



**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
JOTANA**

CRIMINAL CASE NO. 4/2024

Received on : 06/05/2005
Registered on : 06/05/2005
Decided on : 30/04/2026

The State of Gujarat.

...Prosecution

Versus

(1) Saiyad Samsermiya Hasanmiya (Abate).

(2) Saiyad Amirmiya Sattarmiya,

R/O - Kadi, Mahesana.

(3) Mahmadarif Jahurbhai Sekh,

R/O - Baherampura, Ahmedabad.

...Accused

Accusation:

FIR no. - II/26/2005 Kadi Police Station

Prevention Of Cruelty To Animals Act - Sections 11(1)a

Gujarat (Bombay) Animal Preservation Act - Sections 5, 8

Appearance:

1. Ld. Special PP Mr. B. B. Chavda for the Prosecution

JUDGMENT

1. Brief facts of the prosecution's case is that on 28/01/2005, at village Alampur, Taluka Kadi, District Mehsana, Accused 1, Sayyed Shamsherkhan Hasankhan was caught in a police raid between 22:00 and 24:00 hours within his field located in the Nadivala Ata area. During the search, authorities discovered two bulls tied cruelly by their mouths and legs in a pit without food or water, alongside significant evidence of recent slaughter, including fresh blood pools and animal remains, establishing the particulars of the offence at the specified location. Consequently the present FIR II/26/2005 was registered at Kadi Police Station for offences under sections 11(1)a of Prevention Of Cruelty To Animals Act, and sections 5, 8 of the Gujarat (Bombay) Animal Preservation Act. After completing the investigation the present chargesheet came to be filed on date 06/05/2005.

2. After registering the present case, summons were issued to the accused persons which could not be served and their presence could not be secured. The non service to the accused as well as their sureties continued for more than 2 decades until date 12/12/2024, when order under section 299 was passed by my predecessor to begin recording evidence of the prosecution.

3. To prove the charge against the accused, the prosecution has examined 2 witnesses and has produced 3 documentary evidence listed as hereunder :

Oral Evidence for The Prosecution

<u>Sr. No.</u>	<u>Description</u>	<u>Exhibit</u>
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PW1	Examination of IO R. H. Tank	50
PW2	Examination of Complainant D. M. Vyas	56

Documentary Evidence for The Prosecution

<u>Sr. No.</u>	<u>Description</u>	<u>Exhibit</u>
1	Report to Register Complaint	51
2	Scene of the Offence Panchnama	52
3	Complaint	57

4. During the course of the trial, processes were issued to witnesses multiple times which were returned unserved multiple times and the prosecution was unable to secure the presence of key witnesses including panch witnesses. Thereafter as a last resort the processes were handed over to Ld. Special PP for service, however they also remained unserved. Consequently with no other option the right of prosecution to lead evidence had to be closed.

5. Heard the arguments presented by Ld. Special PP Mr. B. B. Chavda, representing the prosecution.

6. Under the present circumstances, the following issues for adjudication have arisen :

- i. Whether the prosecution proves beyond reasonable doubt that, the Accused persons were involved in the offence which occurred on 28/01/2005 between 22:00 and 24:00

hours near Nadivala Ata area, village Alampur, Taluka Kadi, where they had tied cruelly two bulls by their mouths and legs in a pit without food or water and also slaughtered animals without permission and thereby they have committed the offence punishable under sections 25(1A) of The Arms Act, 1959?

ii. What is the Judgment?

My answers to the above mentioned issues are as follows :

- i. In the Negative.
- ii. As per final order.

Reasons for the above findings of the court

7. The prosecution has begun by examining PW1, Investigating Officer Mr. R. H. Tank at Exhibit 50 who deposed that while stationed at Kadi Police Station on 28/01/2005, a raid was executed at the field of Accused Sayyed Shamsherkhan Hasankhan in village Alampur, Taluka Kadi, following reports of illegal cattle slaughter. He testified to the discovery of two bulls tied in a pit in a cruel manner and the presence of blood pools and dried blood liquid across a 40-foot radius in the field, from which 100 grams of samples were seized by the medical officer. The witness stated that SOG PSI D.M. Vyas filed the formal complaint under Section 11(1)(a) of the Prevention of Cruelty to Animals Act, 1960 and Sections 5 and 8 of the Animal Preservation Act. Having taken over the investigation on 29/01/2005, the witness recorded relevant statements and identified additional bulls tied by the Accused at different locations in the outskirts, which were subsequently seized under a panchnama bearing his signature.

8. Thereafter the prosecution has examined PW2, the Complainant Mr. D. M. Vyas at Exhibit 56 who deposed that he joined a raid at the field of Defendant Sayyed Shamsheer Khan Hasankhan in village Alampur, Taluka Kadi, District Mehsana. He testified that the raid was prompted by confidential information regarding the illegal slaughter of cattle for meat. Upon reaching the site with PSI T. K. Patel, other police staff, and Veterinary Doctor K. K. Rawal, they found two bulls tied with ropes in a circular pit near a tree. The witness stated that the animals were kept in a cruel manner without any provision for water or fodder. He further noted the presence of Shaheerabanu, the wife of Defendant, who informed the team that the field belonged to her husband and that he had tied the bulls there before his departure. The witness continued his narrative by describing the discovery of a forty-foot area located 150 feet north of the farm building, which contained both dried and fresh blood puddles. He deposed that, in the presence of panchas, samples of blood-stained soil and approximately 100 grams of blood-like liquid were seized for investigative purposes. The witness also highlighted that the veterinary doctor identified a heap on the edge of the field as digested grass from the stomachs of slaughtered cattle, from which a 100-gram sample was also collected. The witness confirmed that the detailed panchnama was recorded between 22:00 and 24:00 hours.

9. Upon a comprehensive evaluation of the evidence on record, it is observed that the case against Accused 1 Saiyad Samsermiya Hasanmiya stands abated following his demise during the pendency of the trial. With respect to Accused 2 Saiyad Amirmiya Sattarmiya and Accused 3 Mahmadarif Jahurbhai Sekh, the Prosecution has failed to lead any substantive evidence to establish their involvement in the alleged offences under Section 11(1)(a) of the Prevention of Cruelty to Animals Act, 1960

and Sections 5 and 8 of the Gujarat Animal Preservation Act, 1954. The depositions of the Prosecution witnesses primarily focus on the raid conducted at the field belonging to the deceased Accused 1. These testimonies identify the location and the presence of cattle cruelty at that specific site but do not attribute any specific overt act, presence, or common intention to Accused 2 or Accused 3. Furthermore, the Prosecution significantly failed to secure the presence of several material witnesses despite the court granting ample opportunities. This failure to produce key witnesses who could have potentially linked Accused 2 and Accused 3 to the crime scene or the alleged illegal activities creates a fatal gap in the Prosecution's story, rendering the charges against them entirely unsubstantiated.

10. In criminal jurisprudence, the burden of proof rests squarely on the Prosecution to establish the guilt of the Accused beyond a reasonable doubt, a standard that has not been met in the present case. The absence of corroborative evidence and the failure to examine essential witnesses leaves the court with no basis to convict Accused 2 and Accused 3. The Prosecution is duty-bound to prove every link in the chain of circumstances; however, in this instance, the chain remains broken and incomplete. This principle is well-settled by the Hon'ble Supreme Court of India in the landmark case of **Sharad Birdhichand Sarda v. State of Maharashtra (1984) 4 SCC 116**, where the Court held: "*The golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted.*" Given that the Prosecution has failed to discharge its primary burden and has not produced a single witness to testify against the

specific roles of Accused 2 and Accused 3, the benefit of doubt must necessarily be extended to them. Consequently, in the light of the lack of incriminating evidence and the procedural failure to produce important witnesses, the charges against Accused 2 and Accused 3 cannot be sustained. With the observations as hereinabove, the final order as hereunder is passed :

-:: FINAL ORDER ::-

1. Accused 2- Saiyad Amirmiya Sattarmiya, Accused 3- Mahmadarif Jahurbhai Sekh are hereby acquitted from the case.
2. The judgment is pronounced in the absence of accused as per Section 353(6) of the Code of Criminal Procedure.
3. It is hereby ordered that the muddamal seized in this case shall be disposed of by following the procedure in accordance with the rules after the expiry of the appeal period.

Signed and pronounced in the open court on the 30th day of April, 2026,
at Jotana.

Date: 30/04/2026

**Place: Jotana,
Dist. - Mahesana**

(SAUMITRA BHADAURIA)

**Judicial Magistrate First Class,
Jotana**

GJ01691