajlal Markana in her cross-examination in Para-19 on Page-9 at Exh.-113 that her husband has informed her that Ravibhai had an insurance policy and the amount of it has been received and further admitted that they are currently have possession of the house in which Ravibhai was living with Rinkal in Jamnagar and further admitted that another house was taken in Rinkal's name when Ravibhai was alive and they also have possession of that house.

(7.109). The Ld. Advocate for the Accused has vehemently argued that no relation of Accused is proved of love affair, but filed false complaint so that they may not have to give any amount of L.I.C., bank & property of deceased to Accused No. 2. Let us appreciate the evidence on record in that regards.

(7.110). It is deposed by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his examination-in-chief in Para-4 on Page-3 at Exh.-84 that

Rinkal and Akshay were in love affairs and want to marry and so Akshay caused an accident and killed his son.

(7.111).It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-17 on Page-10 at Exh.-84 that **he had never saw Rinkalben and Akshaybhai going together or in any unwanted / unexpected situation anywhere**, from the time his son Ravibhai got married with Rinkalben till his son Ravibhai passed away and further admitted that **neither he nor son-in-laws nor his son Ravibhai had taken any action in writing regarding Rinkalben's relationship with anyone and the quarrels that were happening in the house**, before his son Ravibhai passed away.

(7.112).It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-17 on Page-10 at Exh.-84 that the **marriage span** of deceased Ravibhai and Rinkalben was of **eight years** and **they had never deserted / removed Rinkalben from**

matrimonial house nor Rinkalben had gone away to her parental home nor any cases have been filed between them, since Ravibhai's marriage with Rinkalben till Ravibhai passed away.

(7.113). It is admitted by P.W. No. 39 - Dhavalbhai Amrutbhai Akbari in his cross-examination in Para-21 on Page-6 at Exh.-107 that Rinkalben and Ravibhai were having quarrel even before he came to Jamnagar and Ravibhai or his father or his mother had never filed an Application, any report or a Police Complaint or a Court Case nor informed their caste leaders about the frequent quarrel between Ravibhai and Rinkalben.

(7.114). It is admitted by P.W. No. 43 - Hansaben Dhirajlal Markana in her cross-examination in Para-10 on Page-5 at Exh.-113 that neither her son Ravi nor her husband ever stopped Akshaybhai and further admitted that neither her husband nor Ravibhai ever called Akshaybhai to Ravi's house and tried to discuss anything with him and further

admitted that neither she nor her husband nor Ravibhai ever went to Pithdiya village and discussed anything with any member of Akshaybhai's family and further admitted that after knowing that Akshaybhai and Rinkalben were having an affair, neither she nor her husband nor Ravi took any action before the police station or before the caste leaders or through any lawyer and further admitted that she used to come Jamnagar time and again, but she had never seen the accused Akshaybhai or Rinkalben together or in an inappropriate / unexpected situation anywhere and further admitted that her son Ravi had never told her that his wife Rinkal went out with Akshaybhai anywhere and Ravi had seen them together.

(7.115). It is admitted by P.W. No. 39 - Dhavalbhai Amrutbhai Akbari in his cross-examination in Para-5 on Page-4 at Exh.-107 that after Ravi told him about Rinkle's love affair, he had not advised Ravi that he should take action in this matter before the police or through any lawyer.

(7.116). It is admitted by P.W. No. 43 - Hansaben Dhirajlal Markana in her cross-examination in Para-10 on Page-6 at Exh.-113 that **after Ravi informed about Akshay and Rinkal's relationship, she, her husband or Ravi never went to Nani Matli to meet Rinkalben's parents nor tried to discuss regarding relationship with her** and further admitted that her both the sons-in-law live in Jamnagar and the younger son-in-law works in a good company in a high position and further admitted that **they never called their two sons-in-law and asked them to take any steps regarding this relationship between Rinkal and Akshay or to hold a meeting with the caste leaders and resolve this issue** and further admitted that **she never seen Rinkal calling Akshay or moving around with him** and further admitted that **she accepted this fact as true only because Ravi told her** and further admitted that **marriage span of Ravibhai with Rinkal was for eight years and during these eight years, Rinkal never got angry and went to the parental house nor left away from their**

house and further admitted that all the houses around the place where Ravibhai lived in Jamnagar belong to their Patel caste and that their acquaintances and relatives lived around the place, where Ravibhai lived in Jamnagar and further admitted that neither she nor her husband ever told any of our Patel caste relatives living next to Ravibhai, about Rinkal and Akshaybhai's relationship and never asked anyone to discuss it with them and further admitted that Ravibhai lived in Street No. 1 in Arshivad Avenue in Jamnagar. It is admitted by P.W. No. 43 - Hansaben Dhirajlal Markana in her cross-examination in Para-10 on Page-6 at Exh.-113 that when Ravi told her about Rinkal and Akshay's relationship, Akshaybhai was not living in the same place where Ravibhai was living.

(7.117). It is admitted by P.W. No. 39 - Dhavalbhai Amrutbhai Akbari in his cross-examination in Para-21 on Page-6 at Exh.-107 that after he came to Jamnagar, he neither met with Akshaybhai nor have any conversation with him.

(7.118). It is admitted by P.W. No. 39 - Dhavalbhai Amrutbhai Akbari in his cross-examination in Para-6 on Page-4 at Exh.-107 that he had never seen Rinkal and Akshay wondering / hanging out together or in a messy / inappropriate situation anywhere.

(7.119). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-40 on Page-16 at Exh.-132 that the statements of independent witnesses living in the vicinity of the residential building of the accused's house, have not been recorded, to find out fact that whether there is a love affair between Rinkal and accused Akshay or not.

(7.120). The Ld. Advocate for the Accused has vehemently argued that if the parents had moved from place of offence why they have not seen his son and bullet lying on road. Let us appreciate the evidence on record in that regards.

(7.121). It is admitted by P.W. No. 30 - Dhirajlal

Mohanbhai Markana in his cross-examination in Para-9 on Page-5 at Exh.-84 that they did not got a phone call of Ravi until 5:30 pm after he left Kalavad on the day of the incident and he called Ravibhai, but when Ravibhai did not pick up the phone, they left for Jamnagar from Kalavad at 05:45 p.m. and the distance between Kalavad and Jamnagar is about 50 km and the road from Kalavad to Jamnagar is the Damar (asphalt) State Highway Road and it takes about an hour to reach Jamnagar from Kalavad in a four wheeler vehicle and on that day, he left Kalavad at 5:45 pm in his four-wheeler and came directly to Jamnagar and further admitted that he reached Ravibhai's house at 6:45 pm that day.

(7.122).It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-9 on Page-5 at Exh.-84 that he came from Kalavad to Jamnagar through the Vijarkhi road (i.e. the road where the accident took place) and further admitted that when he left Kalavad to reach Jamnagar, he did not see any people, bullets or his son Ravi at the

accident place near the Vijarkhi dam.

(7.123). It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-9 on Page-5 at Exh.-84 that if they leave Kalavad in a four-wheeler vehicle, it will **take about 30 to 35 minutes to reach the Mughal Mata temple near Vijarkhi.**

(7.124). The Ld. Advocate for the Accused has vehemently argued that from the CDR, it reveals that the deceased was alive till 18:33 hours atleast and had talked several peoples. Let us appreciate the evidence on record in that regards.

(7.125). It is deposed by P.W. No. 44 - Bharatbhai Ramabhai Patel in his examination-in-chief in Para-1 to 6 on Page-1 & 2 at Exh.-115 that he is serving as **Nodal Officer in Reliance JIO Infocom Company** since 2021. He further deposed that the Mobile No. 9023099331 & 9924948175 are registered in the name of Dangaria Akshaykumar Chhaganbhai and Mobile No. 8905205064 is registered in the

name of Markana Rinkal Ravikumar and Mobile No. 9712211127 is registered in the name of Markana Ravikumar Dhirajlal.

(7.126). It is admitted by P.W. No. 44 - Bharatbhai Ramabhai Patel in his cross-examination in Para-11 on Page-3 at Exh.-115 that he has produced the document Exh.-121, which appears to be in the name of Markana Rinkal Ravikumar, in which her address is Block No. 28/1, Arshivad Avenue-1, Street No. 1, Opposite Mandir, Jamnagar, in which Mobile No. 8905205064 is written and further admitted that after looking at the CDR of Exh.-123, produced by the Police, in it mobile number: 8905205064 is written and the name of the mobile holder is written as "Dudhagra Rinkalben" and her address is written as Jamnagar Muralidhar Nagar-1, Street No. 12, Near Prajapati Wadi, Khodiyar Colony Jamnagar.

(7.127). Thus, on appreciation of evidences on record, the deceased was alive till 18:33 hours and was talking with several people on mobile and

therefore it is doubted whether infact accident occurred at 16:45 hours or not. In light of such proved facts, the Accused would be entitled to get benefit of doubt and consequentially acquittal from the alleged charges.

(7.128). The Ld. Advocate for the Accused has vehemently argued that CDR is not produced as send by Nodal officer and after fabricating and forging, it is produced. Let us appreciate the evidence on record in that regards.

(7.129). It is admitted by P.W. No. 44 – Bharatbhai Ramabhai Patel in his cross-examination in Para 12 on Page 4 at Exh.-115 that the **CDR data from Exh.-123 to Exh.-126 was not sent in that format and with those details to the police by E-mail.**

(7.130). The Ld. Advocate for the Accused has vehemently argued that despite having talk with the deceased Ravibhai on his mobile phone a day before and on the day of the incident, P.W. No. 39 - Dhavalbhai Amrutbhai Akbari at Exh.-107, is denying the fact.

(7.131). It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-10 on Page-6 at Exh.-84 that his elder son-in-law's name is Prashantbhai and younger son-in-law's name is Dhavalbhai Amritlal Akbari and further deposed that he has not come to know till day that **his son-in-law Dhavalbhai Akbari spoke to his deceased son Ravibhai for 53 seconds, at 17:59:47 hours on the day of the incident.** It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-11 on Page-6 at Exh.-84 that he has not come to know till day that his **Sheth's son Kishanbhai had talked to his son Ravibhai for 14 seconds at 18:22:53 hours and for 60 seconds at 18:22:18 hours on the day of the incident.** It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-11 on Page-6 at Exh.-84 that he has not come to know till day that **Ashokbhai Savaliya had talked to his deceased son Ravi, for 46 seconds at 18:27:10 hours on the day of the incident.** It is admitted by P.W. No. 30 -

Dhirajlal Mohanbhai Markana in his cross-examination in Para-11 on Page-7 at Exh.-84 that he has not come to know till day that his deceased son Ravibhai's mobile was on till 18:33:28 hours and 8 to 10 people had talked on his mobile on the day of the incident. It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-13 on Page-8 at Exh.-84 that Dhavalbhai did not tell the police in G. G. Hospital that Dhavalbhai had talked to the deceased Ravibhai on the phone in the evening of incident.

(7.132). It is admitted by P.W. No. 43 - Hansaben Dhirajlal Markana in her cross-examination in Para-16 on Page-8 at Exh.-113 that it is not known to her till date that her son Ravi had talked to her son-in-law Dhavalbhai Akbari on the phone around 6:00 p.m. on the day of the incident and further admitted that Dhavalbhai has never told her that he had talked to Ravibhai on the mobile around 6:00 p.m. on the evening of the incident and further admitted that till today, no one has told her

that her son Ravi had talked to other people on the mobile even after 6:00 p.m. on the evening of the incident.

(7.133). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-36 on Page-13 at Exh.-132 that according to his investigation, the **accident took place on 06/04/2025 at around 4:45 p.m.**

(7.134). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-36 on Page-13 at Exh.-132 that it reveals in the CDR of the mobile which they had obtained that the **mobile number 97122 11127 belongs to the deceased Ravibhai Markana** and further admitted that **he has perused this CDR** and further admitted that **according to the CDR of the above mobile number of the deceased, it is revealed that Dhawal Amrutlal Akbari talked on the phone for 53 seconds at 17:59:47 hours on dtd. 06/04/2025** and further admitted that **at that time the location of the deceased's mobile phone as per the CDR is revealed to be**

Vijarkhi and further admitted that as per the above CDR after Dhawalbhai talked, total 10 peoples had talked on the above mobile phone number of the deceased and further admitted that the last person who talked was a woman named Rinkal Dudhagra who talked for 68 seconds at 18:33:28 hours and further admitted that during all the above mobile phone conversations, the location of the deceased's mobile phone is revealed to be Vijarkhi and further admitted that Dhawal Amrutlal Akbari is a brother-in-law of the deceased and they have also recorded his statement and further admitted that he has not questioned to any of the person who talked on the deceased's mobile phone between 17:59:47 to 18:33:28 hours on dtd. 06/04/2025 about what was the conversations with deceased, they had on the mobile phone.

(7.135). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-36 on Page-14 at Exh.-132 that although the location of the deceased's mobile phone is at Vijarkhi, in all the above calls

according to the CDR, they have not made any attempt to seize the deceased's phone.

(7.136). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-36 on Page-14 at Exh.-132 that they have obtained the SIM application form of Mobile No. 89052 05064 for investigation and it is written in it that the mobile holder is Rinkal Ravikumar Markana and the address is Block No. 28/1, Arshivad Avenue, Street No. 1 and further admitted that the CDR which they have obtained with the said form does not belong to the accused - Rinkal Ravikumar Markana, but of Rinkal Dudhagara and it is found that she is from Muralidhar Nagar-3, Street No. 12, Near Prajapati Wadi, Khodiyar Colony, Jamnagar and further admitted that he hasn't tried to meet a person named Rinkal Dudhagara and to find out whether she uses the above number or not?

(7.137). The Ld. Advocate for the Accused has vehemently argued that I.O. has not investigated as to who & how deceased was

brought from place of offence to hospital. Let us appreciate the evidence on record in that regards.

(7.138). It is admitted by P.W. No. 39 - Dhavalbhai Amrutbhai Akbari in his cross-examination in Para-3 on Page-3 at Exh.-107 that he received a call from his brother-in-law Prashantbhai at 20:00 hours and within 10 to 15 minutes he reached G.G. Hospital, Jamnagar and when he reached at G.G. Hospital, Prashantbhai was present there and further admitted that he did not asked Prashantbhai nor did Prashantbhai tell him, who brought the deceased Ravibhai to the hospital from the place of accident.

(7.139). It is admitted by P.W. No. 39 - Dhavalbhai Amrutbhai Akbari in his cross-examination in Para-4 on Page-3 at Exh.-107 that he has stated in his police statement that "he received a call from his brother-in-law - Prashant Chimanbhai that Ravi had an accident and they have taken him to the hospital".

(7.140). It is admitted by P.W. No. 45 - Mahamadjuber

Noormamad Shaikh in his cross-examination in Para-44 on Page-17 at Exh.-132 that he has not taken any doctor's statement in the entire investigation and further admitted that during his entire investigation, he has not conducted any investigation as to who brought the deceased Ravibhai Dhirajlal Markana to the hospital, when he brought him and in what manner he brought him and further admitted that during his entire investigation, he has not questioned any of the witnesses in their statements as to who brought the deceased Ravi Dhirajlal Markana to the hospital, when he brought him and in what manner he brought him, nor he has recorded any such statement.

(7.141). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-45 on Page-18 at Exh.-132 that the mother, father and relatives of the deceased Ravi Markana have reached at the G.G. Hospital on the night of dated 06/04/2025 and further admitted that it was not revealed in the statements of all these relatives, his parents

and all the witnesses, as to who, when and in what way brought the deceased Ravi to the G.G. Hospital and further admitted that there are C.C.T.V. cameras in G.G. Hospital and further admitted that he has not checked any C.C.T.V. cameras of the G.G. Hospital.

(7.142). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-45 on Page-18 at Exh.-132 that no investigation has been done regarding whether the deceased Ravi was alive or dead, when he was brought to the G.G. Hospital.

(7.143). The Ld. Advocate for the Accused has vehemently argued that deceased got accident by slip of bullet but false case is filed with ulterior motive qua Accused. Let us appreciate the evidence on record in that regards.

(7.144). It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-12 on Page-7 at Exh.-84 that he received a call from his son-in-law Prashantbhai on the night of the incident

between 7:30 and 8:00 hours and Prashantbhai informed him that his deceased son Ravi had met with an accident and was at G.G. Hospital and further deposed that he had not asked Prashantbhai in G.G. Hospital on reaching as to who, how and when Ravibhai was brought from the place of the incident to G.G. Hospital in an injured condition and further deposed that when he reached G.G. Hospital around 8:30 p.m., the dead body of the deceased Ravibhai was in the cold room.

(7.145). It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-12 on Page-7 at Exh.-84 that he stayed at G.G Hospital till 10 p.m. and the policemen had reached G.G Hospital at 10 p.m. and they asked who are the relatives of the deceased Ravibhai? and he told them that he is Ravibhai's father, but at that time, he did not tell the police that he knew the facts mentioned in the complaint, but only told the police that Ravibhai had met with an accident and the policemen stayed there for about half an hour at that time and during that half hour,

the policemen who came and along with the police officer who were also present at the time of the inquest panchnama, spot panchnama, were also present at GG Hospital had met with him. It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-12 on Page-8 at Exh.-84 that at that time, his son-in-law Prashantbhai did not tell the policeman that he had any information about the incident and at that time, the police did not questioned Dhavalbhai in his presence, nor did Dhavalbhai tell the police that he knew any facts about the incident. It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-13 on Page-8 at Exh.-84 that when the police arrived at the hospital, he told the police that he wanted to file a complaint about the incident, but Police did not write his complaint at the hospital at that time.

(7.146). It is deposed by P.W. No. 43 - Hansaben Dhirajlal Markana in her examination-in-chief in Para-5 on Page-2 at Exh.-113 that they

received the call from her son-in-law Prashant Kumar that **Ravi had met with an accident** and so come to the Government Hospital and so Ravi's father and she went to the government hospital.

(7.147). It is admitted by P.W. No. 43 - Hansaben Dhirajlal Markana in her cross-examination in Para-10 on Page-5 at Exh.-113 that her husband received a call from their son-in-law - Prashantbhai and when the call came, **her husband and she went to Jamnagar G.G Hospital and reached the hospital around 08:00 p.m. in the evening** and when they reached the hospital, their son-in-law **Prashantbhai was there** and further admitted that Prashantbhai told them on the phone that **Ravibhai had met with an accident** and further admitted that **Prashantbhai did not tell her any facts about where Ravibhai had met with an accident, how it happened and who had brought Ravibhai from the place of accident to the hospital nor did she asked him.**

(7.148). It is deposed by P.W. No. 3 - Dr. Jitendra

Samatbhai Rathod in his examination-in-chief in Para-1 on Page-1 at Exh.-29 that he is serving as professor in Forensic Department at G.G. Hospital and further deposed that the name of the doctor in P.M. panel was Dr. Panchnami P.S.

(7.149). It is admitted by P.W. No. 3 - Dr. Jitendra Samatbhai Rathod in his cross-examination in Para-11 on Page-6 at Exh.-29 that all the other external injuries, except for injury No. 1, were simple injuries and further admitted that there was no evidence of any bush, thorns embedded in the body or clothes of the deceased or any injuries caused by the thorns piercing the skin and further admitted in Para-11 on Page-6 & 7 at Exh.-29 the Injury No. 1 was an injury, which could be caused even due to falling down.

(7.150). It is admitted by P.W. No. 3 - Dr. Jitendra Samatbhai Rathod in his cross-examination in Para-11 on Page-7 at Exh.-29 that the Injury No. 1 was not such that lot of blood could have flowed out and fallen on the ground and

further admitted that in all the injuries except that injury, no injury was found that would have caused flowing of lot of blood, out of the body.

(7.151). It is admitted by P.W. No. 3 - Dr. Jitendra Samatbhai Rathod in his cross-examination in Para-11 on Page-7 at Exh.-29 that except the injury No.1, no fracture injuries were found anywhere in the body and further admitted that due to the vehicular accident, no particles of glass from any vehicle were found in the body.

(7.152). It is admitted by P.W. No. 3 - Dr. Jitendra Samatbhai Rathod in his cross-examination in Para-11 on Page-7 at Exh.-29 that it was written in the papers given to him by the police that the deceased died due to accidental injuries.

(7.153). It is admitted by P.W. No. 39 - Dhavalbhai Amrutbhai Akbari in his cross-examination in Para-9 on Page-4 at Exh.-107 that he later came to know that Ravibhai's accident took

place on 06/04/2025 around 05:00 p.m.

(7.154). It is admitted by P.W. No. 3 - Dr. Jitendra Samatbhai Rathod in his cross-examination in Para-11 on Page-7 at Exh.-29 that they have not given any opinion regarding the death of the deceased due to the injuries sustained owing to the accident and further admitted that the police has never asked them for an opinion as to whether the injuries sustained by the deceased could have been caused by a vehicle accident ? and further admitted that no asphalt residue or pebble residue was found on the entire body of the deceased due to falling or rubbing on the asphalt road.

(7.155). It is admitted by P.W. No. 3 - Dr. Jitendra Samatbhai Rathod in his cross-examination in Para-11 on Page-7 at Exh.-29 that no tyre marks or injuries were seen anywhere on the body.

(7.156). It is deposed by P.W. No. 31 - Vijaybhai Dhanjibhai Dabhi in his examination-in-chief in Para-1 on Page-1 at Exh.-86 that the

Motorcycle was lying there and on seeing its Reg. No. was GJ-27-DJ-9310 and the number plate of the said motorcycle was lying ahead from the motorcycle and that number plate got melted.

(7.157). It is admitted by P.W. No. 31 - Vijaybhai Dhanjibhai Dabhi in his cross-examination in Para-4 on Page-3 at Exh.-86 that he had suggested that the samples of the mirror and other plastic found at the place of incident be sent for investigation for comparison with the vehicle recovered and further admitted that the police had never called him or sought his opinion to compare the Muddamal found at the place of incident with the vehicle recovered by the police in the present offence and whether it is of the same vehicle or not?

(7.158). It is admitted by P.W. No. 1 – Panch (Inquest) - Paresh Rajibhai Markana in his cross-examination in Para-3 on Page-2 at Exh.-19 that he know that milky colour and blue colour are different colours and further admitted that in the Panchnama, which he had

signed, it was not mentioned where the clothes of the deceased were torn and it was not mentioned that the clothes of the deceased were torn anywhere or having stained with blood, soil or any other substance.

(7.159). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-44 on Page-17 at Exh.-132 that he was not aware of the fact that it is written in the history in G.G. Hospital's MLC No. 2878/2025 that the deceased Ravibhai Dhirajlal Markana was riding his motorcycle and his motorcycle had slipped owing to which he got injured and died.

(7.160). The Ld. Advocate for the Accused has vehemently argued that evidence shows that deceased when moved and seen in CCTV, he was wearing black shirt, whereas, his dead body in hospital was wearing blue shirt and therefore, reasonable doubt is created on story of prosecution. Let us appreciate the evidence on record in that regards.

(7.161).It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-18 on Page-11 at Exh.-84 that they had taken a lunch at Kalavad between 12:30 p.m. to 12:45 p.m. on the day of the incident and further admitted that **deceased Ravibhai did not bring any clothes with him and he did not change any clothes** by the time he came to stay at his house, on the day of the incident.

(7.162).It is admitted by P.W. No. 30 - Dhirajlal Mohanbhai Markana in his cross-examination in Para-18 on Page-11 at Exh.-84 that **Ravibhai had not worn a black shirt when he left our house**, but has then voluntarily stated that **deceased Ravibhai had worn blue T-shirt**.

(7.163).It is admitted by P.W. No. 43 - Hansaben Dhirajlal Markana in her cross-examination in Para-18 on Page-9 at Exh.-113 that **on the day of incident, when Ravibhai came to their house at Kalavad, he had not changed any clothes at their house and he left on with the same cloth which he was wearing** and further admitted that **her son Ravibhai was wearing a**

black colored shirt and wearing that shirt, when he gone for Jamnagar with the bullet.

(7.164). It is admitted by P.W. No. 3 - Dr. Jitendra Samatbhai Rathod in his cross-examination in Para-12 on Page-7 at Exh.-29 that he has mentioned in the P.M. note that a blue colour shirt and a blue colour underwear was found on the dead body and further admitted that no mobile phone, any identity card, money, wallet or any other items were found in any pocket of the dead body.

(7.165). It is deposed by P.W. No. 1 – Paresh Rajibhai Markana in his examination-in-chief in Para-1 on Page-1 at Exh.-19 that dead body was wearing Blue Colour Shirt.

(7.166). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-27 on Page-10 at Exh.-132 that according to the Inquest Panchnama and the PM note, it was revealed that the deceased was wearing a blue-coloured shirt on his body.

(7.167). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-28 on Page-10 at Exh.-132 that it was revealed in the Panchnama at Exh.-66 of Meldi Hotel and in the statement of the owner of Meldi Hotel Babubhai Bhalabhai Bambhwa that the rider of the bullet which was seen going towards Jamnagar from the road was wearing a black shirt.

(7.168). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-29 on Page-10 at Exh.-132 that it was revealed in the Panchnama of Dwarkadhish Hotel Exh.-58 and in the statement of the owner of Dwarkadhish Hotel of Sanjaybhai Kishorebhai Aswar that the rider of the bullet, who was seen going towards Jamnagar on the road, was wearing a black shirt. It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-30 on Page-11 at Exh.-132 that it was revealed in the Panchnama of Poonam Petrol Pump Exh.-62 and in the statement of the employee of Poonam Petrol Pump of Anil Kantibhai

Makwana that the rider of the bullet, who was seen going towards Jamnagar on the road, was wearing a black shirt.

(7.169). Thus, on appreciation of evidences on record, evidence shows that deceased when moved and seen in CCTV, he was wearing black shirt, whereas, his dead body in hospital was wearing blue shirt and therefore, reasonable doubt is created on story of prosecution. In light of such proved facts, the Accused would be entitled to get benefit of doubt and consequentially acquittal from the alleged charges.

(7.170). The Ld. Advocate for the Accused has vehemently argued that colour of car alleged to cause accident is black, whereas seized car is of gray colour and therefore whether accident took by car, is under serious doubt. Let us appreciate the evidence on record in that regards.

(7.171). It is admitted by P.W. No. 31 - Vijaybhai Dhanjibhai Dabhi in his cross-examination in

Para-4 on Page-4 at Exh.-86 that the plastic pieces found at the place of incident and the Muddamal were of different colours and further admitted that he cannot say for sure that the Muddamal belongs to which vehicle.

(7.172). It is admitted by P.W. No. 42 – Rakesh Rahimali Hajiyan – Scientific Officer in his cross-examination in Para-5 on Page-4 at Exh.-110 that the four-wheeler being Sample-G was gray in colour and further deposed that the Sample-C was black in colour.

(7.173). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-31 on Page-11 at Exh.-132 that it do not reveal the number of the Bullet motorcycle and it is revealed that the car is black in colour, but the number of the car is also not revealed from statements of Babubhai Bhalabhai Bambhwa, Sanjaybhai Kishorebhai Aswar and Anil Kantibhai Makwana or from the footage presented by them.

(7.174). It is admitted by P.W. No. 45 - Mahamadjuber

Noormamad Shaikh in his cross-examination in Para-35 on Page-13 at Exh.-132 that the vehicle mentioned in the Panchnama as seized, was not a black coloured four-wheeler, but a metallic Grey coloured four-wheeler.

(7.175). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-52 on Page-19 at Exh.-132 that it has been revealed in his investigation and from all the statements of the witnesses that the Jeep Compass is of black colour and further admitted that it has been revealed in the document (Arrest Panchnama) at Exh.-38 that the Jeep Compass with number GJ-20-AQ-8626 is of gray colour and further admitted that they had seized this gray colour car for investigation and their police station has C.C.T.V. cameras and these cameras also cover the outside parking area and further admitted that he has neither investigated who left the above four-wheeler jeep in their police station and when it was dropped nor any such details been recorded in anyone's statement.

(7.176). Thus, on appreciation of evidences on record, colour of car alleged to cause accident is black, whereas seized car is of gray colour and therefore serious doubt is created on case of prosecution. In light of such proved facts, the Accused would be entitled to get benefit of doubt and consequentially acquittal from the alleged charges.

(7.177). It is admitted by P.W. No. 31 - Vijaybhai Dhanjibhai Dabhi in his cross-examination in Para-4 on Page-4 at Exh.-86 that when he saw the place of the incident, the place of the incident was not cordoned off by the police after the incident.

(7.178). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-27 on Page-10 at Exh.-132 that on reading the Panchnama of the place of offence, it is mentioned in place panchnama that the place of occurrence was shown by the complainant Dhirajlal and further admitted that none of the papers of the investigation have revealed that the complainant - Dhirajlal

had previously gone to the place of incident.

(7.179). It is admitted by P.W. No. 31 - Vijaybhai Dhanjibhai Dabhi in his cross-examination in Para-4 on Page-4 at Exh.-86 that **he had instructed the police to take photographs and videography of the place of incident.** In present case, no photography or videography is done though suggested.

(7.180). It is admitted by P.W. No. 42 – Rakesh Rahimali Hajiyani – Scientific Officer in his cross-examination in Para-5 on Page-4 at Exh.-110 that the Muddamals were received by their office on dated 12/06/2025 and further admitted that the dispatch note (ravangi note) sent by the police states that it was sent on dated 19/05/2025.

(7.181). It is admitted by P.W. No. 42 – Rakesh Rahimali Hajiyani – Scientific Officer in his cross-examination in Para-5 on Page-4 at Exh.-110 that **it is not stated in the document at Exh.-111 and Exh.-112 that the Muddamal were tested on the same day after they were**

received it on 12/06/2025.

(7.182).It is admitted by P.W. No. 42 – Rakesh Rahimali Hajiyani – Scientific Officer in his cross-examination in Para-5 on Page-4 at Exh.-110 that he don't know how the policemen delivered the four-wheeler being the Sample-G to their office.

(7.183).It is admitted by P.W. No. 42 – Rakesh Rahimali Hajiyani – Scientific Officer in his cross-examination in Para-5 on Page-5 at Exh.-110 that if there is an accident between two vehicles, the colours of both the vehicles may come on each other's vehicles and further admitted that the police had not told them that which colour of the vehicle had met an accident with four-wheeler of the Sample-G and further admitted that the police had not asked that if the vehicle with Sample-G had collided with another vehicle, then the Colour of another vehicle can come on the vehicle of Sample-G or not ? and further admitted that since the police did not seek an opinion regarding the colour of the above two

vehicles, he had neither verified nor given any opinion and further admitted that they had not found any significant signs of damage to the paint, from a collision of four-wheeler of Sample-G with another vehicle and further admitted that if a four-wheeler vehicle is not in a drivable condition and is towed by a crane or another vehicle, then there is every possibility of causing damage, like the damage and scratch seen in the Sample-G four wheeler.

(7.184). It is admitted by P.W. No. 42 – Rakesh Rahimali Hajiyani – Scientific Officer in his cross-examination in Para-7 on Page-5 at Exh.-110 that he had not went to the place of incident and even not done any inspection at place of incident and further admitted that the police had not sent copy of any Panchnama.

(7.185). It is admitted by P.W. No. 42 – Rakesh Rahimali Hajiyani - Scientific Officer in his cross-examination in Para-7 on Page-5 at Exh.-110 that he had not done any investigation related to mechanical failures of

Car with Sample-G like steering and braking.

(7.186). It is admitted by P.W. No. 42 – Rakesh Rahimali Hajiyani - Scientific Officer in his cross-examination in Para-7 on Page-6 at Exh.-110 that **there were no remnants of clothes or blood stains seen over the chassis of the car with the Sample-G** and further admitted that he has **not mentioned in his report** that the **front number plate of the car with the Sample-G was in any damaged or broken condition.**

(7.187). It is admitted by P.W. No. 42 – Rakesh Rahimali Hajiyani - Scientific Officer in his cross-examination in Para-7 on Page-6 at Exh.-110 that **he cannot say at what speed, from which direction and how the accident had occurred by looking at this car.**

(7.188). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-35 on Page-13 at Exh.-132 that **none of the papers** of his investigation reveals any fact as to **from where, how, by whom and**

when the car mentioned in this Panchnama was brought to the police station and further admitted that the car mentioned in the Panchnama in their police station compound was not in a drivable condition and further admitted that no details are revealed in the entire charge sheet as to by whom and how the said car was sent to the FSL and further admitted that the Mudamaal Jeep Compass car was seized by them on 08/04/2025, which was reached the FSL on 10/06/2025 and further admitted that the above car was not in a drivable condition even when it was sent to the FSL.

(7.189). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-35 on Page-13 at Exh.-132 that when both the accused were arrested, it is written in the Panchnama that the vehicle Jeep Compass Car No.: G.J.-20-AQ-8262 was lying in the compound of our police station.

(7.190). It is admitted by P.W. No. 42 – Rakesh Rahimali Hajiyani – Scientific Officer in his

cross-examination in Para-5 on Page-4 at Exh.-110 that the vehicle that the police brought to them for testing was not in a drivable condition.

(7.191).It is admitted by P.W. No. 31 - Vijaybhai Dhanjibhai Dabhi in his cross-examination in Para-4 on Page-4 at Exh.-86 that he has not included any details of the scientific tests in his report, which he conducted regarding the presence of blood at the place of incident.

(7.192).It is deposed by P.W. No. 31 - Vijaybhai Dhanjibhai Dabhi in his examination-in-chief in Para-1 on Page-1 at Exh.-86 that he was serving as Scientific officer at Jamnagar during the time of incident and further deposed that he had conducted Place / Spot Inspection from 14:45 hours to 15:45 hours on dated 07/03/2025.

(7.193).It is admitted by P.W. No. 31 - Vijaybhai Dhanjibhai Dabhi in his cross-examination in Para-4 on Page-3 at Exh.-86 that as per the information given by the police, the incident

took place on dated 06/04/2025 in the evening at 04:45 p.m. and further admitted that he had inspected the place of the incident on the next day on dated 07/04/2025 in the afternoon between 02:45 p.m. and 03:45 p.m.

(7.194). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-38 on Page-15 at Exh.-132 that both the accused were in our police custody when we had drawn the Reconstruction Panchnama of Exh.-35 and further admitted that no Muddamal or any other things were seized in the said Reconstruction Panchnama.

(7.195). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-39 on Page-15 at Exh.-132 that when they had done the Reconstruction Panchnama at Exh.-44 regarding the criminal conspiracy, both the accused were in their police custody and further admitted that no Muddamal or anything were seized in the said Reconstruction Panchnama.

(7.196). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-35 on Page-12 at Exh.-132 that **both the accused had surrendered themselves at the Police Station, as per the Panchnama at Exh.-38** and further admitted that **none of the two accused had been given any written notice or summons to appear at the Police Station.**

(7.197). The Ld. Advocate for the Accused has vehemently argued that CCTV panch have not supported and even those CCTV are not of scene of accident. Let us appreciate the evidence on record in that regards.

(7.198). It is deposed by P.W. No. 9 – Vipulbhai Chanabhai Parajiya in his examination-in-chief in Para-1 on Page-1 at Exh.-45 that it was not happened that the police had taken any C.C.T.V. footage in a pen drive and shown the footage to him and further deposed that if the C.C.T.V. footage is shown to him, he will not be able to identify it and further deposed that since he had not seen any C.C.T.V. footage, so he will not be able to

identify any of the accused. It is admitted by P.W. No. 9 – Vipulbhai Chanabhai Parajiya in his cross-examination in Para-3 on Page-3 at Exh.-45 that he only signed the prepared papers except that he do not know anything else and further admitted that no C.C.T.V. footage was taken in his presence nor any C.C.T.V. footage was shown. The said witness has not supported the case of the prosecution and therefore on the request of the Ld. A.P.P., he was declared as hostile.

(7.199). It is deposed by P.W. No. 10 – Mansukh Babubhai Chouhan in his examination-in-chief in Para-1 on Page-1 at Exh.-48 that it was not happened that the police had taken any C.C.T.V. footage in a pen drive and shown the footage to him and further deposed that since he had not seen any C.C.T.V. footage, so he will not be able to identify any of the accused. It is admitted by P.W. No. 10 – Mansukh Babubhai Chouhan in his cross-examination in Para-5 on Page-3 at Exh.-48 that he only signed the prepared papers except that he do not know anything else and further admitted

that no C.C.T.V. footage was taken in his presence nor any C.C.T.V. footage was shown. The said witness has not supported the case of the prosecution and therefore on the request of the Ld. A.P.P., he was declared as hostile.

(7.200). It is deposed by P.W. No. 11 – Bhavinbhai Amarshibhai Gadhiya in his examination-in-chief in Para-1 on Page-1 at Exh.-49 that the police had not shown him any object or any video and the police had not seized any thing in his presence and further deposed that the police has not seized any CCTV footage in his presence, so he will not be able to recognize anyone even if CCTV footage is shown to him and further deposed that he has not seen any C.C.T.V. footage and he has seen none of the Accused in any C.C.T.V. footage. It is admitted by P.W. No. 11 – Bhavinbhai Amarshibhai Gadhiya in his cross-examination in Para-5 on Page-3 & 4 at Exh.-49 that he only signed the prepared papers except that he do not know anything else and further admitted that no C.C.T.V. footage was

taken in his presence nor any C.C.T.V. footage was shown. The said witness has not supported the case of the prosecution and therefore on the request of the Ld. A.P.P., he was declared as hostile.

(7.201). It is admitted by P.W. No. 12 – Hemalbhai Dharmendrabhai Chauhan in his cross-examination in Para-7 on Page-3 & 4 at Exh.-52 that he has not informed the Police during the Panchnama that he know the accused Akshaybhai because he used to meet him for Betal (Paan) and he knows Rinkalben because of the photo seen in the newspaper and further admitted that even the police also not asked him during the Panchnama, whether he knows both the above named two persons in advance or not? and further admitted that when the panchnama has been done, neither the accused Akshay nor Rinkalben were present at the police station and further admitted that he has no idea from where and how the police brought the pen drive and further admitted that he saw the first video of the C.C.T.V. footage before the Hon'ble Court today and it

seems that the man seen in the first video and the man seen in the second video are different persons and further admitted that the woman in the yellow dress seen from behind in the first video of the C.C.T.V. footage and the woman in the second video with a scarf tied over her face appears to have different physical features and further admitted that the face of the woman in the yellow dress cannot be seen in the first video and since the woman in the second video has a scarf tied over her face, her face can also be not seen. Therefore, he cannot say that the woman he saw in the newspaper, Rinkal, is the same woman in both of the above videos.

(7.202). It is deposed by P.W. No. 13 – Dipakbhai Ramanikbhai Vasoya in his examination-in-chief in Para-1 & 3 on Page-1 & 2 at Exh.- 53 that he saw a black color gypsy-like car and a bullet that had broken in the shooting and further admitted that if a C.C.T.V. footage of any hotel are shown to him, he will not be able to recognize it and further deposed that Police has not recovered Pen Drive in his

presence. It is admitted by P.W. No. 13 – Dipakbhai Ramanikbhai Vasoya in his cross-examination in Para-5 on Page- 3 at Exh.- 53 that the police showed him a video of the accident between a gypsy car and a bullet near Vijrakhi and the damage to both vehicles in that accident, but they did not show him any other video. The said witness has not supported the case of the prosecution and therefore on the request of the Ld. A.P.P., he was declared as hostile.

(7.203). It is deposed by P.W. No. 14 – Shaileshbhai Maganbhai Virani in his examination-in-chief in Para-1 on Page-1 at Exh.-56 that the police asked him to sign on a written paper and he signed in it and further deposed that no video CD, DVD or pen drive was shown to him in the police station and further deposed that if any kind of video, CD, DVD or pen drive is shown to him, he will not be able to identify it and further deposed that police has not seized any such thing in his presence and further admitted that he do not know anything about the Panchnama except that he has signed in it.

It is admitted by P.W. No. 14 – Shaileshbhai Maganbhai Virani in his cross-examination in Para-5 on Page-3 at Exh.-56 that he only signed the written Panchnama at the police station, except that he has no other information and further admitted that he has not seen any pen drive or video footage in it nor has the police shown it to him. The said witness has not supported the case of the prosecution and therefore on the request of the Ld. A.P.P., he was declared as hostile.

(7.204). It is deposed by P.W. No. 15 – Hitesh Mansukhbhai Bhanderi in his examination-in-chief in Para-1 on Page-1 at Exh.-57 that in the police station, the police asked him to sign on a written paper so, he signed in it and except that he has done nothing else and further deposed that no video CD, DVD or pen drive was shown to him in the police station and further deposed that if any kind of video, CD, DVD or pen drive is shown to him, he will not be able to identify it and further deposed that police has not seized any such thing in his presence and further admitted that

if C.C.T.V. footage is shown to him, he could not recognize it. It is admitted by P.W. No. 15 – Hitesh Mansukhbhai Bhanderi in his cross-examination in Para-5 on Page-3 at Exh.-57 that he only signed the written Panchnama at the police station, except that he has no other information and further admitted that he has not seen any pen drive or video footage in it, nor has the police shown it to him. The said witness has not supported the case of the prosecution and therefore on the request of the Ld. A.P.P., he was declared as hostile.

(7.205). It is deposed by P.W. No. 16 – Mehulbhai Ashwinbhai in his examination-in-chief in Para-1 on Page-1 at Exh.-60 that in the police station, the police asked him to sign on a written paper so, he signed in it and except that he has done nothing else and further deposed that no video CD, DVD or pen drive was shown to him in the police station and further deposed that if any kind of video, CD, DVD or pen drive is shown to him, he will not be able to identify it and further deposed that police has not seized any such thing in his

presence and further admitted that if C.C.T.V. footage is shown to him, he could not recognize it. It is admitted by P.W. No. 16 – Mehulbhai Ashwinbhai in his cross-examination in Para-5 on Page-3 at Exh.-60 that he only signed the written Panchnama at the police station, except that he has no other information and further admitted that he has not seen any pen drive or video footage in it nor has the police shown it to him. The said witness has not supported the case of the prosecution and therefore on the request of the Ld. A.P.P., he was declared as hostile.

(7.206). It is deposed by P.W. No. 17 – Mit Rajeshbhai Sarpadiya in his examination-in-chief in Para-1 on Page-1 at Exh.-61 that the police asked him to sign on a written paper so, he signed in it and except that he has done nothing else and further deposed that no video CD, DVD or pen drive was shown to him in the police station and further deposed that if any kind of video, CD, DVD or pen drive is shown to him, he will not be able to identify it and further deposed that police has not seized any such

thing in his presence and further admitted that he do not know anything about the Panchnama except that he has signed in it and further admitted that if C.C.T.V. footage is shown to him, he could not recognize it. It is admitted by P.W. No. 17 – Mit Rajeshbhai Sarpadiya in his cross-examination in Para-5 on Page-3 at Exh.-61 that he only signed the written Panchnama at the police station, except that he has no other information and further admitted that he has not seen any pen drive or video footage in it, nor has the police shown it to him. The said witness has not supported the case of the prosecution and therefore on the request of the Ld. A.P.P., he was declared as hostile.

(7.207). It is deposed by P.W. No. 18 – Nitin Babulal Nakum in his examination-in-chief in Para-1 on Page-1 at Exh.-64 that the police stopped and asked him to sign on a written paper so, he signed in it and except that he has done nothing else and further deposed that no video CD, DVD or pen drive was shown to him in the police station and further deposed that if

any kind of video, CD, DVD or pen drive is shown to him, he will not be able to identify it and further deposed that police has not seized any such thing in his presence and further admitted that he do not know anything about the Panchnama except that he has signed in it and further admitted that if C.C.T.V. footage is shown to him, he will not recognize it. It is admitted by P.W. No. 18 – Nitin Babulal Nakum in his cross-examination in Para-5 on Page-3 at Exh.-64 that he only signed the written Panchnama at the police station, except that he has no other information and further admitted that he has not seen any pen drive or video footage in it nor has the police shown it to him. The said witness has not supported the case of the prosecution and therefore on the request of the Ld. A.P.P., he was declared as hostile.

(7.208). It is deposed by P.W. No. 19 – Ashwinbhai Rameshbhai Nagariya in his examination-in-chief in Para-1 on Page-1 at Exh.-65 that the police stopped and asked him to sign on a written paper so, he signed in it and except

that he has done nothing else and further deposed that no video CD, DVD or pen drive was shown to him in the police station and further deposed that if any kind of video, CD, DVD or pen drive is shown to him, he will not be able to identify it and further deposed that police has not seized any such thing in his presence and further admitted that he do not know anything about the Panchnama except that he has signed in it and further admitted that if C.C.T.V. footage is shown to him, he could not recognize it. It is admitted by P.W. No. 19 – Ashwinbhai Rameshbhai Nagariya in his cross-examination in Para-5 on Page-3 at Exh.-65 that he only signed the written Panchnama at the police station, except that he has no other information and further admitted that he has not seen any pen drive or video footage in it nor has the police shown it to him. The said witness has not supported the case of the prosecution and therefore on the request of the Ld. A.P.P., he was declared as hostile.

(7.209). It is deposed by P.W. No. 20 – Sachinbhai

Arvindbhai Maru in his examination-in-chief in Para-1 on Page-1 at Exh.-68 that the police stopped and asked him to sign on a written paper so, he signed in it and except that he has done nothing else and further deposed that no video CD, DVD or pen drive was shown to him in the police station and further deposed that if any kind of video, CD, DVD or pen drive is shown to him, he will not be able to identify it and further deposed that police has not seized any such thing in his presence and further admitted that he do not know anything about the Panchnama except that he has signed in it and further admitted that if C.C.T.V. footage is shown to him, he could not recognize it. It is admitted by P.W. No. 19 – Ashwinbhai Rameshbhai Nagariya in his cross-examination in Para-5 on Page-3 at Exh.-65 that he only signed the written Panchnama at the police station, except that he has no other information and further admitted that he has not seen any pen drive or video footage in it nor has the police shown it to him. The said witness has not supported the case of the prosecution and therefore on the

request of the Ld. A.P.P., he was declared as hostile.

(7.210). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-28 on Page-10 at Exh.-132 that it was revealed in the Panchnama that the C.C.T.V. footage of Meldi Hotel was recovered on dtd. 18/05/2025 and further admitted that he did not seize the original D.V.R. regarding that footage and not investigated how many days of data is saved in that DVR and further admitted that he had not given any written notice to Babubhai Bhalabhai Bambhwa - owner of Meldi Hotel, to save and keep the C.C.T.V. footage of his hotel of a specific date and time, before 18/05/2025 and further admitted that according to the Panchnama at Exh.-66, it has been revealed that the owner of Meldi Hotel - Babubhai Bhalabhai Bambhwa came to the police station himself and produced the pen drive of C.C.T.V. footage and further admitted that he had not presented a single document in the entire charge-sheet that he personally went to Meldi Hotel before

18/05/2025 and inspected the footage of the C.C.T.V. cameras.

(7.211). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-29 on Page-10 & 11 at Exh.-132 that it was revealed in the Panchnama that the C.C.T.V. footage of Dwarkadhish Hotel was recovered on dtd. 18/05/2025 and further admitted that he did not seize the original D.V.R. regarding that footage and not investigated how many days of data is saved in that DVR and further admitted that he had not given any written notice to Sanjaybhai Kishorebhai Aswar - owner of Dwarkadhish Hotel, to save and keep the C.C.T.V. footage of his hotel of a specific date and time, for period before 18/05/2025 and further admitted that according to the Panchnama at Exh.-58, the owner of Dwarkadhish Hotel - Sanjaybhai Kishorebhai Aswar came to the police station himself and produced the pen drive of C.C.T.V. footage and further admitted that he had not presented a single document in the entire charge-sheet that he personally went to

Dwarkadhish Hotel before 18/05/2025 and inspected the footage of the C.C.T.V. cameras.

(7.212). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-30 on Page-11 at Exh.-132 that the C.C.T.V. footage of Poonam Petrol Pump was recovered on dtd. 19/05/2025 and further admitted that he did not seize the original D.V.R. regarding that footage and not investigated how many days of data is saved in that DVR and further admitted that he had not given any written notice to Anil Kantibhai Makwana the employee of Poonam Petrol Pump, to save and keep the C.C.T.V. footage of his Petrol Pump of a specific date and time for period before 19/05/2025 and further admitted that according to the Panchnama at Exh.-62, it has been revealed that the employee of Poonam Petrol Pump - Anil Kantibhai Makwana came to the police station himself and produced the pen drive of C.C.T.V. footage and further admitted that he had not presented a single document in the entire charge-sheet that he personally went to

Poonam Petrol Pump before 19/05/2025 and inspected the footage of the C.C.T.V. cameras.

(7.213). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-32 on Page-12 at Exh.-132 that it is not revealed that they have informed in writing to store the C.C.T.V. footage of Hotel Highway Hari and further admitted that he did not ask that how much educated is Jitendra Lalaram Mandolia and whether he has any knowledge about computers or not ? and further admitted that according to Panchnama at Exh.-46, Jitendra Lalaram Mandolia came to the police station himself and produced the pen drive of C.C.T.V. footage and further admitted that the statement of Jitendra Lalaram Mandolia is computerized.

(7.214). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-33 on Page-12 at Exh.-132 that it is not revealed that they have informed in writing to store the C.C.T.V. footage of Hotel Shiv Palace and further admitted that he did

not ask that how much educated is Ajaysinh Nirubha Wala and whether he has any knowledge about computers? and further admitted that according to Panchnama at Exh.-50, Ajaysinh Nirubha Wala came to the police station himself and produced the pen drive of C.C.T.V. footage and further admitted that the statement of Ajaysinh Nirubha Wala is computerized.

(7.215). The Ld. Advocate for the Accused has vehemently argued that Certificate under Section 65B is not proved and therefore CCTV footage can't be relied on. Let us appreciate the evidence on record in that regards.

(7.216). It is admitted by P.W. No. 31 – Sanjaybhai Kishorbhai Asvaar in his cross-examination in Para-5 on Page-2 at Exh.-88 that the hotel is located on Jamnagar Kalavad Highway near Modpar Patiya and further admitted that the C.C.T.V. footage installed in our hotel is about 70 feet away from the road and further admitted that it is not happened that he is

running Dwarkesh Hotel on rent. It is admitted by P.W. No. 31 – Sanjaybhai Kishorbhai Asvaar in his cross-examination in Para-7 on Page-2 & 3 at Exh.-88 that the police came to their hotel and checked the C.C.T.V. and took the footage in a pen drive and taken the pen drive with them. He denied that he copied the C.C.T.V. footage from the DVR in the pen drive of our hotel and presented such pen drive to the police station and such pen drive was recovered in the police station in presence of panch witness. It is admitted by P.W. No. 31 – Sanjaybhai Kishorbhai Asvaar in his cross-examination in Para-7 on Page-2 & 3 at Exh.-88 that he do not know any person named Akshaybhai Dangaria and further admitted that in his police statement he had not mentioned the name of any person named Akshaybhai Dangaria and further admitted that the police had came to our hotel and only asked the name and address and after that they went from there and the police had never interrogated / questioned him in the police station and further admitted that he did not know what was written in document at Exh.-

89 and further admitted that he has no special knowledge about computers and further admitted that the police had not taken the original DVR of their hotel and further admitted that he has no idea what the police seen in the C.C.T.V. footage and how they copied the footage to the pen drive.

(7.217). It is admitted by P.W. No. 33 – Ajaysinh Nirubha Vala in his cross-examination in Para-7 on Page-2 at Exh.-90 that there are 20 rooms in our hotel Shiv Palace and further admitted that he cannot remember and recognize all the customers by face and further admitted that it is mandatory to maintain a register inside the hotel and further admitted that if any person comes to stay in the hotel, it is mandatory to write the name of that person and the name of the person accompanying him, the age, the address of residence, and the time of arrival and departure of the hotel, in such register and while giving the hotel room, it is mandatory to get the signature in the register of the person renting the hotel and to get a copy of the

identity cards of all the people who come to stay and further admitted that the details of the C.C.T.V. footage that he has given, there was no record in the register of any person came to our hotel or a copy of the identity card of such persons nor was any evidence given to the police and further admitted that at the time of this C.C.T.V., there is no record of anyone person came to stay or vacating the room in the register nor has obtained identity card or any Aadhar Card and further admitted that in the C.C.T.V. footage, the woman who came and went from our hotel had a scarf wrapped around her face, so it was not possible to identify that woman and further admitted that since there is no record in their register, he did not know who the woman and the man was and their names, in the C.C.T.V. footage and had not tell the police and further admitted that the police told him that there is a person in the CCTV footage named Akshaybhai Dangaria, so he believed that he was such a person and he has stated this in his examination-in-chief.

(7.218). It is admitted by P.W. No. 33 – Ajaysinh Nirubha Vada in his cross-examination in Para-8 on Page-3 at Exh.-90 that his hotel has an eight-channel DVR and their DVR stores C.C.T.V. footage for up to a month and further admitted that new footage is added after a month and footage before a month automatically deleted and further admitted that on 18/05/2025, he gave the pen drive of C.C.T.V. footage to the police and further admitted that the police did not inform them in writing that the C.C.T.V. footage of a specific day, specific time is to be stored and saved in another device and the police came to his hotel to collect the pen drive and he has been never called to the police station regarding this case and further admitted that he cannot say exactly who the customers were who came and went during the period of the C.C.T.V. footage and further admitted that the police had brought a typed certificate at Exh.-91 and when he was asked to sign it, he done a signature in it and further admitted that the police had not seized the DVR of his hotel.

(7.219). It is admitted by P.W. No. 33 – Ajaysinh Nirubha Vada in his cross-examination in Para-9 on Page-3 at Exh.-90 that the police came to their hotel and the C.C.T.V. footage was taken by the police in a pen drive. It is admitted by P.W. No. 33 – Ajaysinh Nirubha Vada in his cross-examination in Para-9 on Page-3 at Exh.-90 that he do not know any person named Akshaybhai Dangaria and further admitted that the police had came to their hotel and only asked the name and address and after that they went from there and the police had never interrogated / questioned him in the police station and further admitted that he did not know what was written in document at Exh.-91 and further admitted that he has no special knowledge about computers and further admitted that the police had not taken the original DVR of their hotel. He denied that he copied the C.C.T.V. footage of our hotel from the DVR in the pen drive and presented such a pen drive to the police station and such a pen drive was seized in the police station in the presence of the panch witness.

(7.220). It is deposed by P.W. No. 34 – Babubhai Bhalabhai Bambhava in his examination-in-chief in Para-1 on Page-1 at Exh.-92 that when the police came to their hotel, he was making tea and the police took the C.C.T.V. footage themselves and he had not watched the C.C.T.V. footage recording. It is admitted by P.W. No. 34 – Babubhai Bhalabhai Bambhava in his cross-examination in Para-4 on Page-1 & 2 at Exh.-92 that he is illiterate and even he doesn't know how to sign and further admitted that the police came to their hotel and were checking the C.C.T.V. footage, but he don't know what they did because he was working as a tea maker and further admitted that he was not supposed to go to the police station to give anything to the police and further admitted that when the police came to his hotel, they asked him, his name, address, age, occupation, etc. but apart from that, they never called him to the police station and questioned him nor did he stated anything to the police and further admitted that the police never seized the DVR of their hotel and

further admitted that he had not read what the police wrote in the paper at Exh.-93 nor did the police read and explained it to him and further admitted that when the police came to his hotel, they brought a ready paper, and when he was asked to sign, he just signed in it and further admitted that he do not know anything about the incident or any vehicle.

(7.221). It is admitted by P.W. No. 35 - Anilbhai Kantibhai Makwana in his cross-examination in Para-4 on Page-2 at Exh.-94 that he has studied up to 12th standard and he has no special knowledge about computers and further admitted that he has neither read document at Exh.-95 nor did the police read and explained him and he has signed the prepared paper when the police asked him to sign and further admitted that no such DVR was taken by the police and further admitted that when the police came to his petrol pump to take the C.C.T.V. footage, he was not on duty and someone else was on duty and so he has no information about the incident.

(7.222). It is admitted by P.W. No. 36 – Jitendrabhai Lalaram Mandoliya in his cross-examination in Para-7 on Page-3 at Exh.-96 that he cannot read or write Gujarati, but he can only speak it and further admitted that if any customer comes to their hotel and book a room, it is mandatory to take a copy of the identity card of such person and the person staying with him and further admitted that the name of his hotel was Highway Hari, not a Antram Premium Hotel and the hotel had 20 rooms and further admitted that he cannot recognize all the customers coming to his hotel just by looking at their faces and further admitted that the C.C.T.V. footage from the DVR was saved in a pen drive and the footage was copied by the police and he had not transferred to a pen drive and given to the police and further admitted that a person had come and his full name is Akshaybhai Chhaganbhai Dangaria is not written in Document at Exh.-97 and only a person named Akshay Patel is written and further admitted that there is no detail of a woman came with a person named Akshay Patel, neither name of a woman nor the

signature of a woman was entered in the document at Exh.-97 and further admitted that a woman came to stay in their hotel and given any identity card is also not revealed at Exh.-97 and his hotel DVR had a storage capacity of 15 days and further admitted that the police did not inform them in writing that the C.C.T.V. footage of a specific day, specific time is to be stored and saved in another device and further admitted that he do not have any special knowledge regarding computers and DVR data and further admitted that the police brought the prepared certificate at Exh.-98 and asked to sign and he signed in it and further admitted that the police had never take him before the Mamlatdar and conducted the T.I. parade of any accused.

(7.223). It is deposed by P.W. No. 38 - Nileshbhai Bhikhabhai Vekariya in his examination-in-chief in Para-3 on Page-1 at Exh.-100 that he don't know Akshaybhai, but he came to know his name because of this case.

(7.224). It is admitted by P.W. No. 38 – Nileshbhai

Bhikhabhai Vekariya in his cross-examination in Para-5 on Page-2 at Exh.-100 that he did not know the man named Akshaybhai until the incident happened and the police came to him and further admitted that after looking at the C.C.T.V. footage, the police told him that the person who got out of the car is Akshaybhai and further admitted that in C.C.T.V. footage of Mudamaal Article No. 18, there is no evidence of any camera footage above the counter of their hotel or of the place where people are sitting to eat or of the washbasin section and further admitted that the police came to his hotel and after coming there, they transferred the C.C.T.V. footage to a pen drive by their own and further admitted that the police has never called him to the police station nor he went to the police station to give the pen drive after transferring the C.C.T.V. footage of his hotel camera in a pen drive and further admitted that the police did not take his DVR and further admitted that the police never conducted the T.I. Parade of the accused Akshaybhai before the Mamlatdar and the storage of his hotel DVR was of 15 days

and the police neither asked him about any petrol pump nor he has any petrol pump. It is admitted by P.W. No. 38 – Nileshbhai Bhikhabhai Vekariya in his cross-examination in Para-7 on Page-2 at Exh.-100 that when he went to the police station, the police asked him to sign the ready and prepared paper and he signed in the document at Exh.-101.

(7.225). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-28 on Page-10 at Exh.-132 that he did not ask the person named Babubhai Bhalabhai, who gave the Certificate of 65B at Exh.-93, how much he is educated? and does he have any knowledge about computers or not?

(7.226). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-29 on Page-10 at Exh.-132 that he did not ask the person named Sanjaybhai Kishorebhai Aswar, who gave the Certificate of 65B at Exh.-89, how much he is educated? and does he have any knowledge about computers or not? It is admitted by P.W. No.

45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-30 on Page-11 at Exh.-132 that he did not ask the person named Anil Kantibhai Makwana, who gave the **Certificate of 65B** at Exh.-95, how much he is educated? and does he have any knowledge about computers or not?

(7.227). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-33 on Page-12 at Exh.-132 that if any person comes to stay in any hotel by hiring a room, his details should be recorded in the hotel register and the hotel owner should keep copies of the identity cards of such persons and there is also a notification of the Collector in this regard and further admitted that he has neither obtained any copies of the register of Hotel Shiv Palace for the purpose of investigation nor he obtained copies of the identity cards of any person staying there, because no such entry was made in the register of the said hotel.

(7.228). It is admitted by P.W. No. 45 - Mahamadjuber

Noormamad Shaikh in his cross-examination in Para-33 on Page-12 at Exh.-132 that the woman who was present in the C.C.T.V. footage of this Shiv Palace Hotel was wearing a scarf and therefore her face could not be seen or identified.

(7.229). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-49 on Page-19 at Exh.-132 that the document at Exh.-97 is an extract from the guest register of the Antaram Premier Hotel and further admitted that during his entire investigation, no statement of any employee, owner or manager of the Antaram Premier Hotel was recorded and further admitted that there is no record in document at Exh.-97 that either of the accused stayed at the hotel.

(7.230). The Ld. Advocate for the Accused has vehemently argued that panch witnesses have not supported the prosecution. Let us appreciate the evidence on record in that regards.

(7.231). It is deposed by P.W. No. 2 - Panch (Place) - Vasantbhai Nathubhai Rathod in his examination-in-chief in Para-1 on Page-2 at Exh.-21 that bullet was taken to police station after panchnama and Police had shown him the Accused. It is admitted by P.W. No. 2 – Vasantbhai Nathubhai Rathod in his cross-examination in Para-7 on Page-3 & 4 at Exh.-21 that he had went several time in Panchnama as a Panch and come to the Court to give testimony several times and further admitted that earlier all the times when he came to testify as a Panch in the Hon'ble Court, he has only stated before the Hon'ble Court that he has only signed the prepared Panchnama and further admitted that the police of the Panch 'A' Divisuon Post Station already knew him, since he has been a Panch from time and again and further admitted that he asked the police who is the accused in this case and so the police shown a person sitting there and told that he is the accused.

(7.232). It is admitted by P.W. No. 4 – Panch (Reconstruction) - Karanbhai Devshibhai

Suraniya in his cross-examination in Para-5 on Page-6 at Exh.-34 that he do not know anything about the Panchnama except that he only signed the prepared written paper and further admitted that the police did neither let him to read that written paper nor explain, but only asked him to sign and he wrote his name, address and signed the prepared written paper and further admitted that he do not know any person named Kishanbhai – Panch No. 2 nor was any person with this name present when he signed. The said witness has not supported the case of the prosecution and therefore on the request of the Ld. A.P.P., he was declared as hostile.

(7.233). It is admitted by P.W. No. 5 – Panch (Reconstruction) - Kishanbhai Naranbhai Ranoliya in his cross-examination in Para-2 on Page-2 at Exh.-36 that all the signatures of the Panchnama were done at the police station and further admitted that all the details of the Panchnama are computer typed and the police came to the Police Station and typed all the details of the Panchnama on the computer and

then took a printout of it and done a sign on it and further admitted that he had not read the Panchnama before signing and further admitted that the places where he went with the police, no CCTV footage cameras were installed at any of the places and further admitted that in Kalavad village, he had not went to any hotel or any other place on the highway and further admitted that when he was asked to sign it, he signed it and he had neither read what was written in that computer typed Panchnama nor police had explained that same.

(7.234). It is deposed by P.W. No. 8 – Panch (Reconstruction) - Ashokbhai Dhirajbhai Savaliya in his examination-in-chief in Para-2 on Page-2 at Exh.-43 that he had only signed on Panchnama at Exh.-44. It is admitted by P.W. No. 8 – Ashokbhai Dhirajbhai Savaliya in his cross-examination in Para-3 on Page-2 & 3 at Exh.-43 that the Panchnama is a computer typed Panchnama and further admitted that they went all the places and after returning to the Police Station and police

typed all the details of the Panchnama on the computer and then took a printout of it and taken his signature on it and further admitted that it was not happened that they went to any place, where police had written or prepared a paper and taken his signature and further admitted that the places were we went and the hotel he mentioned have no CCTV cameras.

(7.235). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-43 on Page-16 at Exh.-132 that they do not have any printer that runs without electricity (i.e. on batteries) and further admitted that both the Panchnamas with Exh.-44 and Exh.-35 are computerized Panchnamas and further admitted that the prints of the above two Panchnamas were taken at the police station and after that the signatures of the Panchas were taken in it.

(7.236). It is admitted by P.W. No. 6 – Panch (Arrest) - Vrajlal Harjibhai Vasoya in his cross-examination in Para-10 on Page-4 at Exh.-37 that when he went to the police station, the

jeep was lying in the police station ground and further admitted that the Compass Jeep's tires were in a flat condition and so that vehicle was not in a drivable condition and further admitted that the mobile phone that the police recovered was inside the above-mentioned vehicle Jeep Compass and further admitted that it was a four-wheel drive vehicle, he cannot say whether it was a Bolero, Scorpio or Jeep and the vehicle he saw, was Grey in colour. The said witness has not supported the case of the prosecution and therefore on the request of the Ld. A.P.P., he was declared as hostile.

(7.237). It is admitted by P.W. No. 7 – Panch (Arrest) - Kalpeshbhai Amrutbhai Chovatiya in his cross-examination in Para-10 on Page-3 & 4 at Exh.-42 that he went to police station Dhuvav and not Gulabnagar and further admitted that the Compass Jeep's tires were in a flat condition and so this vehicle was not in a drivable condition and further admitted that it was a four-wheel drive vehicle, he cannot say whether it was a Bolero, Scorpio or Jeep and

the vehicle he saw, was Grey in colour. The said witness has not supported the case of the prosecution and therefore on the request of the Ld. A.P.P., he was declared as hostile.

(7.238). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-34 on Page-12 at Exh.-132 that the person, who is called as a Panch for any panchnama, should be kept as the Panch only after verifying that the person is not a relative or friend of the complainant and is not an opponent of the accused party and that it is an independent Panch and further admitted that he did not do any such verification by questioning the Panch.

(7.239). It is deposed by P.W. No. 21 – Vijaybhai Kanjibhai Markana in his examination-in-chief in Para 2 on Page 1 & 2 at Exh.-69 that the mother and father of Ravibhai had never talked to him and that Ravibhai died in an accident and that he do not know anything about Ravibhai or his family except this fact. It is admitted by P.W. No. 21 – Vijaybhai

Kanjibhai Markana in his cross-examination in Para 6 on Page 3 & 4 at Exh.-69 that he has no problem, dispute or enmity with the deceased Ravi or any of his family members and further admitted that when he reached the hospital Prasantbhai told that fact Ravi had met with an accident, apart from the fact that an accident had occurred, neither he nor anyone else had ever told him any other facts other than the accident. The said witness has not supported the case of the prosecution and therefore on the request of the Ld. A.P.P., he was declared as hostile.

(7.240). It is admitted by P.W. No. 23 – Jemin Hasmukhbhai Dangariya in his cross-examination in Para-3 on Page-3 at Exh.-75 that he did not have the opportunity to talk with Akshaybhai nor he has any information about the incident. The said witness has not supported the case of the prosecution and therefore on the request of the Ld. A.P.P., he was declared as hostile. It is admitted by P.W. No. 25 – Dipak Parsottambhai Dangariya in his cross-examination in Para-3 on Page-3 at

Exh.-77 that he did not have the opportunity to talk with Akshaybhai nor he has any information about the incident. The said witness has not supported the case of the prosecution and therefore on the request of the Ld. A.P.P., he was declared as hostile.

(7.241). It is admitted by P.W. No. 24 – Sagarbhai Savjibhai Sabhaya in his examination-in-chief in Para-3 on Page-2 at Exh.-76 that he has not stated in his statement about the mobile number of the a person named Akshaybhai and which vehicle has been towed and its registration number. It is admitted by P.W. No. 24 – Sagarbhai Savjibhai Sabhaya in his examination-in-chief in Para-8 on Page-3 at Exh.-76 that he has not stated his mobile number or mobile number of his partner Darshitbhai or Akshaybhai in he statement before the police and further admitted that the car that he towed from Dhutarpar was not in a condition to be driven. It is admitted by P.W. No. 26 – Darshitbhai Jaysukhbhai Pagdara in his cross-examination in Para-4 on Page-2 at Exh.-78 that he has not stated the mobile

number of a person named Akshaybhai in the police statement and further admitted that the number of the car that was to be towed was also not mentioned to the police and further admitted that he do not know any fact that any such car was towed or taken to any place by his partner nor he has recorded it before the police.

(7.242). It is admitted by P.W. No. 27 – Vivekbhai Mansukhbhai Kayada in his cross-examination in Para-4 on Page-2 at Exh.-79 that as mentioned in my examination-in-chief, he was not the owner of the Jeep Compass Car, but he worked as a commission agent in it and further admitted that since he sell 25 cars every month, so he cannot recognize the people on seeing who bought the cars and further admitted that he never met Akshaybhai in person after selling the car. It is admitted by P.W. No. 27 – Vivekbhai Mansukhbhai Kayada in his cross-examination in Para-5 on Page-2 at Exh.-79 that the owner of the said car was Jyantilal Rameshchandra Ramchandani. It is admitted by P.W. No.

27 – Vivekbhai Mansukhbhai Kayada in his cross-examination in Para-6 on Page-3 at Exh.-79 that the owner of the car was not present when this car was sold and there is no signature of the owner of the car in the document at Exh.-80 and further admitted that he never met with Akshaybhai before.

(7.243). It is admitted by P.W. No. 28 – Jaydipbhai Dineshbhai Dangariya in his cross-examination in Para-3 on Page-2 at Exh.-81 that Akshaybhai told him that his car was under repair in Rajkot, so he came to Jamnagar in his car to drop Akshaybhai, Akshaybhai's mother and son and further admitted that Akshaybhai never told him any facts about the incident and he do not know anything and further admitted that the police only asked his name and address and did not asked anything else and he did not tell anything else.

(7.244). It is admitted by P.W. No. 29 – Divyeshbhai Mukeshbhai Makwana in his cross-examination in Para-3 on Page-2 at Exh.-82

that a woman named Rinkalben Dudhagra who used to come to their clinic for treatment of facial blemishes and the number that he gave to the police was that of a woman named Rinkalben Dudhagra and further admitted that he has not stated to the police any fact that a woman named Rinkalben Ravibhai Markana has ever come to their clinic or that they have done any treatment of her in the clinic nor any mobile number of Rinkalben Ravibhai Markana because there is no customer name written down by the name Rinkalben Ravibhai Markana in our customer list. The said witness has not supported the case of the prosecution and therefore on the request of the Ld. A.P.P., he was declared as hostile.

(7.245). It is admitted by P.W. No. 37 – Snehlata Sathishkumar Yadav in her cross-examination in Para-2 on Page-1 & 2 at Exh.-99 that she is a Hindi speaker and cannot read, write Gujarati. and further admitted that when the police questioned her, she had replied in Hindi and further admitted that if any patient wants to get any treatment in the said hospital,

he/she must first have to get OPD case and further admitted that in the OPD case, the name, age, address and mobile number of the patient have to be written and further admitted that the police had never asked for the OPD case paper of a woman named Rinkalben from them nor they have given it to the police and further admitted that if any patient wants to come to the hospital for treatment, it is not necessary to call any doctor and take an appointment, he has to get his case number directly from the OPD window and further admitted that the police never took her before the Magistrate and made her to identify the person who called her as Rinkleben and further admitted in Para-3 on Page-2 at Exh.-99 that she do not know the doctor from whom Rinkalben has been treated by in Panchakarma. It is admitted by P.W. No. 37 – Snehlata Sathishkumar Yadav in her cross-examination in Para-4 on Page-2 at Exh.-99 that she had not stated in her statement to the police that "Whenever Rinkalben came to me to get Panchkarma done, she call from her mobile number 9023099331 and book her

appointment." It is admitted by P.W. No. 37 – Snehlata Sathishkumar Yadav in her cross-examination in Para-5 on Page-3 at Exh.-99 that she do not know Rinkalben's full name and address and further admitted that the police only asked for her name, address and age, and did not ask anything else.

(7.246). It is admitted by P.W. No. 45 - Mahamadjuber Noormamad Shaikh in his cross-examination in Para-36 on Page-13 at Exh.-132 that they have written the statement of witness Snehalata Satish Yadav (PW-37) in Gujarati language and further admitted that they have not verified any such details as to whether this witness is knowing Gujarati language or not.

(7.247). It is deposed by P.W. No. 40 – Bhavesh Kantilal Dangariya in his examination-in-chief in Para-2 on Page-1 at Exh.-108 that he met Akshaybhai on dtd. 02/05/2025 at Ranuja Circle and he did not have any conversation with him and after that till today, he don't have any conversation with Akshaybhai and further deposed that he don't know anything

about the incident. The said witness has not supported the case of the prosecution and therefore on the request of the Ld. A.P.P., he was declared as hostile.

(7.248). It is deposed by P.W. No. 41 – Dharshitbhai Jagdishbhai Sisodiya in his examination-in-chief in Para-2 on Page-1 at Exh.-109 that on 27/03/2025, he received a call from Rinkalben in the afternoon and she said that it seems that her phone has been hacked. It is admitted by P.W. No. 41 – Dharshitbhai Jagdishbhai Sisodiya in his cross-examination in Para-5 on Page-2 at Exh.-109 that if any person's mobile is hacked and he calls someone else, a different number is also displayed on the mobile display of the person receiving the call and further admitted that if a mobile phone is hacked and the person whose mobile is hacked does not call to anyone and if hacker calls another person, then mobile number of the person who hacked the mobile will displayed on the mobile phone of the person receiving the call and further admitted that he did not have Rinkalben's mobile number saved in his

mobile.

(7.249). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble Supreme Court (Coram : Hon'ble Justice A.K. Patnaik and Hon'ble Justice Swatanter Kamar, JJ) in case of ¹⁰SAHADEVAN Vs. STATE OF TAMIL NADU, wherein the prosecution case based on circumstantial evidence and when there are contradiction between evidence of prosecution witnesses as to person last seen together with deceased and postmortem notes as to time of death of deceased not corroborating with evidence led by prosecution as to time of death of deceased, it is held that prosecution evidence not sufficient to establish guilt of accused and chain of circumstances not complete to lead to conclusion of guilt of accused and accused to get benefit of the contradictions in prosecution evidence. It is further held that when prosecution case is not reliable and prosecution has not proved prosecution case beyond reasonable doubt, non-appealing

¹⁰ SAHADEVAN Vs. STATE OF TAMIL NADU
: 2022 (0) GLHEL-SC 51863 = CA 1405/08, 160/04, D/-8/5/12

accused must get benefit of acquittal.

(7.250). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble Gujarat High Court (Coram : Hon'ble Justice Ms. Gita Gopi, J) in case of ¹¹**DHRUBEN GURALDAS BALANI Vs. STATE OF GUJARAT**, wherein the electronic evidence in form of C.D., D.V.D. Evidence placed on record by prosecution which is admitted by witness concerned and accused has no objection to same being read in evidence. It is held that **when device through which event photographed or videographed has not come before the Court and primary evidence not proved by person who could claim that original information was first stored in device owned by him or operated by him, secondary evidence cannot be read in evidence and admission by parties or witness of secondary evidence would not make it admissible in evidence.**

(7.251). On appreciation of deposition of P.W. No. 44

¹¹ ***DHRUBEN GURALDAS BALANI Vs. STATE OF GUJARAT***
: 2022 (3) G.L.R. 1733 = SpCrA 3973/18, D/-6/1/22

– Nodal Officer – Bharat Ramabhai Patel at Exh.-115 and P.W. No. 45 – I.O. – Mahamadjuber Noormamad Shaikh at Exh.-132 as well as CDR on record, it is crystal clear and proved by evidence, the CDR record send by P.W. No. 44 – Nodal Officer – Bharat Ramabhai Patel at Exh.-115 to Dy. S. P., Jamnagar, is not the same which is produced by prosecution in this case and it clearly shows that they are altered and forged, but before directing the Registrar of the Hon'ble Sessions Court to lodge criminal complaint qua concerned police officials, it is just and proper that District Superintendent of Police, Jamnagar, shall personally carry on inquiry as Dy.S.P., P.I. etc. will be involved in the offence and shall report this Court within 3 months so that further appropriate order be passed in the matter in that regard.

(7.252). Thus, on appreciation of evidences and considering settled principles of law, the prosecution has not proved the facts beyond reasonable doubt that the Accused No. 2 - Rinkalben (i.e. wife of the deceased), was

having love affair with the Accused No.1 – Akshaybhai, due to which time and again there was some quarrel between the deceased - Ravibhai (Son of the complainant) and Accused No. 2 - Rinkalben and in conspiracy with each other, the Accused have created a conspiracy to kill complainant's son and the deceased - Ravibhai had went to meet their parents at Kalavad on dtd. 06/04/2025 and while the deceased - Ravibhai was returning from Kalavad & coming to Jamnagar on his Bullet Motorcycle No. GJ-27-DJ-9310 and the Accused No. 1 had came on his Jeep Campus four wheeler Car No. GJ-20-AQ-8262 from the back side and hit the Motorcycle of Ravibhai, at Kalavad- Jamangar road, near Vijarkhi Dam, near Mongal Mata Temple, at about 16:45 hours on dated 06/04/2025, with an intention to Kill him and thereby the deceased had suffered severe head injuries, which lead to death of deceased - Ravibhai and the Accused aided and abetted in commission of the offence and thereby they have committed the alleged offence punishable under Section 103 & 61(2)(a) of

B.N.S. Under such circumstances, those evidence are not sufficient to convict the Accused and therefore benefit of doubt be given and Accused will get acquittal.

(7.253). The Hon'ble Gujarat High Court has held the ratio in it's decision delivered in case of ¹²**STATE OF GUJARAT Vs. PRAVINSINH RANUBHA GARASIA** that when the case is full of defects and infirmities that the whole case becomes doubtful, then prosecution has utterly failed to prove the case. The Hon'ble Gujarat High Court has held the ratio in it's decision delivered in case of ¹³**RAYSING LALSING DARBAR Vs. STATE OF GUJARAT** that when in view of discrepancies appearing on record, the complainants case is shrouded in mystry and his version becomes doubtful as to occurrence of the incident in question, the case of complainant is not free from doubt, the benefit of doubt has to operate in favour of the Accused according to well settled principles of criminal law. The Hon'ble Gujarat High Court has held the ratio in it's

¹² **STATE OF GUJARAT Vs. PRAVINSINH RANUBHA GARASIA : 1999[1] G.C.D. 328[Guj]**
¹³ **RAYSING LALSING DARBAR Vs. STATE OF GUJARAT : 1997[1] G.C.D. 8 [Guj][UJ]**

decision delivered in case of ¹⁴**DHIRAJLAL VANMALIDAS THAKKAR Vs. B. M. RAO** that upon going through the evidence on records, it is found that the statement of complainant were full of contradiction qua his complaint and there is no material on record to corroborate the oral version of complainant and several witnesses were declared hostile and other did not support the story and theory of complainant, there is no mistake if version of complainant is doubted. The Hon'ble Gujarat High Court has held the ratio in it's decision delivered in case of ¹⁵**LILUBHA MAHOBATSING Vs. STATE OF GUJARAT** that in criminal trial, necessity of proving the guilt of Accused beyond reasonable doubt rest on prosecution and where the result rests only on inferences or conjections, that approach which helps the Accused must be accepted and further held that when there is demarcating line between “Facts Proved” and Fact Not Proved”, then benefit must go to Accused.

(7.254). The Gujarat High Court has held in the case of

¹⁴ ***DHIRAJLAL VANMALIDAS THAKKAR Vs. B. M. RAO : 1997[1] G.C.D. 20 [Guj][UJ]***
¹⁵ ***LILUBHA MAHOBATSING Vs. STATE OF GUJARAT : 1991[1] G.L.R. 226***

¹⁶**KARUBHAI Vs. STATE OF GUJARAT** that there are no strict rules for the reliability of the witnesses but one has to take decision after appreciation of over all evidence on record and several factors are required to be considered like demeanor of the witnesses, the statements recorded before the court, enmity between the parties etc. and thereafter, the appreciation is to be done. On appreciating evidence in the present case, the alleged offences are not proved beyond reasonable doubt against the Accused and the prosecution has not proved the case beyond reasonable doubt qua the Accused as reflected from the records.

(7.255). As per the provision of the Indian Evidence Act, it is a bounded duty and the law casts the burden of proof to prove the case beyond reasonable doubt on the prosecution but in the present case the prosecution has failed to prove the alleged offence beyond reasonable doubt. There is wide contradiction between the deposition of the witnesses and the complainant. Under such circumstances, doubt

regarding the offences committed by the Accused arises. When there is minor doubt with regards to the offence committed, the straight way benefit goes to the Accused. It is the settled principles of criminal justice that let one hundred Accused be acquitted but one innocent should not be convicted. Taking into consideration the provision the criminal jurisprudence and the Indian Evidence Act, if the oral as well as documentary evidence of the present case is appreciated, then based on the said evidence the Accused could not be convicted for the alleged offences and the said evidences could be said to be insufficient. Thus, when the alleged offences are not proved beyond reasonable doubt and evidences are insufficient to convict, the Accused are entitled to get benefit of doubt and if Accused are acquitted giving benefit of doubt, then it will be just, proper, reasonable and legal. In view of the above stated facts, findings, reasons, and settled principles of law, I answer the **ISSUE No.1** in **NEGATIVE** and answer **ISSUE No.2** by passing the following FINAL ORDER :

-: FINAL ORDER :-

- The Accused are acquitted for the offence under Section 103, 61(2)(a) of Bharatiya Nyaya Sanhita, 2023, in view of Section 258(1) of Bharatiya Nagarik Suraksha Sanhita, 2023 (B.N.S.S.) [i.e. Section 235(1) of Criminal Procedure Code, 1973], by giving benefit of doubt, due to insufficient evidence on record.

- All other Non-Valuable Muddamal (See : Muddamal Pavti No. 170/2025 & 208/2025) shall be destroyed after expiry of appeal period.

➤ The Order, giving interim custody of Muddamal – Vehicle / mobile, shall stand confirmed and made absolute. The custody of the Vehicle / Car – Jeep Compass having registration no. GJ-20-AQ-8262 [See : Muddamal Pavti No. 172/2025], shall be given to Accused No. 1 – Akshay Chhagan Dangariya. The custody of the Mobile – iphone 16 Pro of Apple Co. [See : Muddamal Article No. 1(1) of Muddamal Pavti No. 172/2025], shall be given to Accused No. 1 – Akshay Chhagan Dangariya. The custody of the Mobile – Galaxy

**M-13 of Samsung Co. and
Mobile – One Plus Co. 11-R
[See : Muddamal Article No.
2(1) & 2(2) of Muddamal
Pavti No. 172/2025], shall be
given to Accused No. 2 – Rinkal
W/o. Ravi Mankara.**

- **Other seized muddamal – total
6 Pen Drives [See : Muddamal
Pavti No. 252/2025 to
255/2025, 257/2025 &
258/2025], shall be auctioned
in accordance with law and it's
sale proceeds be forfeited &
credited to Government
Account.**
- **Bail Bonds of both the
Accused shall stand**

cancelled.

- **Each Accused shall furnish surety of Rs. 50,000/- (Rupees fifty thousands only) and personal bond of the like amount, as per Section 481 of Bharatiya Nagarik Suraksha Sanhita, 2023 (B.N.S.S.) [i.e. Section 437A(1) of Criminal Procedure Code, 1973], within period of 15 days, for appearing before the Hon'ble High Court of Gujarat as and when such Court issues notice in respect of any appeal or petition filed against this Judgment & Order and such bond shall remain in force for**

a period of six months.

➤ The District Superintendent of Police, Jamnagar, is hereby ordered and directed to personally carry on inquiry, as Dy.S.P., P.I. etc. will be involved in the offence of forgery of document and producing & using it as genuine in Sessions Court in this Case, considering deposition of P.W. No. 44 – Nodal Officer – Bharat Ramabhai Patel at Exh.-115 and P.W. No. 45 – I.O. - Mahamadjuber Noormamad Shaikh at Exh.-132 as well as CDRs on

record, more particularly as observed in Para-7.251 of this Judgment and shall report this Court within 3 months from the date of receipt of Yadi / Order, so that further appropriate order be passed, directing the Registrar of the Hon'ble Sessions Court, Jamnagar, to lodge criminal complaint qua concerned police officials, in accordance with law.

- Yadi, alongwith the copy of this Order as well as copy of deposition of P.W. No. 44 – Nodal Officer – Bharat

**Ramabhai Patel at Exh.-115
and P.W. No. 45 – I.O. -
Mahamadjuber Noormamad
Shaikh at Exh.-132 as well as
CDRs on record, be sent to
the District Superintendent
of Police, Jamnagar,
forthwith, for it's
compliance.**

Signed, pronounced and declared in Open Court on this 23rd day of April, 2026, at Jamnagar.

Date : 23/04/2026
Place : Jamnagar

(Rasikkumar V. Mandani)
3rd Additional Sessions Judge
Jamnagar. (Code : GJ00715)

/// AMS + Sf ///